Promoting Excellence in Investigative Journalism

US OBSERVER
Vindicating the Innocent

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LAWSUIT SPOTLIGHT

Smolich Motors of Bend, OR
A Hostile, Discriminatory Charged Work Environment?

By Joseph Snook
Investigative Reporter

Michael Smolich

Bend, OR – Smolich Motors has reportedly been sold to Lithia Motors according to those close to the transaction. Although the purchase amount has not been disclosed, an "insider" said, "Lithia will be taking over on June 1, 2020." Despite the purported sale, Smolich Motors has a near million-dollar lawsuit to resolve. On May 18, 2020, a lawsuit was filed against, "JIM SMOLICH MOTORS, INC., an Oregon corporation, and MICHAEL SMOLICH." According to the suit, Plaintiff Charles Barker is seeking $950,000.00 in relief for, "Marital Status Discrimination, Retaliation and Whistleblower Discrimination…"

Charles Barker is a former employee of Smolich Motors who once

Continued on page 11

SCAMMER ALERT

Chris Rusch, aka Christian Reeves Continues Committing Crimes

By Edward Snook
Investigative Reporter

San Diego, CA – The US~Observer began investigating the false prosecution of successful Arizona business investor Michael Quiel in November of 2018. Our in-depth investigation led to the publishing of "Attorney Christopher Rusch, aka Christian Reeves, Turned IRS Informant." Rusch had been Quiel's tax attorney. Eventually Rusch ran a scam on Quiel and in doing so implicated Quiel in tax violations which became criminal charges. Rusch then flagrantly lied on the witness stand when he testified against his client – Quiel. It was after Quiel's trial that Rusch changed his name to Christian Reeves in order to continue his scams on others, unobstructed by his past, and perhaps promoted by his government handlers.

Resulting from our publication, which was disseminated world-wide, we received numerous calls to-date regarding Christopher Rusch aka Christian Reeves (Rusch/Reeves) and his continued criminal activities. One recent case involved a California businessman who had contracted with Reeves through Reeves' company, Premier Offshore Inc., to provide him with an offshore trust for asset protection. We have decided to withhold the name of this victim of Reeves'. For the sake of anonymity, we will refer to him in this article as "John".

To this day, Christopher Rusch/Christian Reeves – a failed tax attorney who scammed, framed then testified against his clients – continues swindling people out of their money. No US Agency, thus far, is willing to hold him accountable. No one should be above the law and the US~Observer will ensure Rusch/Reeves gets what he is due.

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"Frivolous" Stalking Order Dismissed!
Another US~Observer Victory

By Joseph Snook
Investigative Reporter

Some names and identifying details have been changed to protect the privacy of individuals as further litigation may be pending.

Bend, OR – Several months of uncertainty over a "false" stalking order filed against Mr. Glover caused him an immense amount of stress, time, and money. The court could have deprived him of his ability to own a firearm. Forced to defend himself from the "frivolous" temporary stalking order, Mr. Glover immediately contacted the US~Observer. Approximately three months later, Mr. Glover received the information he had been waiting for. The Judicial Assistant sent an email that stated, *"Dismissal on the Temp Stalking Order has been signed. I have taken off the hearing for tomorrow and I notified Petitioner."* Mr. Glover was finally free!

When asked why the order was sought, Mr. Glover stated it was a, *"frivolous attempt to smear him publicly by someone he previously had business relations with."* In Oregon, stalking orders can cause people to lose certain essential rights – owning a firearm is one of those rights. Although a stalking order is not a crime, it punishes the accused. Essentially, all one needs in order to achieve a stalking order is an accusation, and a Judge who agrees. Mr. Glover was ridiculed online by the person who

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The US~Observer Rescued Me

By Ella Lee

Hello, my name is Ella Lee. I would like to share the story of my rescue.

It all began when I was falsely accused by my abuser of aggressive assault with a deadly weapon, which carried a max of five years and resisting arrest which carried a max of one. Needless to say, I was terrified because I had never been arrested before, never faced spending time in jail. My whole career in the medical field was on the line.

I searched and searched for an answer but could not find the right one for my situation – someone who could walk the walk. Then I came across a few stories on the US~Observer website, a paper that fights for the unjustly accused. I started researching them as well as Joe Snook and was astonished by all the great reviews. No amount of reading can convey the heart, the sincerity and dedication of care you receive from these guys. I mean, step by step, taking out the guess work. There is no amount of money that can buy the peace of mind their expertise and advice brings you. I was able to finally sleep at night. In all my stress, it was the MOST important call I made!!!

What is even more amazing is, though these guys have represented many high-profile clients, they make you feel like you too are well known and important, like family.

Yes, I endorse the US~Observer. Yes, you've come to the right place when you find the US~Observer if you have been falsely accused. Through their hard work, I got my dismissal papers today along with my freedom again.

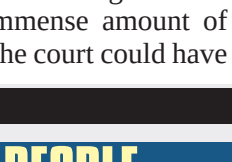
So sweet it is!

★★★

POWER OF THE PEOPLE

Matthew Ellis Ousts 20-Year Incumbent Eric Nisley
72.56% Vote Against Corrupted District Attorney

By Joseph Snook
Investigative Reporter



Eric Nisley

Wasco County, OR – Voters made a monumental statement in the 2020 Wasco County race for District Attorney. By a landslide, District Attorney (D.A.) Eric Nisley lost his bid for re-election in the primary. The news of Matthew Ellis' victory brought joy to many, including the US~Observer newspaper. The US~Observer documented and exposed Nisley's corruption several years prior to his defeat in this election. "Nisley traded his oath to seek justice for convictions at all costs long ago," according to Edward Snook, Head of Investigations at the US~Observer. Innocent men and women felt the sting of Nisley's vindictive actions over his twenty-year reign as D.A.

Nisley's nefarious tactics date back to Clinton's Presidency,

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ABA President's Backwards Message:
"The personal attacks on judges and prosecutors must cease"

By US~Observer Staff

ABA President Judy Perry Martinez
Photo: Mitch Higgins/ABA Media Relations

Those who have been wrongly entangled in the criminal justice system know its injustices. Those who have been belittled by a judge, lied about in a police report, or forced into a plea deal – know all too well - the United States criminal justice system is absolutely flawed. The truth does not, "always set you free." In fact, it seldom does. Some, who have had their entire life unjustly ruined by the system, fight to exercise their right to redress their grievance, once they are free to do so. Some try to educate others and move on. Still others hide in fear of being wrongfully arrested, charged, and convicted again.

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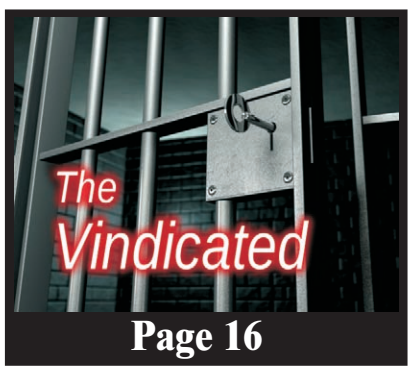

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What if we've all been primed?

By Tom Nikkola

(tomnikkola.com) - We're all in this together. Stay home. Stay safe. We'll get through this. It's our new normal.

These words have been repeated so many times, you'd think they're used for selling the latest superfood.

They're not selling a superfood, but is it possible they're trying to sell us something?

A SEQUENCE OF EVENTS

Vanessa and I were playing our morning game of Sequence and drinking our coffee in early April (we've been playing card games before work since well before the COVID-19 chaos). Just before the news shifted to commercial, the newsperson stated, "Stay home. Stay safe."

The commercials came on, with one after another using the phrases I mentioned above. That was the moment I first realized how often those phrases were coming at us. Of course, once you notice something like this, you can't not see it and hear it anymore. Welcome to the Baader-Meinhof Phenomenon. Perhaps my bringing it up to you will make you aware now too.

Whether the coordinated use of these phrases was some sort of nationwide scheme created by a group behind "the curtain," or it was a simple coincidence, we've been primed, and it's had a visible impact on people's thoughts, words, and actions.

BEHAVIORAL PRIMING

Though its effects are controversial, psychologists, researchers, and marketers have tested behavioral priming since the middle of the 20th century.

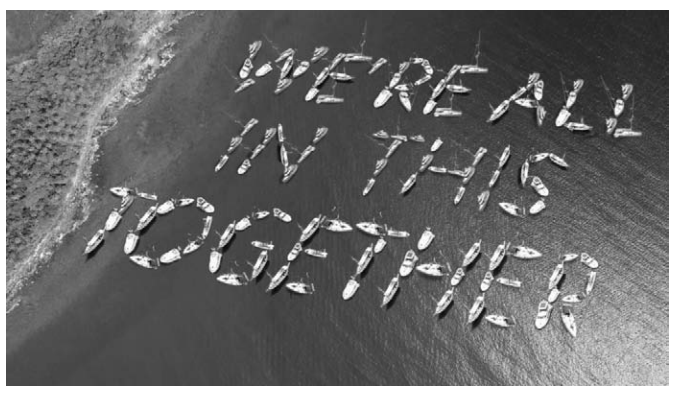
If you're not familiar with priming, it is the ability to influence someone's thoughts, attitudes, and behaviors without them knowing about it, through exposing them to a previous stimulus. For example, repeating the phrase, "Stay home. Stay safe." could be a form of priming, as it has the potential to impact the way people think (or don't think and just do), speak, or act.

As John Bargh explains in his article, published in the European Journal of Social Psychology,

The past 25 years have seen amazing empirical advances in our knowledge of the kinds of psychological concepts and processes that can be primed or put into motion unconsciously. Social norms to guide or channel behavior within the situation; goals to achieve high performance, to cooperate with an opponent, or to be fair minded and egalitarian; emotions that shape our reactions and responses to subsequent, unrelated stimuli; and of course, knowledge structures such as stereotypes and trait constructs for use in the comprehension and encoding of often ambiguous social behavior. And social behavior itself can be produced unconsciously in the same fashion.

Still more recently, though, priming effects of even greater complexity have been discovered, such as in the nonconscious activation of deep cultural ideologies and other interpersonal relations…

Bargh JA, 2006



Consider this statement: *We're all in this together.*

If you hear this over and over, and unconsciously believe it, then it means those who don't follow the conventional recommendations aren't in this with you. They're outsiders. They are easy to target and hate and slander. It feels okay to treat them as outsiders because people believe they have the support of their pack to do so.

Or take this one: *Stay home. Stay safe.*

This implies that by staying home, you're doing something that helps protect people. To not stay home then, would mean putting others at risk. It sets the stage for people to easily buy into the idea that if you don't stay home, you're selfish.

There's nothing to prove this statement is accurate. Recent data says the opposite: 66% of hospitalizations in New York are from people sheltering in place.

Yet, if you asked the average person what they should do to protect themselves and others, they'd say, "I should stay home to stay safe."

Behavioral priming can lead us to believe something is a fact even without evidence to support it. It would explain why some people feel it's okay to throw stones at those who believe in something other than staying home. They want to slander doctors who suggest we're actually safer being at work. Maybe their strong emotion comes from the fact that they've been well-primed over the past couple of months.

And finally, what about this? A new normal.

What a perfect phrase to prime you to accept a life that's different from the life we lived up until 2020. If you believe whatever we're told to do next is the "new normal" after hearing that phrase a thousand times, you'll be less likely to question whatever that suggested normal might be.

WHAT IF?

I'm not suggesting this is some sort of global conspiracy, or that a group of evil-minded people decided to take advantage of the situation we're in right now to create a different way of living.

It's possible somebody simply threw a few phrases together, and they took off faster than a contradictory video on YouTube, but with far less pushback. Maybe it was just a coincidence.

I'm only asking the question, "What if?"

What if the phrases we've constantly heard have shaped the way we think about our actions, the way we judge others' actions, and the way we might accept life in the future, if it becomes different from what we've experienced in the past?

What if there are motivations behind all of this that aren't pure? The only way to find out is to ask questions. The weird part in it all is that once people begin asking questions, they're often met with an onslaught of hate and anger, which makes you wonder even more if there isn't something behind it all.

What if, by you simply asking, "What if?" you start to feel less concerned about COVID-19, and more about where we're headed as a country?

Of course, I could be way off base with my questions. If I am, I don't mind. I'm simply asking questions worth considering. Wisdom comes from asking questions, not from simply following along with whatever we're told.

We all need to ask more questions rather than accept all answers.

★★★

New Mexico governor blocks plans to reopen drive-in theater

By US~Observer Staff

Las Vegas, NM - Governor Michelle Lujan Grisham has blocked the reopening of a drive-in movie theater despite city officials believing they had the "go-ahead."

Governor Grisham's office shut down plans to reopen the Fort Union Drive-In Movie Theater in Las Vegas, amid the COVID-19 pandemic on May 14th. According to Las Vegas Mayor Louie Trujillo, the Governor's office would treat the drive-in just like any movie theatre, despite it being drastically different.

And that is just what Governor Grisham's office did. The San Miguel County Emergency Management Department was contacted by the Governor's office a day before the scheduled reopening with the news - you can't reopen.

Those who helped plan the safe, socially distanced re-opening were upset by the Governor's decision. One person who planned on attending the double feature of "Trolls World Tour" and "Doolittle" on May 15 voiced their frustration. "This is unbelievable! Close the drive-ins? What a joke! You can't get more socially distanced! That was the entire purpose of reopening this drive-in."

The drive-in currently plans to reopen sometime in June. ★★★

Exonerated man freed from prison, now in hotel quarantine

By Rich Schapiro

(NBC News) - Dressed in a white T-shirt and maroon shorts, Kevin Harrington beamed as he walked out of the Macomb Correctional Facility in southern Michigan. After a few steps in the fresh air, he let go of the dolly holding his belongings and raised his hands to the sky.

Harrington had spent 17 years behind bars for a murder he had always insisted he didn't commit. On Tuesday, a judge tossed his conviction and threw out his life sentence after prosecutors determined the lead detective coerced a key witness into implicating Harrington and a second man.

A group of friends and relatives was outside the prison waiting for him – several of them cheering his name, his mother shaking a tambourine.

But Harrington couldn't hug them. And he still can't go home.

Because of a COVID-19 outbreak at the prison, the 37-year-old former inmate is now holed up at a hotel for a voluntary 14-day quarantine –- a confinement of sorts but one far more pleasant than what he was used to.

"I could eat Grubhub. I could watch Netflix. I get to sleep on a nice comfy bed," Harrington told NBC News by phone from his hotel room.

"It's been beautiful."

Speaking two days after his release, Harrington said he still doesn't have much in his spacious hotel room.

A few pairs of clothes. His Daily Bread devotional pamphlet. And the four bags of legal work and one bag of family photos he lugged out of prison.

"That's all I had in 17 years, six months, two days and 35 minutes of being wrongfully incarcerated," Harrington said. "I really like to call it being kidnapped. Because kidnapping is taking someone somewhere they don't want to be without their consent and or will."

The case began in late September 2002 when the body of a man named Michael Martin was found in a field across the street from his apartment building in the city of Inkster.

Investigators questioned a local woman who gave conflicting accounts of what she observed but told them several times that she had no idea who fatally shot Martin.

"You got up in the middle of the night and you saw something," Inkster police Detective Anthony Abdallah said to her during an interview at police headquarters, according to a transcript.

"No, I didn't," she said.

Later in the interview, Abdallah appeared to threaten the woman. "We don't want to leave you here and somebody take your kids, OK?" he said.

She eventually told investigators that she saw Harrington and a second man, George Clark, assault Martin and drag him into a field –- and then she heard gunshots.

George Clark

Harrington was 20 years old. He had been taking classes at Wilberforce University in Ohio –- the first in his family to attend college –- but was at that point trying to figure out the next phase of his life.

Clark, who was 31 at the time of his arrest, had been taking care of his ailing mother who was struggling to manage severe diabetes and arthritis.

The two men had grown up in the same housing project in Inkster but they were 11 years apart in age and didn't know each other well.

At their trial, the woman took the stand and denied witnessing the shooting or hearing any shots. But she admitted to having implicated Harrington and Clark at a pretrial hearing, according to an appeals court summary of the trial.

Kevin Harrington just released from prison

There was no physical evidence linking Harrington or Clark to the murder, but the jury found them guilty.

Harrington's verdict was overturned on appeal, and he went on to have three more trials. The next two ended in hung juries but the fourth resulted in a conviction. He was sentenced to life in prison without the possibility of parole in February 2006.

Clark received a life sentence after his motion for a new trial was denied in 2003.

Behind bars, Harrington said he poured his energy into fighting his conviction.

"I didn't have time to be angry, bitter," he said. "I had to fight. I had to read."

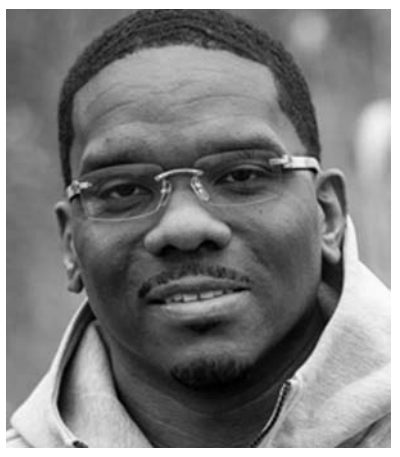
The Michigan Innocence Clinic, which is run by the University of Michigan Law School, began looking into his case in 2009.

By 2015, however, all of Harrington's appeals were exhausted and it seemed his fate was largely sealed. But last fall, the Wayne County Prosecutor's Office Conviction Integrity Unit opened an investigation into the case.

A six-month probe uncovered a "disturbing pattern of behavior from the original lead detective that involved threatening and coercing a number of witnesses," according to a statement from the prosecutor's office.

The unit concluded that Harrington and Clark did not receive fair trials as a result of the detective's conduct. But the prosecutor's office "has not reached any conclusion regarding actual innocence of Mr. Harrington and Mr. Clark," it said in the statement.

Imran Syed, the assistant director of the Michigan Innocence Clinic, praised the prosecutor's office for recommending the convictions be vacated and the charges dismissed.



Kevin Harrington
Photo: Ali Lapetina / for NBC News

"Having investigated this case for more than a decade, the Michigan Innocence Clinic firmly believes in Mr. Clark and Mr. Harrington's innocence," said Syed, who was a second-year law student when he began working on the case in 2009.

"All of the evidence indicates that this is a case of police misconduct where two men who had absolutely nothing to do with the murder were charged, convicted and served 17 years in prison, while the true perpetrator remained at large."

Inkster police Chief William Riley said the detectives involved in the case are no longer on the force and he would welcome an outside investigation.

"We have nothing to hide here," Riley said. "I'm like every other citizen that feels if a criminal act occurred in the prosecution of this case, they need to be held accountable."

Abdallah, who served as the lead detective on the case, is now a police officer in the Detroit suburb of Harper Woods.

Reached Friday afternoon, he declined comment. "Man, you can't talk to me about s--- like that," Abdallah said.

Clark was released from the Lakeland Correctional Facility on April 9. His mother never got a chance to see him walk free.

She died in 2004, just two years after Clark's arrest.

"Basically when she found out what they did to me, she gave up," he said. "This is something I have to live with. But even though she's not here in the physical form, I'm sure she's looking down and seeing that justice finally prevailed."

The prison where Clark was held has had 393 prisoners who tested positive for the virus and nine inmate deaths linked to COVID-19, according to the Michigan Department of Corrections.

Clark moved in with family members in Michigan but has been social distancing. "I never gave up hope that one day this would happen," he said.

Due to the coronavirus pandemic, he's hardly left the house since walking out of prison, but that hasn't been a hardship for him. "I'm enjoying every minute of my freedom," Clark said.

At the Macomb Correctional Facility, where Harrington was held, 84 inmates have tested positive and four have died from the virus.

"It was serious, serious, serious," Harrington said of the conditions behind bars. "Think about a closed-in environment with a rampant virus ravaging through."

"I never experienced any symptoms," he added. "But for the sake of my family, I'm sacrificing another 14 days."

Clark and Harrington are both planning to sue the state seeking $50,000 for each year they were in prison under the state's Wrongful Imprisonment Compensation Act. Their lawyer, Wolfgang Mueller, is also planning to file suit against the city of Inkster and the lead detectives.

"I fully expect to hold the police accountable for what happened here," Mueller said. "They flat out framed these guys."

Harrington's first meal after leaving prison was a cheeseburger with french fries and a slice of cheesecake. His hotel stay is being paid for by the Michigan Innocence Clinic. The program was unable to also cover the cost of his meals, but a call for donations from students was answered so quickly that enough money was raised in two hours, said law student Danielle Bernstein.

The students have also begun a fundraising effort to help him cover housing and transportation costs as he adjusts to his new life.

Harrington has yet to venture off the hotel grounds. He's been spending his days FaceTiming on his new iPhone with his family, watching television and reading his devotional pamphlet, as well as the two-page

Continued on page 11

Javon Davis Exonerated After Serving 5-Yrs in Prison For 2014 Shooting

(WCCO) Minneapolis — All charges against a Minnesota man have been dropped after he served the last five years in prison for a shooting that happened outside of Target Field in April 2014.

The Innocence Project of Minnesota helped free 32-year-old Javon Davis. He was convicted in 2015 in connection to a shooting that injured two men in the middle of the night on April 12, 2014, leaving one with critical injuries.

According to the Innocence Project of Minnesota, the prosecutor in the case presented Davis' history of conflict with one of the victims as his motive for the shooting.

A news release says Davis was sent to prison even though one of the victims testified at trial that he was certain Davis was not at the scene of the crime, and "he did not want to send an innocent man to prison."

Davis also had an alibi, and at the time of the shooting he was reportedly seven miles away, talking on the phone with his girlfriend, an alibi that was later corroborated by phone data and cell phone tower records. The Innocence Project of Minnesota says much of this information was not properly presented to the jury by Davis' attorney — and a district court judge eventually vacated the conviction because of it.

Davis's exoneration was made possible through years of work by staff at the Innocence Project of Minnesota, students from the University of Minnesota Law School, and pro bono attorney Jon Hopeman.

"We appreciate the professionalism and courtesy shown to us by members of the Hennepin County Attorney's Office during this case," Jon Hopeman told the media. "Being wrongfully accused of a crime is a horrific experience. We at the Innocence Project of Minnesota were able to make sure the justice system got it right. We are thrilled that Mr. Davis is home with his family. He wants to resume coaching youth basketball, get a job, and take care of his children – enjoying the daily freedoms that ordinary citizens often take for granted." ★★★

Javon Davis *Photo: Jeff Wheeler/STARTRIBUNE.COM*

In The News

Prosecutor arrested, charged with assault

By Robert Woolsey

(KCAW) Sitka, AK - The state's prosecutor in Sitka has been charged with assault, and will face trial in September.

38-year old Amy M. Williams was arrested in Sitka on Friday, May 15, after police responded to a domestic altercation at her home on Halibut Point Road.

Amy Williams
Photo: KTOO/Matt Miller

According to the criminal complaint, police arrived on scene and met the defendant's boyfriend, who was bleeding from the left side of his face, and had blood covering both hands and his torn shirt.

The man showed police bite marks on his neck and right eye, and a third bite on his right cheek — all allegedly inflicted by Williams.

The defendant informed police that she had tried to physically remove the victim from her home, and he had refused. When the altercation moved outside, she told police that the victim pushed her to the ground twice, where she also sustained minor injuries.

The couple had been dating since November of last year, and cohabitating in the defendant's home since January. Neighbors told police that the couple had been involved in many loud verbal arguments over the last two months.

Both parties admitted to police that they had been consuming alcohol throughout the evening on the 15th. The defendant's breathalyzer test showed a reading of .037 five hour after her arrest — about halfway below the legal limit of .08.

Williams was taken into custody and arraigned on Saturday, May 16, before Magistrate Judge James Curtain. She was charged with Assault in the Fourth Degree, a Class A misdemeanor, and released on her own recognizance.

She appeared again in Sitka Superior Court on May 19 and pleaded not guilty to charge. Ketchikan-based Judge Kevin Miller scheduled a trial for September 28.

Williams was represented by attorney Natasha Norris. Chief Assistant Attorney General Jack McKenna is handling the case for the state, on behalf of the Office of Special Prosecutions.

Williams has no prior criminal record. This was her first arrest. She has been placed on administrative leave by the Department of Law. She had been serving as the assistant district attorney in Sitka for about two years, and worked in Juneau before moving here. Sitka prosecutions will continue to be covered by the Juneau DA's office. ★★★

Former prosecutor arrested for having sex with woman to make criminal charges go away

By Katelyn Massarelli & Ashley Dyer

(WBBH/WZVN) Hialeah, FL - A former assistant state attorney with the 20th Judicial Circuit was arrested for having a sexual relationship with a woman as an offer to make her pending criminal charges go away.

Juan Mercado

Miami Dade police officers arrested Juan Mercado, 29, for the Florida Department of Law Enforcement that had an acting arrest warrant for him. The 20th Judicial Circuit covers Charlotte, Collier, Glades, Hendry, and Lee Counties.

The woman was being prosecuted for domestic battery, and Mercado offered to "make her case go away" in exchange for sex, according to the Florida Department of Law Enforcement.

Mercado was not the assigned prosecutor on the case but did access records and provided information and advice to the woman, the Florida Department of Law Enforcement said.

The State Attorney's Communications Director, Samantha Syoen said Mercado worked in their Charlotte County office. His start date was May 22, 2017, and he resigned on February 5, 2019.

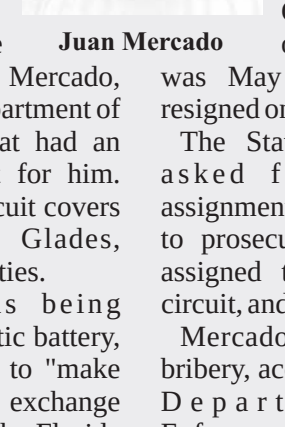
The State Attorney's Office asked for a governor's assignment for a different circuit to prosecute his case. It was assigned to the 12th judicial circuit, and it's now their case.

Mercado was arrested for bribery, according to the Florida Department of Law Enforcement.

Mercado was taken to the Miami-Dade Jail. ★★★

Dallas Police Officer Arrested For DWI *While On Duty*

(CBSDFW.COM) Dallas, TX – Dallas Senior Corporal Sean Mock was arrested and charged with Driving While Intoxicated (DWI).



Sean Mock

According to Dallas police, it was around 2:15 a.m. when Mock was on-duty and sitting in a parked marked squad car.

The 34-year-old was arrested in the vehicle.

He was taken into custody, charged with DWI and released on $500 bond.

No other details regarding his arrest have been given.

Mock has been with the department since July 2009 and is currently assigned to the Northwest Patrol Division. He is on administrative leave pending the outcome of an Internal Affairs administrative investigation. ★★★

Michigan Prosecutor Arrested For Using Confiscated Money As His Own Personal Slush Fund

By Andrew Wimer
Institute For Justice

Eric Smith

(Forbes) - For years Macomb County prosecutor Eric Smith used money taken by law enforcement as his personal slush fund. According to an indictment recently revealed by the Michigan Attorney General, Smith, with the help of a former county treasurer and his office's chief of operations, secreted away funds in accounts outside of normal controls. They then used the money to buy flowers and makeup for secretaries, a security system for Smith's private residence, catering for parties, campaign expenditures, and more.

Smith is charged with five counts of embezzlement and five other counts related to the scheme. The charges could result in decades in prison for a man who spent his career putting others behind bars.

A countywide audit in 2016 first uncovered the illicit accounts. Smith spent years trying to cover up the alleged crimes, initially refusing to hand control over to the county. Then, facing likely prosecution, Smith closed the accounts and handed a check over to the county without producing statements, hoping to cover up his spending habits. However, a police investigation revealed the apparent depth and breadth of Smith's corruption.

It appears that Smith broke a host of Michigan and federal laws, but the fact that the misspent funds came from forfeitures is an important detail. Rather than depositing the money and resources they collect in a neutral account controlled by elected officials who are accountable for how that money is spent, prosecutors often have extraordinary control over the money their offices bring in through criminal and civil forfeiture. In fact, there are numerous examples of outrageous spending by prosecutors and police that were completely legal.

In Houston, a district attorney was reimbursed for purchases of alcohol, beer, and a margarita machine. The Manhattan district attorney spent $250,000 on travel to luxury destinations, including a stay at a five-star Paris hotel. An audit of a Massachusetts district attorney's office found purchases for lawn equipment, a refurbished basketball court, and a Zamboni. That audit concluded that nothing about the spending was illegal.

Sometimes forfeited property even ends as the private property of police officers. A WHYY radio investigation found that, in Philadelphia, district attorney auctions of forfeited homes were often won by police officers serving on the very force that was confiscating the houses. In Minnesota, a seized ice auger, a tool used to aid in ice fishing, went missing. It was eventually returned to the property owner after being "slightly used" by an officer.

The vast majority of money claimed by law enforcement in the U.S. comes through civil forfeiture. For instance, just 13% of Department of Justice forfeitures from 1997 to 2013 were criminal. That makes sense since the burden of proof to take property through civil forfeiture is lower and property owners facing civil forfeiture aren't entitled to an attorney. Among DOJ civil forfeitures, 88% never went before a judge.

Because many prosecutors have control over how to spend civil forfeiture proceeds, they are incentivized to take as much as possible. In Michigan, law enforcement agencies can retain up to 100 percent of forfeiture proceeds. It will be interesting to see whether Smith argues that he did nothing wrong in setting up the accounts he controlled. Again, there are plenty of examples of prosecutors recklessly spending forfeiture proceeds in a completely legal manner.

Media exposés and reports like the Institute for Justice's Policing for Profit have resulted in some states reforming their civil forfeiture practices, but many still fall well short of what is needed. In recent years, Michigan enacted a reform that allows for property owners to stay a forfeiture action until a criminal prosecution has concluded. Yet, this reform still requires a property owner to respond to a forfeiture action within 20 days or lose their property forever. Your property in Michigan is still not "innocent until proven guilty."

Many states have also increased reporting requirements in order to shine light on property being taken and how the proceeds are spent. Many law enforcement agencies, however, fail to file reports. In 2018, a Kentucky Center for Investigative Reporting project found that only 11 percent of agencies in the Bluegrass State detailed their seizures as required by a long-standing law. That reporting shamed many agencies into filing reports in 2019, but 60 agencies still did not follow the law last year.

Law enforcement should never see the money they take through the criminal justice system as "theirs." Although it's good that possible misuse of funds has been uncovered in Macomb, there are still abusive practices happening out in the open across Michigan and across the country.

Just over the line in Wayne County, police and prosecutors routinely use civil forfeiture to take cars from innocent owners. That practice has prompted an Institute for Justice lawsuit that is being vigorously fought by prosecutors. It shows that civil forfeiture has distorted law enforcement priorities and will continue to do so until it is ended and the profit incentive stops overwhelming the neutral enforcement of justice. ★★★

'This Isn't Our First Rodeo': SoCal City Officials Charged in Bribery Scheme

By Bianca Bruno

(Courthouse News) San Diego - The acting mayor of a Southern California city was charged Thursday alongside a city economic development commissioner for allegedly accepting $35,000 in cash bribes from an undercover FBI agent in exchange for guaranteeing a city permit for a cannabis dispensary.

David Romero

Calexico city councilman and Mayor Pro Tem David Romero was arraigned via teleconference Thursday by U.S. Magistrate Judge Bernard Skomal alongside Bruno Suarez-Soto, a former commissioner on the city's Economic Development and Financial Advisory Commission.

According to a 10-page charging document, both men are accused of accepting $35,000 in cash bribes, paid in installments earlier this year by an undercover FBI agent who they believed represented investors seeking to open a cannabis dispensary in Calexico.

The men were released Thursday on $10,000 personal appearance bonds.

Calexico City Manager David Dale said in a statement that a news release about the charges by the U.S. Attorney's Office was the city's first notice of the investigation.

"The city is committed to complete integrity and transparency in its governance and processes and does not condone, and strongly condemns, the kind of conduct alleged by the federal prosecutor. Accordingly, the city will cooperate with any follow-on inquiries or requests for information and assistance from either the U.S. Attorney or the FBI," Dale said in the statement.

The city manager also vowed to determine if any of its "processes were affected by the arrangements" described in the charging documents and to correct those processes pending the outcome of the charges.

He also confirmed Suarez-Soto resigned his position April 22, citing "residency issues."

U.S. Attorney Robert Brewer said in a statement "public officials must act with honesty and integrity when doing the public's business."

"If civic leaders won't uphold these standards, we will. We allege that these defendants traded on their positions of trust, selling the integrity of government in exchange for thousands of dollars," Brewer added.

According to the charging documents, in exchange for the bribe, Romero and Suarez-Soto promised the agent they would guarantee the rapid issuance of a city permit for the cannabis dispensary and would revoke or hinder other applicants if necessary to ensure the bribe payer's application was successful.

The transactions took place over a series of meetings this past December and January at restaurants in Calexico and El Centro in California's Imperial Valley, about 120 miles east of San Diego.

At the first meeting on Dec. 19, 2019, the duo agreed to fast-track the FBI agent's purported application for a cannabis dispensary permit and to delay permit applications by competitors in exchange for $35,000.

They agreed to accept half the money up-front and half "when it's a for sure thing," indicating they had done similar work for other people and were stiffed the agreed upon fee after the favors had been rendered, according to the charging document.

"This isn't our first rodeo," Suarez-Soto told the agent.

At the meeting, the undercover agent asked if the $35,000 payment would get his application to the front of the line.

"Hell yeah," Suarez-Soto responded, according to the charging information.

At a second meeting on Jan. 9, Suarez-Soto told the agent he was fortunate to be working with the acting mayor – who was set to be sworn in as mayor in July – because Romero would cut through "so much bullshit [red] tape that exists" within the city.

Romero told the agent the people who would approve his cannabis dispensary permit were "my best friends at the entire city hall."

The agent handed the men $17, 500 in cash at the meeting.

The men accepted a second installment of $17,500 in cash at a third meeting Jan. 30, where they also admitted to creating a shell corporation – a consulting company called RS Global Solutions – to launder the proceeds of their bribery scheme.

When the men were interviewed by FBI agents following the Jan. 30 meeting, they denied being apart of any agreement with the undercover agent, saying they had never made any "guarantees" and denied they received any payments, saying they were paid for "consulting services."

The men could face a maximum penalty of five years in prison and a $250,000 fine.

★★★

Judge finds East Cleveland law director acted unethically in wrongful imprisonment case, disqualifies her from representing police officers

Law Director Willa Hemmons

By Cory Shaffer

(Cleveland.com) Cleveland, OH - East Cleveland Law Director Willa Hemmons' attempt to represent her city and two former police officers in a court battle over who must pay $15 million to three wrongfully imprisoned men was a "patently inappropriate and unethical" conflict of interest, a judge has found.

U.S. District Court Judge James Gwin took the rare step this week of disqualifying Hemmons from representing former officer Vincent Johnstone and the estate of former detective Michael Perry, who died in 2018. The judge found that Hemmons acted in "flagrant violation" of the rules that govern the conduct of attorneys and judges.

"Trial courts have the 'inherent power to disqualify an attorney from acting as counsel in a case when the attorney...will not comply with the Code of Professional Responsibility and when such action is necessary to protect the dignity and authority of the court," Gwin wrote. "The Court finds it necessary to exercise its inherent authority here."

Gwin ordered Hemmons to deliver a copy of his filing to Johnstone and the estate of Perry, who died in December 2018. Johnstone and Perry's heirs must find new attorneys within 30 days.

Hemmons said in a Wednesday afternoon court filing that the city has agreed to take responsibility for the payout and she has withdrawn her representation of the officers.

She pointed cleveland.com to a May 4 court filing in which she accused the men's attorneys, who requested that Gwin remove Hemmons from representing the officers, of trying to deprive the officers of their "First Amendment Right to Counsel" by seeking her removal.

The right to counsel is contained in the Sixth Amendment to the Constitution. It does not apply in civil cases.

The ruling came in the case of Laurese Glover, Eugene Johnson and Derrick Wheatt, who were convicted of murder in 1995 when they were teenagers. The men were released in 2015 after witnesses recanted their testimony, and a judge found that the officers and Assistant Cuyahoga County Prosecutor Carmen Marino suppressed evidence that supported their innocence.

The men filed a civil-rights lawsuit against East Cleveland and the officers, and a jury in November 2018 awarded them $15 million. Their lawyers and Hemmons have been arguing whether the city or the officers in their personal capacities should be on the hook for the money, with Hemmons filing motions on behalf of the officers and the city opposing the plaintiffs' attempts to have the city held responsible for the verdict.

Gwin warned Hemmons in an August 2019 order delaying his decision until the Ohio Supreme Court decided a similar case that her move was "completely improper." The city's interest in avoiding the hefty judgment is "directly adverse" to the interests the officers have in avoiding such a judgment on them, Gwin wrote.

The judge wrote then that Hemmons' representation of the officers "presents an obvious conflict of interest."

The Ohio Supreme Court on March 25 held that a government body could not be forced to pay a civil judgment for its employee unless the employee being sued asked the government body to do so. The ruling reopened the argument. Hemmons filed another motion on behalf of both the city and the officers that opposed the city being responsible.

"Hemmons's continued representation of Defendants Johnstone and Perry is a flagrant violation of the standards of professional conduct, especially given the Court's earlier order noting the inappropriateness of continued joint representation," Gwin wrote this week.

The move was not the first time that Gwin called out Hemmons in the case.

The judge sanctioned the city in November 2017 after Hemmons suggested that the men's lawyers depose a former police sergeant who was in a coma at the time.

Gwin also ruled that Hemmons forfeited a critical legal defense, qualified immunity, by not raising it in court filings before he ruled on whether the lawsuit could go to trial. Local governments frequently raise qualified immunity defenses that can shield officials from liability if the conduct at issue was not in violation of a person's legal rights or could be considered a reasonable mistake.

Johnson, Wheatt and Glover also sued Cuyahoga County, Marino and another former assistant prosecutor, Deborah Naiman. The county agreed to pay the men $4.5 million to settle the lawsuit in 2018. The men also received $1.5 million from the Ohio Court of Claims.

Hemmons, in her statement in response to cleveland.com's request to address Gwin's comments about her conflict, referred to Johnson, Wheatt and Glover as "the poor wrongful 'convictees'" and accused them of "salivating over the coffers of East Cleveland."

"One wonders how much recompense the Plaintiffs would have earned in their lifetimes given that they had already dropped out of high school by the tenth grade," Hemmons wrote.

★★★

First Video Jury Trial in U.S. Held in Suburban Dallas

By TCR Staff

(The Crime Report) - Potential jurors popped onto the screen one by one. They told the judge how they were connecting to the court: on laptops, tablets and iPhones.

Twenty-six Texans in separate boxes swore the juror's oath, beginning a jury trial entirely over Zoom, the Associated Press reports.

The pandemic has crippled courts nationwide, putting many cases on indefinite hold and leaving judges managing some hearings via videoconferencing. The delays have kept some defendants in jail, exposing them to possible outbreaks.

The jury-trial-by-video in suburban Dallas this week could reveal a possible path forward in which jurors are kept safely distanced while cases are allowed to proceed until the coronavirus threat has receded.

While courts now frequently apply multimedia, the Dallas video-only trial raised complex questions about security, a person's right to a fair trial and whether virtual deliberation might prevent 12 people from forming the bonds needed to hash out justice.

"No one is saying tomorrow we're going to start trying serious felonies over Zoom," said District Judge Emily Miskel, who coordinated technology for the trial. For now, video trials may be limited to civil cases.

This week's trial over a disputed insurance claim was the nation's first remote jury trial, says the National Center for State Courts. Those involved seemed pleased with the process. Still, lawyers worry that virtual deliberation cuts out the casual interaction among jurors that some see as essential to building group trust.

"It would just be too difficult, too many constitutional hurdles to clear for a defendant to be brought to a virtual trial," said Randy Gioia of Massachusetts' public defender agency.

"There is no substitute for an in-person, face-to-face three-dimensional hearing with a judge."

★★★

Senate Votes to Allow FBI to Look at Your Web Browsing History Without a Warrant

By Janus Rose

(VICE) - The US Senate has voted to give law enforcement agencies access to web browsing data without a warrant, dramatically expanding the government's surveillance powers in the midst of the COVID-19 pandemic.

The power grab was led by Senate majority leader Mitch McConnell as part of a reauthorization of the Patriot Act, which gives federal agencies broad domestic surveillance powers. Sens. Ron Wyden (D-OR) and Steve Daines (R-MT) attempted to remove the expanded powers from the bill with a bipartisan amendment.

But in a shock upset, the privacy-preserving amendment fell short by a single vote after several senators who would have voted "Yes" failed to show up to the session, including Bernie Sanders. 9 Democratic senators also voted "No," causing the amendment to fall short of the 60-vote threshold it needed to pass.

"The Patriot Act should be repealed in its entirety, set on fire and buried in the ground," Evan Greer, the deputy director of Fight For The Future, told Motherboard. "It's one of the worst laws passed in the last century, and there is zero evidence that the mass surveillance programs it enables have ever saved a single human life."

The vote comes at a time when internet usage has skyrocketed, with tens of millions of Americans quarantined at home during the COVID-19 pandemic. Privacy advocates have warned for over a decade that allowing warrantless access to web search queries and browsing history allows law enforcement to easily crack down on activists, labor organizers, or anyone else the government deems a threat.

"Today the Senate made clear that the purpose of the PATRIOT Act is to spy on Americans, no warrants or due process necessary," Dayton Young, director of product at Fight For the Future, told Motherboard. "Any lawmaker who votes to reauthorize the PATRIOT Act is voting against our constitutionally-protected freedoms, and there's nothing patriotic about that."

★★★

Michigan prosecutor arrested after alleged drunken-driving crash

By John Agar

(MLive) St. Joseph County, MI – John McDonough, prosecutor of St. Joseph County, was arrested Monday, May 11, for allegedly operating while intoxicated.

He was arrested after a one-vehicle, non-injury crash near Three Rivers.

St. Joseph County Sheriff Mark Lillywhite confirmed to the Sturgis Journal that the county prosecutor was the man involved in the crash.

Lillywhite identified the driver as John McDonough, 40, but would not confirm his elected position to MLive.

McDonough did not respond to a cellphone message seeking comment.

The crash was reported at 7:03 p.m. in the 17000 block of Lovers Lane in St. Joseph County's Lockport Township. Sheriff's deputies found a black sport-utility vehicle on the north side of the road. There was damage to the SUV as well as a property owner's fence.

John McDonough *(MLive file photo)*

McDonough was arrested for allegedly operating while intoxicated and having an open container of alcohol in the vehicle, Lillywhite said in a statement.

McDonough was taken to the Cass County Jail after the crash. He was released early Tuesday, online records showed. He has an arraignment set for May 21 in St. Joseph County District Court.

★★★

10 Ways a Roadside Police Stop Can Go Wrong

What could happen—and what to do about it—if you get pulled over by the cops

By Jacob Sullum

(Reason) - "These days," Charles Glover's lawyers noted in a Supreme Court brief last year, "traffic safety is so pervasively regulated that it is difficult to drive on a regular basis without violating some law. When an officer observes an infraction—any infraction—he can initiate a traffic stop."

Glover was challenging the police practice of automatically stopping cars that are registered to drivers whose licenses have been suspended. While the assumption that the registered owner is behind the wheel might seem reasonable, it could prove to be wrong in the vast majority of cases, since those cars can be legally driven by relatives, friends, and neighbors. Condoning such traffic stops, as Kansas urged the justices to do in a case they heard last November, therefore would expose many drivers to the constant threat of police harassment even when they're doing nothing illegal.

The Court sided with Kansas in April, giving police one more excuse to stop drivers. But it's not as if they really needed one. State transportation codes include hundreds of rules governing the operation and maintenance of motor vehicles. Many of them are picayune (e.g., specifying acceptable tire wear, restricting window tints, and dictating the distance from an intersection at which a driver must signal a turn) or open to interpretation (e.g., mandating a "safe distance" between cars, requiring that cars be driven in a "reasonable and prudent" manner, and banning any windshield crack that "substantially obstructs the driver's clear view").

"The upshot of all this regulation," University of Toledo law professor David Harris observed in a 1998 George Washington Law Review article, "is that even the most cautious driver would find it virtually impossible to drive for even a short distance without violating some traffic law. A police officer willing to follow any driver for a few blocks would therefore always have probable cause to make a stop."

In the 1996 case Whren v. United States, the Supreme Court said such stops are consistent with the Fourth Amendment's ban on unreasonable searches and seizures even when the traffic violation is merely a pretext for investigating other matters. If an officer stops a car for a traffic violation in the hope of finding illegal drugs or seizable cash, for instance, that is perfectly constitutional, even without any evidence of criminal conduct. Thanks to Whren and other rulings, Harris concluded, "the Court has conferred upon the police nearly complete control over almost every car on the road and the people in it."

Once police stop you, a ticket is the least of your worries. Here is a guide to some of the roadside hazards created by giving cops the discretion to mess with just about anyone who dares to travel in an automobile.

1. You Might Lose Your License

Your license could be suspended following a traffic stop because your latest offense puts you above a specified number of points, because you were caught with marijuana or other illegal drugs (which triggers an automatic six-month suspension in Texas and a one-year suspension in Florida, for example), or because you declined to blow into a breathalyzer for a cop who thought you were drunk (which can earn you a six-month or one-year suspension, depending on the state). Your license also might be suspended for various reasons unrelated to traffic safety or even to driving, such as unpaid parking tickets or overdue child support. Once your license has been suspended, you will face fines or jail if you continue driving and happen to be stopped.

2. You Might Be Arrested

"In Texas," Dallas criminal defense attorney Paul Saputo warns on his website, "you can be arrested for almost any traffic violation—even minor traffic violations that are not punishable by jail time." Other states generally give police less authority to arrest drivers, but some classify minor traffic offenses, such as speeding, rolling stops, and failing to turn on your headlights, as misdemeanors, meaning they can result in an arrest.

While police usually issue citations for minor traffic offenses, the risk of arrest is not merely theoretical. The reform group Just Liberty estimates that more than 45,000 Texas drivers were arrested during traffic stops in 2016 for Class C misdemeanors—traffic and city ordinance violations that are typically handled with citations.

The Supreme Court approved such arrests in Atwater v. City of Lago Vista. That 2001 case involved a woman named Gail Atwater, who was arrested in 1997 after a Lago Vista, Texas, police officer, Bart Turek, saw her driving a pickup truck. She was unrestrained by a seat belt, and so were two young children sitting in the front seat.

Outraged by Atwater's negligence, Turek berated her, handcuffed her, and hauled her to the local police station, where officers forced her to remove her shoes, her jewelry, her eyeglasses, and the contents of her pockets before taking her mug shot. She was released on bail after spending an hour in a jail cell—all for an offense that at the time was punishable only by a fine of $25–$50.

In the majority opinion, Justice David Souter conceded that "the physical incidents of arrest were merely gratuitous humiliations imposed by a police officer who was (at best) exercising extremely poor judgment." The Court nevertheless concluded that arresting Atwater was reasonable under the Fourth Amendment, thus declining to establish a rule that it's unconstitutional to jail people for offenses that are not punishable by jail.

Sandra Bland, a 28-year-old woman, was pulled over in Prairie View, Texas, in 2015 for failing to signal a lane change. Thanks to Atwater, State Trooper Brian Encinia could have arrested her just for that. But what really ticked him off, dashcam and cellphone video of the incident showed, was her refusal to put out her cigarette, which prompted him to demand that she "get out of the car, now!" When she did not comply, Encinia forcibly removed her, tackled her, and arrested her for assaulting a police officer. Three days later, she committed suicide in jail.

Although Encinia was fired after that incident for violating the Texas Department of Public Safety's "procedures regarding traffic stops" and its "courtesy policy," he was on firm legal ground in demanding that Bland exit her car. In the 1977 case Pennsylvania v. Mimms, the Supreme Court said cops may order legally detained motorists out of their cars at will, based on general concerns about officer safety. Two decades later, the Court extended that rule from drivers to passengers in Maryland v. Wilson.

3. You Might Be Strip-Searched

While Gail Atwater's "gratuitous humiliations" did not include a strip search, that would have been OK too, judging from the Supreme Court's 2012 ruling in Florence v. County of Burlington. That case involved Albert Florence, who was arrested by a New Jersey state trooper during a routine traffic stop in 2005 based on an erroneous warrant involving a fine he had already paid. Florence endured strip searches at both the Burlington County Detention Center and the Essex County Correctional Facility, which struck him as unreasonable given the nature of his alleged offense.

The Court disagreed. In light of legitimate concerns about weapons and contraband, the majority said, it is reasonable for

Image: Katarzynasurman/Fiverr

jails to strip-search all arrestees. The Court noted that "persons arrested for minor offenses may be among the detainees processed at these facilities," citing its decision in Atwater.

4. You Might Be Interrogated

"Officers will often engage you in casual conversation," says Steve Silverman, founder and executive director of Flex Your Rights, an organization that educates Americans about the constitutional issues raised by police encounters. "If they start asking you, 'Where are you going? Is there anything in your car that you shouldn't have?'—that's when the warning lights should go off in your head, to be ready to cut off that conversation. Always stay calm, stay cool. Say things like, 'Officer, I know you're just doing your job, but I'd really rather not answer any questions and be on my way, if that's OK.'"

Once friendly chitchat has morphed into a criminal investigation, most drivers probably will be keen to allay suspicion by being as cooperative as possible. But that approach may not always work out for the best, since it opens the door to inspections by drug-sniffing dogs and car searches that will prolong the stop and may prove embarrassing even if they turn up nothing incriminating.

Last year, the Oregon Supreme Court said this sort of fishing for evidence of a crime is not permissible under that state's constitution. "All investigative activities, including investigative inquiries, conducted during a traffic stop are part of an ongoing seizure and are subject to both subject-matter and durational limitations," it said. "Accordingly, an officer is limited to investigatory inquiries that are reasonably related to the purpose of the traffic stop or that have an independent constitutional justification."

Federal courts applying the Fourth Amendment generally have taken a more lenient approach, letting police ask whatever questions they want on the theory that drivers can always decline to answer. But the notion that such interactions are truly consensual is hard to take seriously given the intimidating power imbalance created when an armed agent of the state detains a driver.

5. Your Car Might Be Searched

The same goes for the consent that drivers supposedly give when officers ask to search their cars. A 2016 Cato Institute survey found that 80 percent of Americans understand they have a right to refuse such requests. But as Silverman notes, "it's challenging" to assert that right.

"The initial friendly chat helps put the driver in the frame of mind of responding to the trooper on a friendly basis, making cooperation and the giving of consent more likely," Harris noted in his 1998 George Washington Law Review article. "And it usually works. Whether out of a desire to help, fear, intimidation, or a belief that they cannot refuse, most people consent."

Drivers who have just denied that there is anything illegal in their cars may worry that refusing permission for a search will look suspicious. But the general pattern of compliance is especially striking in cases where someone allows a search that he knows will discover illegal drugs. Why would anyone in his right mind agree to a search, knowing it will result in his arrest, if he truly believes he is free to refuse?

Even while maintaining the fiction that such searches are voluntary, the Supreme Court has rejected the idea that police should have to inform people that they have a right to say no. In the 1996 case Ohio v. Robinette, the Court deemed such a rule "unrealistic" even when the original purpose of a traffic stop has been accomplished and the driver is theoretically free to go.

In that case, Montgomery County Sheriff's Deputy Roger Newsome stopped Robert Robinette for speeding and, after giving him a warning, added a Columbo-esque query: "One question before you get gone: Are you carrying any illegal contraband in your car? Any weapons of any kind, drugs, anything like that?"

Robinette said no, which was predictably followed by Newsome's request to search his car. Robinette "consented," even though he had marijuana and an MDMA tablet in the car, which led to his arrest. In the Supreme Court's view, Robinette should have understood that he was no longer being detained after he got the warning for speeding, meaning he was under no obligation to stick around, let alone allow a search he knew would send him to jail.

Even if a constitutionally savvy driver says no to a car search, that need not be the end of the matter if a drug-detecting dog is available. The Supreme Court has said that deploying a canine narc does not count as a search and therefore requires no special justification.

The Court has approved the use of such dogs during routine traffic stops, provided it does not "unreasonably" prolong the driver's detention. And the Court has said an alert by a properly trained dog is enough to provide probable cause for a search, notwithstanding substantial evidence that such alerts are often erroneous, imagined, invented, or triggered by the handler's subconscious cues. In practice, these rulings mean that when a driver declines to allow a search, an officer can still get permission from a dog.

6. You Might Be Incriminated by a Bogus Drug Test

Dogs are not the only technology that police can use to implicate you in a drug offense. Drug field tests can magically turn sugar into methamphetamine and soap into cocaine.

On a Friday afternoon in December 2015, Cpl. Shelby Riggs-Hopkins, an Orlando officer, stopped Daniel Rushing after he picked up a friend at the 7-Eleven where she worked. The official reason: Rushing failed to make a complete stop while leaving the convenience store parking lot and subsequently exceeded the speed limit. The real reason: Riggs-Hopkins erroneously suspected him of involvement in "drug activity."

After pulling Rushing over, the eagle-eyed, street-savvy cop "observed in plain view a rock-like substance" on the floor of the car. She reported that she "recognized, through my eleven years of training and experience as a law enforcement officer, the substance to be some sort of narcotic." Rushing "stated that the substance is sugar from a Krispy Kreme Donut that he ate," but Riggs-Hopkins knew better: Two field tests gave "a positive indication for the presence of amphetamines."

Rushing made bail and was released after 10 hours in jail. Three days later, after a lab test found no illegal substance in the evidence collected by Riggs-Hopkins, the charges against Rushing were dropped. (The lab test was not specific enough to identify which brand of donut the glaze came from.)

Alexander Bernstein and Annadel Cruz, who were riding in a rented Mercedes-Benz driven by Cruz when a Pennsylvania state trooper pulled the car over in 2013, were not so lucky. The official reason for the stop: Cruz was driving five miles per hour above the speed limit and hugged the side of the lane for half a mile. A more plausible reason: The sight of a young Latina driving an expensive car made the trooper's heart leap at the thought of finding contraband or seizable cash.

A search of the trunk (totally consensual, of course) discovered "two brick-size packages…covered in clear plastic wrap and red tape." They contained a white powder and together weighed a bit more than five pounds. After a field test supposedly showed that the powder was cocaine, Bernstein and Cruz were arrested. They spent a month in jail because they could not afford bail, which was initially set at $500,000 and $250,000, respectively. Lehigh County prosecutors dropped the cocaine charges after a lab test confirmed that the white powder was homemade soap, as Cruz had said all along.

Experiments have shown that commonly used drug field tests provide false positives for a wide variety of legal substances. Cops who fail to follow directions or misinterpret results also contribute to the problem.

Although these tests generally are not admissible in court, they are used to justify arrests, obtain search warrants, and pressure defendants into plea deals. Based on a 2016 investigation of cases in Harris County, Texas, ProPublica reporters Ryan Gabrielson and Topher Sanders estimated that incorrect field test results have led to "thousands of wrongful drug convictions."

7. You Might Have To Prove Your Sobriety

Given the "substantial government interest" in catching drunk drivers, the Supreme Court ruled in the 1990 case Michigan Department of State Police v. Sitz, the "minimal" intrusion entailed by sobriety checkpoints at which cars are randomly stopped for that purpose is consistent with the Fourth Amendment. Under the program challenged in that case, each driver was "briefly examined for signs of intoxication." If police suspected a driver was drunk, he "would be directed to a location out of the traffic flow where an officer would check the motorist's driver's license and car registration and, if warranted, conduct further sobriety tests."

The same thing can happen if you are stopped for a traffic violation and the officer perceives "signs of intoxication." The standard field sobriety test consists of three parts: the walk-and-turn test, which requires you to take nine steps in a straight line, walking heel to toe, pivot, and do the same thing in the other direction; the one-leg stand test, which requires you to stand on one foot for 30 seconds while counting aloud (1,001, 1,002, etc.) until told to stop; and the horizontal gaze nystagmus (HGN) test, which requires you to visually track a moving object such as a pen or flashlight while the officer looks for eye jerks that are characteristic of alcohol intoxication.

All this is pretty humiliating, especially if the officer was mistaken in thinking you were drunk. Furthermore, while the HGN test is well-validated as an indicator of alcohol consumption, performance on the other two tests varies from one individual to another, and some people do poorly even when they're perfectly sober.

Drivers generally are not legally required to participate in these sobriety tests. But if you refuse, the officer probably will ask you to blow into a breathalyzer. Every state has an "implied consent" law that imposes penalties on drivers who refuse to take breathalyzer tests.

While blood alcohol concentration corresponds pretty well to impairment, that is not true of THC blood levels. For that reason, relying on THC in the blood to define driving under the influence of marijuana, as 18 states do, irrationally and unfairly punishes cannabis consumers who were not actually intoxicated when they were pulled over. A dozen states have "zero tolerance" laws that equate any amount of THC with impairment, and nine of them also count inactive metabolites, which have no effect on driving ability, as conclusive evidence of driving under the influence.

Currently the leading alternative to that approach is a 12-step protocol administered by officers who are trained as "drug recognition experts" (DREs). While their findings are generally admissible in U.S. courts, some independent experts argue that the protocol, which includes an interview, vital sign measurements, eye examinations, and modified sobriety tests,

Continued on page 7

A Key FBI Photo Analysis Method Has Serious Flaws, Study Says

By Ryan Gabrielson

(ProPublica) - A study casts doubt on the reliability of a technique the FBI Laboratory has used for decades to identify criminals by purporting to match their bluejeans with those photographed in surveillance images, potentially undermining evidence used to win numerous convictions.

The FBI's method, used principally in bank robbery cases, matches denim pants by the light and dark patches along their seams, called wear marks. An FBI examiner's scientific journal article on bluejeans identification in 1999 argued that wear marks create, effectively, a barcode that is unique on every pair. That article provided a legal foundation for the FBI to use an array of similar techniques to assert matches for clothes, vehicles, human faces and skin features.

After a ProPublica investigation raised questions about the technique, Hany Farid, a University of California, Berkeley, computer science professor and leading forensic image analyst, and Sophie Nightingale, a postdoctoral researcher in image science, tested the bureau's method and found several serious flaws. Their study, published in the journal Proceedings of the National Academy of Sciences, is the first known independent research on the technique's reliability, even though the courts have allowed bluejeans identifications as trial evidence for years.

The new study determined that seams on different pairs of bluejeans are often highly similar. Separately, multiple pictures of the same pant seam, taken under varying conditions, can appear starkly different from one another.

Taken together, the authors write, these deficiencies show "identification based on denim jeans should be used with extreme caution, if at all."

The FBI declined to comment on the study.

In its articles last year, ProPublica revealed that FBI examiners have tied defendants to crimes in thousands of cases over the past half-century by using crime-scene pictures in unproven ways and, at times, have given jurors baseless statistics to say the risk of errors in their analyses was extremely low. In several cases, the FBI's most prominent image examiner contradicted the original conclusions and results in his lab reports when presenting evidence to criminal courts, FBI records and legal filings show.

The FBI's issues with image analysis echo earlier controversies over other forensic techniques. The bureau's lab technicians and scientists had long testified in court that they could determine what fingertip left a print and which scalp grew a hair "to the exclusion of all others." Research and exonerations by DNA analysis have repeatedly disproved those claims, and the U.S. Department of Justice no longer permits its forensic scientists to make such unequivocal statements.

ProPublica found that examiners on the Forensic Audio, Video and Image Analysis Unit, based at the FBI Lab in Quantico, Virginia, continue to use similarly flawed methods and to testify to the precision of these methods, according to a review of court records and examiners' written reports and published articles. At ProPublica's request, several statisticians and forensic science experts reviewed the unit's methods. The experts identified numerous instances of examiners overstating their techniques' precision and said some of their assertions defied logic.

In response to ProPublica's reporting, Nightingale and Farid said they decided to test the FBI's photo comparison techniques, starting with bluejeans identification.

The researchers purchased 100 pairs of jeans from local second-hand stores and collected images of more than 100 additional pairs of jeans through Mechanical Turk, the Amazon service that provides workers to complete tasks. The researchers used four high-resolution pictures of the seams on each pant leg.

They documented wear marks in the same manner FBI examiners do. But the researchers used what is known as signal analysis to digitally convert the patterns into numeric values and calculate how similar the jeans in different images were to each other.

The authors were consistently able to mark the same features, suggesting the first step in the bureau's process works as intended.

But then the analysis measured wear mark patterns and found the FBI Lab's method struggled to match images of the same pant seam, which were frequently no more similar to one another than to seams from different pairs.

Nightingale and Farid hypothesize that denim jeans are too flexible, as the material easily stretches and shrinks, changing how wear marks appear, even moment to moment.

The technique failed to correctly match images of the same bluejeans in most cases unless they allowed for a high rate of false positives. When inaccurate matches were limited to one in 10,000, it identified less than 30% of the true matches.

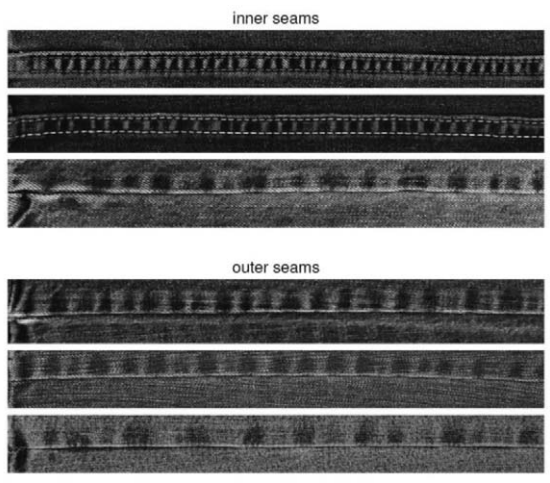
Ultimately, comparing bluejeans seams is relatively useless, Farid said. "If you're willing to tolerate that only one in four times this will be useful, OK, fine, use the analysis."

Brandon Garrett, a Duke University law professor who studies the reliability of forensic science, agreed the study's results cast serious doubt on the accuracy of jeans identifications, similar to the problems earlier research found in hair fiber and tool mark evidence.

"This is one of many studies uncovering non-trivial error rates for forensic techniques," Garrett said. "Any lawyer or any judge in a case involving this discipline should, at minimum, hear about the error rates. Many people assume that these techniques are perfect."

The error rates found in the study are probably the best-case scenario, the researchers said. Every image used in the study was taken in a controlled setting, under good lighting and with the pant seams flattened against a hard surface.

FBI examiners often analyze low-quality images from security cameras and "it is reasonable to expect that the reliability of this technique may degrade under real-world imaging conditions," the authors wrote.



Images of bluejeans seams showing wear collected by the researchers.
(Photo: Sophie J. Nightingale and Hany Farid)

They argue that all image pattern analysis should undergo validation tests, performed by researchers independent of the FBI and other forensic laboratories. "Mistakes in these identifications are costly, resulting in an innocent person being accused or sentenced and a guilty person walking free."

While further research is critical, Garrett argued that alone isn't sufficient. He said this study and scores of others make clear the federal government should regulate the work of forensic scientists in the same manner they do clinical laboratories, setting rules and constantly testing their accuracy.

"We've known about the need for national regulation for over a decade now," Garrett said, "and we haven't seen it."

★★★

Continued from page 6 • 10 Ways a Roadside Police Stop Can Go Wrong ...

has never been properly validated. The National Highway Traffic Safety Administration, which helped develop the DRE curriculum, says "there are currently no evidence-based methods to detect marijuana-impaired driving." The agency is sponsoring research aimed at filling that gap.

8. You Might Be Robbed

Thanks to civil asset forfeiture laws, police have a license to steal cash they come across during a traffic stop by alleging that it is connected to illegal drug activity. Once the cash is seized, the owner bears the burden of challenging the forfeiture, a process that often costs more money than the cops took. "Generally," Silverman says, "they won't reach into your wallet and pull $40 or $100 out. But if they find a stack, or a wad of cash, in a lot of jurisdictions, they're going to snatch that."

The experience of William Davis and John Newmerzhycky, Californians who were stopped by Iowa state troopers in 2013 while returning home from a World Series of Poker event in Joliet, Illinois, was unusual because of the size of the heist and because they ultimately got their money back. But the circumstances were otherwise pretty typical.

Trooper Justin Simmons, who was part of an "interdiction team" looking for contraband and money to seize, ostensibly stopped the two men because Newmerzhycky, who was driving, failed to signal properly as he passed another car. Simmons let Newmerzhycky off with a warning, meaning he was notionally free to go. But Simmons was not really done.

"Hey, John?" he said as Newmerzhycky started returning to his car. "Do you have time for a couple of questions? Do you have something illegal in the car?"

Things quickly went downhill from there. Newmerzhycky denied having any contraband; Simmons asked for permission to search the car; Newmerzhycky said no; Simmons summoned an officer with a drug-sniffing dog, which supposedly alerted to the trunk, justifying a search that turned up $100,000 in poker winnings; and the cops seized the money on the theory that large sums of cash are inherently suspicious.

Davis and Newmerzhycky challenged the forfeiture in federal court. More than three years after the seizure, the state settled the lawsuit by agreeing to return all of the money and pay the men another $50,000 for their trouble.

9. You Might Be Sexually Assaulted

After police in Deming, New Mexico, pulled David Eckert over for failing to stop completely at a stop sign in January 2013, he was forcibly subjected to two X-rays, two digital probes of his anus, three enemas, and a colonoscopy, none of which discovered the slightest trace of the drugs he was suspected of hiding inside himself. Adding insult to injury, the Gila Regional Medical Center, the hospital where these procedures were performed, charged Eckert $6,000 for its services. This degrading ordeal was authorized by a search warrant based on the following evidence: Eckert seemed nervous and stood "erect" with his legs together; a police dog supposedly alerted to the driver's seat of his pickup truck; and a detective claimed Eckert "was known to insert drugs into his anal cavity," which Eckert's lawyer said was a baseless rumor.

Another New Mexico man, Timothy Young, underwent a similarly rigorous search at the same hospital in October 2012 after Hidalgo County sheriff's deputies stopped him for failing to signal a turn. Like Eckert, Young was billed for his involuntary "treatment," which discovered no drugs. The same police dog, whose certification had lapsed, was involved in both cases.

At least the cops in New Mexico bothered to get a warrant. In 2015, the Texas legislature felt compelled to pass a law requiring police to obtain search warrants before probing the anuses or vaginas of drivers or passengers during traffic stops. Legislators were responding to a series of complaints from women who were subjected to warrantless (and fruitless) roadside cavity searches after state troopers stopped them for offenses such as speeding and littering.

10. You Might Be Killed

In 2017, a jury acquitted Jeronimo Yanez, the St. Anthony, Minnesota, police officer who fatally shot Philando Castile during a 2016 traffic stop, of second-degree manslaughter. But dashcam video of the encounter, which was released after the trial, shows that Yanez panicked and killed an innocent man who had calmly informed him that he was carrying a gun, which he was licensed to do.

Yanez officially stopped Castile because of a faulty brake light. But the real reason, the officer testified, was that he thought Castile resembled a robbery suspect: Both had dark skin, a wide nose, dreadlocks, and glasses.

Yanez never told Castile not to move, never told him to keep his hands in plain view, and never told him to put them on the dashboard. Instead he asked Castile for his driver's license, which Castile apparently was trying to retrieve when Yanez said, "Don't pull it out," referring to the handgun. "I'm not pulling it out," Castile assured Yanez. "He's not pulling it out," Castile's girlfriend, a passenger in the car, reiterated. At that point, Yanez freaked out, screaming, "Don't pull it out!" He immediately drew his pistol and fired seven rounds at Castile, who managed to say "I wasn't reaching for it" before he died.

While some of these scenarios are more likely than others, they all highlight the danger of letting police stop motorists more or less at will, using trivial traffic offenses as a pretext for investigations they otherwise would not be allowed to conduct. Drivers can try to shut down those investigations by politely asserting their rights, but that strategy may be psychologically difficult. It may also be risky, since the same officer who is seeking your cooperation is also deciding whether to let you off with a warning, write a ticket, or arrest you.

Silverman nevertheless hopes that people will consider the broader consequences of meek compliance. "The more people assert their rights," he says, "the more they are creating a sense that there are lines police should not cross." ★★★

COMMENTARY

The views expressed herein are the author's own.

Your Right to Speak Out

The Worst Is Yet to Come: Contact Tracing, Immunity Cards and Mass Testing

By John Whitehead
The Rutherford Institute
rutherford.org

"The things we were worried would happen are happening."
—Angus Johnston, professor at the City University of New York

No one is safe.

No one is immune.

No one gets spared the anguish, fear and heartache of living under the shadow of an authoritarian police state.

That's the message being broadcast 24/7 with every new piece of government propaganda, every new law that criminalizes otherwise lawful activity, every new policeman on the beat, every new surveillance camera casting a watchful eye, every sensationalist news story that titillates and distracts, every new prison or detention center built to house troublemakers and other undesirables, every new court ruling that gives government agents a green light to strip and steal and rape and ravage the citizenry, every school that opts to indoctrinate rather than educate, and every new justification for why Americans should comply with the government's attempts to trample the Constitution underfoot.

Yes, COVID-19 has taken a significant toll on the nation emotionally, physically, and economically, but there are still greater dangers on the horizon.

As long as "we the people" continue to allow the government to trample our rights in the so-called name of national security, things will get worse, not better.

It's already worse.

Now there's talk of mass testing for COVID-19 antibodies, screening checkpoints, contact tracing, immunity passports to allow those who have recovered from the virus to move around more freely, and snitch tip lines for reporting "rule breakers" to the authorities.

If you can't read the writing on the wall, you need to pay better attention.

These may seem like small, necessary steps in the war against the COVID-19 virus, but they're only necessary to the police state in its efforts to further undermine the Constitution, extend its control over the populace, and feed its insatiable appetite for ever-greater powers.

Nothing is ever as simple as the government claims it is.

Whatever dangerous practices you allow the government to carry out now—whether it's in the name of national security or protecting America's borders or making America healthy again—rest assured, these same practices can and will be used against you when the government decides to set its sights on you.

The war on drugs turned out to be a war on the American people, waged with SWAT teams and militarized police.

The war on terror turned out to be a war on the American people, waged with warrantless surveillance and indefinite detention.

The war on immigration turned out to be a war on the American people, waged with roving government agents demanding "papers, please."

This war on COVID-19 will be yet another war on the American people, waged with all of the surveillance weaponry at the government's disposal: thermal imaging cameras, drones, contact tracing, biometric databases, etc.

So you see, when you talk about empowering government agents to screen the populace in order to control and prevent spread of this virus, what you're really talking about is creating a society in which ID cards, round ups, checkpoints and detention centers become routine weapons used by the government to control and suppress the populace, no matter the threat.

This is also how you pave the way for a national identification system of epic proportions.

Imagine it: a national classification system that not only categorizes you according to your health status but also allows the government to sort you in a hundred other ways: by gender, orientation, wealth, medical condition, religious beliefs, political viewpoint, legal status, etc.

Are you starting to get the bigger picture yet?

This is just another wolf in sheep's clothing, a "show me your papers" scheme disguised as a means of fighting a virus.

Don't fall for it.

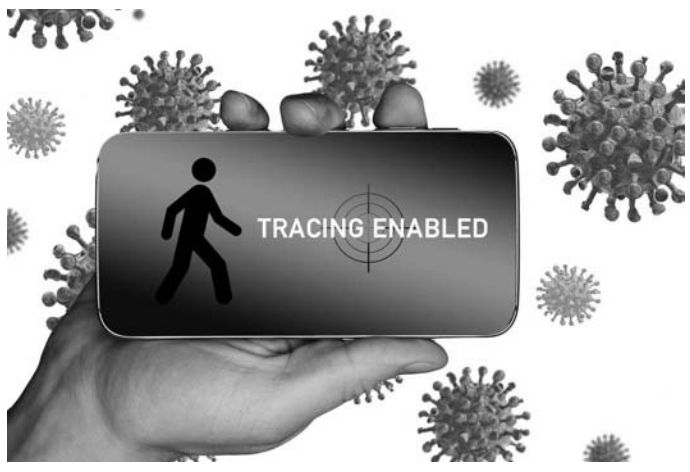
The ramifications of such a "show me your papers" society in which government officials are empowered to stop individuals, demand they identify themselves, and subject them to patdowns, warrantless screenings, searches, and interrogations are beyond chilling.

By allowing government agents to establish a litmus test for individuals to be able to exit a state of lockdown and engage in commerce, movement and any other right that corresponds to life in a supposedly free society, it lays the groundwork for a society in which you are required to identify yourself at any time to any government worker who demands it for any reason.

Such tactics quickly lead one down a slippery slope that ends with government agents empowered to force anyone and everyone to prove they are in compliance with every statute and regulation on the books.

It used to be that unless police had a reasonable suspicion that a person was guilty of wrongdoing, they had no legal authority to stop the person and require identification. In other words, "we the people" had the right to come and go as we please without the fear of being questioned by police or forced to identify ourselves.

Unfortunately, in this age of COVID-19, that unrestricted right to move about freely is being pitted



against the government's power to lock down communities at a moment's notice. And in this tug-of-war between individual freedoms and government power, "we the people" have been on the losing end of the deal.

Curiously enough, these COVID-19 restrictions dovetail conveniently with a national timeline for states to comply with the Real ID Act, which imposes federal standards on identity documents such as state drivers' licenses, a prelude to this national identification system.

Talk about a perfect storm for bringing about a national ID card, the ultimate human tracking device.

Granted, in the absence of a national ID card, which would make the police state's task of monitoring, tracking and singling out individual suspects far simpler, "we the people" are already tracked in a myriad of ways: through our state driver's licenses, Social Security numbers, bank accounts, purchases and electronic transactions; by way of our correspondence and communication devices—email, phone calls and mobile phones; through chips implanted in our vehicles, identification documents, even our clothing.

Add to this the fact that businesses, schools and other facilities are relying more and more on fingerprints and facial recognition to identify us. All the while, data companies such as Acxiom are capturing vast caches of personal information to help airports, retailers, police and other government authorities instantly determine whether someone is the person he or she claims to be.

This informational glut—used to great advantage by both the government and corporate sectors—has converged into a mandate for "an internal passport," a.k.a., a national ID card that would store information as basic as a person's name, birth date and place of birth, as well as private information, including a Social Security number, fingerprint, retinal scan and personal, criminal and financial records.

A federalized, computerized, cross-referenced, databased system of identification policed by government agents would be the final nail in the coffin for privacy (not to mention a logistical security nightmare that would leave Americans even more vulnerable to every hacker in the cybersphere).

Americans have always resisted adopting a national ID card for good reason: it gives the government and its agents the ultimate power to target, track and terrorize the populace according to the government's own nefarious purposes.

National ID card systems have been used before, by other oppressive governments, in the name of national security, invariably with horrifying results.

For instance, in Germany, the Nazis required all Jews to carry special stamped ID cards for travel

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Prosecutors Wield Too Much Influence in the System

By Hannah Cox

(Newsmax) - One of the least visible and most powerful actors in our entire system is the prosecutor — often referred to as a district attorney or the DA. They decide what cases take precedence, which crimes to charge, and what sentences to pursue — including, in 25 states, whether or not to seek the death penalty. And that's just the force they wield at the front end of the system.

District attorneys also hold tremendous influence over local law enforcement departments, forensic labs, state legislators and even judges. They have seemingly endless resources at their disposal, the full weight of government authority behind them, and few checks and balances on their power. All of that power leaves the very structural integrity of our system shaky.

Instead of each department working independently to seek the truth in a case, they instead work as single organism with the DA at the head. Law enforcement takes direction on what cases should move forward, forensic labs are usually paid by the prosecutor's office (some are even paid based on conviction rates, instead of a flat fee for services), and the majority of judges are former prosecutors themselves. The nature of these relationships leads to confirmation bias and a system that has a vested interest in securing wins for the DA, rather than an impartial process seeking truth, with independent actors providing overview.

Not only does this situation result in thousands of wrongful convictions, it also means wayward government actors are unlikely to be held accountable. It is extremely unlikely that a member of law enforcement will be tried for a crime, and it's rarer still that they will be convicted and sentenced. Part of that is due to the terrible legal doctrine of qualified immunity that essentially places police above the law, but prosecutors also often decline to press charges against corrupt cops they work alongside. Even when they do press charges, they frequently seek lesser sentences for the crime or prosecute the case less intensely, which results in acquittals or slaps on the wrist for those involved.

This applies beyond crimes committed in the line of duty. When police or lab technicians lie under oath, bribe jailhouse informants, or commit other fraud that leads to wrongful convictions, the consequences are often underwhelming.

If prosecutors fail to hold those they work with accountable, they're even less likely to be held accountable themselves. Prosecutorial misconduct runs rampant in our system. Studies show that misconduct is the leading cause in wrongful convictions (including in almost two-thirds of death row exonerations), but prosecutors are far less likely to receive any sort of real reprimand for this behavior than other attorneys.

Though district attorneys are typically elected at the county level, the reality is that most voters pay little attention to their activities. Most of them run unopposed and overwhelmingly win their races, even when there is competition. So they are shielded from the reckoning that many of them deserve by the complacency of voters and the special immunity the legal system affords them.

Not only do prosecutors face little to no pushback on their misconduct inside the courtroom, they also receive very little scrutiny for the decisions they make outside of it.

Recently, a district attorney in Satilla Shores, Ga., neglected to press charges against two men, Travis and Gregory McMichael, who stalked and murdered a young man jogging through their neighborhood, Ahmaud Arbery. The DA even wrote a letter maligning the victim. Were it not for video of the brutal attack leaking, this prosecutor would have gotten away with covering up the facts in the case. According to locals, this wouldn't be a first.

Prosecutors get to make unilateral decisions on which cases to charge, and data shows that they often don't make good decisions. To begin with, black people are over-represented in our justice system, and this problem begins with who police arrest and who prosecutors decide to charge. The data we have indicates DAs are far more likely to pursue charges against black defendants, leading some cities to experiment with blind charging — removing racial data from the prosecutors' knowledge.

Considering the fact that almost all prosecutors are white men, it should surprise no one that implicit bias tends to creep into their decision-making process. Data also shows that DAs are much more likely to pursue the death penalty when there is a white victim and a black defendant.

Obviously, prosecutors have a startling amount of power over the enforcement of our laws. But they also play a pivotal role in setting the law as well.

Each state has a District Attorneys Association that throws its weight behind lobbying efforts to prevent the passage of criminal justice reforms. These groups intimidate state lawmakers who hesitate to vote against them for fear their local DA will go back to the district and tell the voters their representative is "soft on crime" or some other tired trope. As the only consistent, organized opposition to criminal justice reform (which is very popular on both sides of the aisle), these associations deserve a great deal of blame for improvements not being implemented more quickly in our system.

On top of all of this, prosecutors continue to rise through the ranks of power. Many go on to be attorneys general, judges and members of Congress, meaning their unchecked behavior, bias and anti-justice reform viewpoints go on to have even greater influence over our laws.

If we hope to create a justice system that lives up to the American values of limited government and individual liberty, something must be done to curb the problem with prosecutors.

Hannah Cox is the National Manager of Conservatives Concerned About the Death Penalty. Hannah was previously Director of Outreach for the Beacon Center of Tennessee, a free-market think tank. Prior to that, she was Director of Development for the Tennessee Firearms Association and a policy advocate for the National Alliance on Mental Illness. ★★★

"Our lives begin to end the day we become silent about things that matter." --Martin Luther King, Jr.

COMMENTARY

Coerced Confessions: How the Plea Bargain Replaced Physical Torture

By Chris Calton

(Mises.org) - In 2010, Chicago police commander Jon Burge was convicted on counts of perjury and obstruction of justice and sentenced to four and a half years in prison. Although he was convicted of lying under oath, his real crime was what he was lying about. Over the course of his career, he participated in or oversaw the torture of hundreds of suspects to coerce confessions for violent crime. The stories of Burge's tortures – involving electroshock and suffocation, among other things – showed enough similarities between otherwise unconnected inmates that he went to trial in 1989. After a hung jury, the judge ordered a retrial, which never came. Over the course of the 1990s, more information about police torture under Burge's leadership surfaced, but the district attorney refused to move forward with a new trial. Finally, after the statute of limitations had expired on Burge's original indictment, the city brought in a special prosecutor, who pressed charges against Burge for perjury during his original trial.

After a short stint in prison, Burge retired to Florida, where he lived on a $4,000-a-month pension until his death in 2018. The legacy of his methods of extracting confessions still plagues Chicago, however, as cases continue to be reexamined – Shawn Whirl, the first of his victims to be exonerated after twenty-five years in prison walked free in 2015. In 1990, Whirl was arrested after his fingerprints were discovered in the back of a cab whose driver had been murdered (hardly damning evidence against a man who had no prior criminal record). When his case was finally reopened as one of the hundreds of victims of Burge's police department, prosecutors refused to press charges as the original case had entirely been built on Whirl's coerced confession.

"THE THIRD DEGREE" AND ADVERSARIAL JUSTICE

Coerced confessions have a long history in American policing. In 1845, several urban centers began the transition away from private law enforcement with the establishment of city-run police forces and district attorneys. This change marked a transition out of the traditional justice system, in which disputes were brought by private citizens and prosecuted by private lawyers, and order was maintained by voluntary citizens serving as night watches or constables, not unlike a modern neighborhood watch.

Over the ensuing decades, government-run police forces and prosecutors spread throughout the country, and a new system of criminal justice developed. Unlike in the previous system, police were charged with bringing people to trial for crimes regardless of whether or not another citizen initiated the dispute. To gain a conviction, the police had to gather evidence—a job previously left to the private attorney serving as prosecutor—but forensic science was in its infancy and police obtained their jobs through political connections and patronage rather than qualification. The easiest way to obtain a conviction, then, was to extract a confession. Since few criminals are willing to confess voluntarily, police began to resort more regularly to beatings and other tortures until a suspect signed a confession. By the 1880s, accusations of police tortures were widespread.

With coerced confessions more common, new language emerged to describe the methods. One early euphemism for police torture was "sweating," which originally referred to a specific – and popular – method of torture in which a person was confined to a small sauna and deprived of water, though the term "sweating" eventually came to refer to general methods of violent interrogation in the police lexicon. The slang failed to stick, though, as a softer euphemism – the "third degree" – gained greater currency.

Methods of giving suspects the third degree varied widely between police forces. Some methods were more physical, ranging from simple beatings to electric shock (when the technology became available). Other methods were more psychological, usually aiming to induce fear, such as when police officers doused a fifteen-year-old suspect in gasoline, lit a match, and threatened to light him on fire if he did not confess his crime. Other psychological methods, usually imposed on the spouses of suspects, was to traumatize people with the brutalized remains of murder victims or other similar experiences. One suspect in a dual murder case was compelled to stand silently for twenty minutes while wearing the blood-drenched vest of the male murder victim while holding the blood-stained dress of the female victim in his left hand and the bible in his right.1

These methods were conducive to the new "adversarial" system of justice, which placed primary value on a guilty verdict and, by extension, on the confession. Traditional inquisitorial justice – common in European history – considered more than mere guilt when deciding the fate of a criminal, and this tradition remained in private community judicial systems. With the formalization of government-run police and prosecution, however, objective guilt in violation of uniform law took primacy and confession simplified the process of obtaining evidence and presenting a case. Torture was the easiest way to obtain a confession.

REFORM AND CENTRALIZATION

Eventually, people came to question the reliability of coerced confessions and the ethicality of such methods of interrogation. Police defended their tactics by raising the specter of rampant criminality. When state supreme courts began to occasionally overturn convictions based on coerced confessions, police defenders raised accusations of "shyster" lawyers who made easy profits taking advantage of legal "loopholes" to free criminals, returning dangerous people to respectable society. References to a "criminal class" entered the debate, and the proliferation of cheap fiction fanned the flames with sensational tales of violent criminals.

Municipal and state prosecutors and judges, of course, had little incentive to push back against coerced confessions. Just as with modern plea bargains, confessions lightened their workload considerably. Even when states passed "anti-sweating" laws and other statutes against coerced confessions, judges routinely ignored them and prosecutors refused to press charges against cops who violated the law.

Alcohol prohibition dramatically increased these problems, as local police and state courts were tasked with enforcing a sweeping federal law that, overnight, turned millions of previously law-abiding citizens into felons. With courtrooms packed and police facing a larger criminal population, the efficiency of coerced confessions spurred a greater toleration of the practice. This led to a greater outcry against the criminal justice system, compelling prohibition advocates to pressure the new president, Herbert Hoover, to fix policing before it undermined prohibition. Hoover responded with the Wickersham Commission.

The Wickersham Commission – formally titled the National Commission on Law Observance and Enforcement – was part of Hoover's larger ambition of centralizing and modernizing law enforcement in the United States. One important outcome of the Wickersham Commission was the collection of national crime statistics. National statistics, which mostly reflect large urban areas, were a tool that demagogues and politicians would use to inflame scares of "criminal epidemics" and consequent increases in the carceral state by giving the impression of crime epidemics in otherwise peaceful communities.

But the commission also devoted a full report to police torture, titled "The Third Degree." In this report, the commission excoriated local police forces for their common recourse to torture to obtain confessions. Although the report recommended reforms to state and city laws to prevent coerced confessions, many politicians resisted. When New York passed an anti-third-degree law—one of the few states to do so in response to the commission—New York City mayor Fiorello La Guardia said that the law was a "Magna Carta" for "punks, pimps, crooks, gangsters, racketeers and the shyster lawyers."2

To help nudge local police forces in the right direction, J. Edgar Hoover set up the Scientific Crime Detection Laboratory for his Bureau of Investigation (soon to be renamed the Federal Bureau of Investigation) and set the example for modern policing with forensic science. With the use of new technologies, the third degree could be rendered obsolete. Of course, the use of these new methods of investigation required training, equipment, and

Continued on page 12

A Nation of Sheep

By Judge Andrew Napolitano

(judgenap.com) - "When the people fear the government, there is tyranny. When the government fears the people, there is liberty." *— Thomas Jefferson (1743-1826)*

To Thomas Jefferson, the fulcrum between the people and the government they have elected was fear. He argued succinctly that the government would only respect liberty if it feared losing power. Today, the relationship between people and government is power. Does the government have the power to tell us how to make personal choices, or do we have the power to tell the government to take a hike?

Stated differently, does the government work for us or do we work for the government?

Jefferson's answer to that question in 1801, the year he became president, was that the government worked for us. Today, unfortunately, this same question has two answers — a functional one and a formal one. One would stumble answering this question if one looked only at how some state governors are treating the people for whom they claim to be working. One needs to look as well at the nature of government in a free society.

Six months ago, no one could have imagined where we are in America today. Then, if anyone had suggested that the governors of all 50 states, in varying degrees of severity, would be using police to interfere with personal choices — choices that we and our forbearers have all made without giving a second thought to the preferences of the government — no one would have believed it.

Think for a moment of how you would have reacted to any pre-COVID-19 idea that the police in America — using not the force of opinion but the force of arms — would prevent you from going out of your home, operating your business, jogging in a park, patronizing a restaurant or clothing store, buying a garden hose, going to Mass or church or temple or mosque or even joining a small public gathering of folks who want to protest these prohibitions.

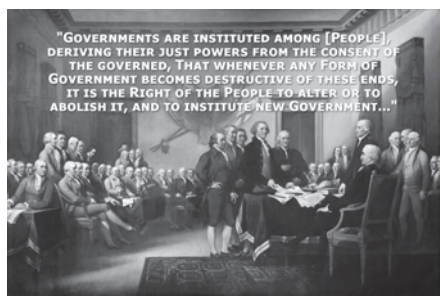
Where did these prohibitions come from? They have come from the ever-changing edicts of governors and mayors, who rely on the ever-changing evaluations of medical data from an ever-changing cast of scientific experts. They are the pronouncements of politicians who have forgotten that they are elected to enforce laws, not to write them, and to be the servants of the people, not their masters.

Why do Americans accept this? We are a nation born in a bloody revolution against a king. The founders of America made the profound and indisputable choice of establishing a government dedicated to the cacophony of liberty over the illusion of safety.

They embedded that choice in the Declaration of Independence and the Constitution. The former states, unequivocally, that no government is legitimate without the consent of the governed and that government's principal duty is to secure our rights. The latter — which expressly protects the right to make personal choices — is the supreme law of the land, and thus all governmental acts are subordinate to it.

We have fought wars against tyrants who wanted to tell us how to live. Today, we have elected our masters who are doing just that.

Americans seem to accept the restrictions on our rights to speech, religion, travel and commercial activities simply because the origin of those restrictions is a popularly elected person. But even an elected government can be tyrannical. Should you bow to these restrictions merely because their authors were elected and they have persuaded your neighbors that the prohibitions are for their own good — the Declaration and the Constitution be damned?



Stated differently, the governments that have interfered with our well-established rights to go about our daily lives as we see fit — taking chances whenever we cross the street, drink a glass of water, bite into food, sit next to a stranger on a train or at a baseball game, or go through a green light in our vehicles — have failed their first obligation, which is to safeguard our freedoms to take those chances.

Instead of safeguarding our freedoms — our natural rights to make personal choices — the governors and their police enforcers have treated us as if we work for them.

Does the government work for us or do we work for the government? Formally, it works for us. We elect officials because we trust their judgment. We authorize those officials to protect our rights, and we prohibit them from interfering with our personal choices.

For a few weeks now, I thought the most extreme of these governors has been Gov. Phil Murphy of New Jersey, who publicly admitted that he didn't think or care about the Bill of Rights, even though he took an oath to uphold it. Yet, Gov. Tom Wolf of Pennsylvania has surpassed him.

When Wolf learned that some Pennsylvania county sheriffs would not use force to enforce his non-law edicts, and some public accommodations would open their doors — consistent with public safety but in defiance of his non-law edicts — he threatened to withhold state aid from all who live in those counties and to close the liquor stores that, by his non-law edicts, remain open. This is straight out of 1930s Germany — punish the community because of the resistance of a few. In Wolf's Pennsylvania, the people work for the government.

My colleagues at The Wall Street Journal have unearthed the facts that more Americans die annually from heart disease, cancer, accidents and non-COVID-19 respiratory failure than die annually (annualized) from this coronavirus. Every death diminishes me. So does every suppression of liberty. So does every denial of the right to make choices and take risks.

Does the government really work for us, or are we afraid of it? ★★★

Fraud on the Court Through Prosecutorial Misconduct
Michael Quiel's Wrongful Conviction is a Page Turner

By Ron Lee
Investigative Journalist

Michael Quiel was convicted of tax crimes on April 11, 2013. He even served a federal prison sentence. The thing is – and it's a big thing – he was innocent and he didn't get a fair trial. When he sat in front of Judge James Teilborg at the Sandra Day O'Connor Federal Courthouse in Phoenix, Arizona, the facts were concealed, even created. This amounted to fraud on the court, and it was perpetrated by IRS agent Cheryl Bradley, Quiel's former attorney Christopher Rusch and federal prosecutor Monica Edelstein. This fraud was designed to do one thing, convict Michael Quiel for crimes he did not commit.

The made-up narrative the trio concocted was of a man – Quiel – who had knowledge of filing certain IRS documents. Both Rusch and Bradley testified that Quiel had filed those documents previously but then didn't file them on certain years in what they would describe as "an attempt to hide his tax crimes."

Now, years later, Michael Quiel was able to attain his IRS master file through Freedom of Information Act (FOIA) requests. The file shows exactly what he had maintained all along; he hadn't filed those documents on the years Rusch and Bradley testified he had.

In fact, Rusch had been Quiel's tax attorney and was responsible for Quiel's taxes being filed. If Rusch knew Quiel hadn't filed those documents, why did he testify he had? The same can be asked of Cheryl Bradley. If the IRS file says Quiel didn't file them, why would this IRS agent lie and say Quiel had? Let's not forget that it was Prosecutor Edelstein who directed and elicited the testimony of both these "witnesses".

Since the IRS was able to withhold the master file for so long – thanks in large part to Judge Teilborg who didn't allow for it to be produced at trial thereby playing a large role in the fraud in his courtroom – there was no other evidence to prove Quiel's innocence of these charges. That alone is the answer to the questions above. They were able to lie in court, have it go unchallenged and ultimately believed by the jury, because they were able to keep Quiel from getting and showing the proof he needed to refute their claims.

Because of their fraud, Michael Quiel's family was almost destroyed. He and his wife suffer PTSD. They all lost faith in the United States justice system. For Quiel himself, he lost his freedom for ten months, his business he had spent years building, much of his wealth he had worked hard to attain, and most detrimental, he lost his reputation – something he continues to fight to win back. All for what? So some prosecutor could build their own reputation by taking him down for something he didn't do?

The story is a deep one, and an interesting read as outlined in Michael Quiel's book, Rigged, now available (see the ad at the bottom of the page). Best yet, all profits from the sale of his book will be donated to benefit innocent victims of false charges and prosecution.

Prosecutorial misconduct is real on all levels of government. Don't believe the system if they tell you otherwise. With an overwhelming tone, that if it can happen to him, it can happen to you, Quiel's book Rigged shows just how far government will go to convict you if they want you to be guilty – even if you are innocent.

For all the innocent victims of false prosecution out there, Michael Quiel has one thing to say, "keep up the good fight. I know I will."

Editor's Note: Christopher Rusch is continuing his life of crime and is the focus of an ongoing US~Observer investigation. See the article "Chris Rusch, aka Christian Reeves Continues Committing Crimes" on the front page of this edition.

★★★

Americans Are Academically Ill-Equipped to Defend the Constitution

By Lindsey Burke, Angela Sailor

(The National Interest) - "A republic, if you can keep it," Benjamin Franklin allegedly quipped when asked what type of government the Constitutional Convention had crafted for the United States. More than two centuries later, astonishingly low levels of civic literacy suggest Americans are academically ill-equipped to do so.

Just 23 percent of American eighth-graders are proficient in civics, according to the National Assessment of Educational Progress (NAEP). That figure falls to nine percent and 12 percent for African American and Hispanic students, respectively. Eighth graders fare even worse in U.S. history, with just 18 percent scoring proficient on the most recent administration of the test.

This civic illiteracy carries over into the adult years. The Annenberg Public Policy Center has found that just two in five Americans can name all three branches of government; one in five cannot name a single branch.

Former Pepperdine University President David Davenport was astonished to discover students pursuing a masters of public policy who had never read the Constitution.

Civics should be considered essential content in high schools. Instead, these basics have been cast aside for a politicized "action" civics which focuses on neighborhood organizing and engagement with special interest groups, rather than a civics education that leads to thoughtful and engaged citizenship.

One need look no further than the politicized efforts of the New York Times' "1619 project," which seeks to relocate America's founding from 1776 to 1619 when the first slaves arrived from Africa. Its lesson plans suggest teachers question whether American was founded "not as a democracy but as a slavocracy." In less than eight months, the program has been adopted in some 3,500 public schools across the country.

By failing to develop civic literacy and politicizing civics instruction, schools are falling down in their responsibility to equip students for civil society, particularly as it pertains to civic duty and character.

So what can be done to change course? Efforts to improve civic literacy should come from civil society. Unfortunately, a new report suggests Americans should look elsewhere—to the federal government.

Last month, the National Commission on Military, National, and Public Service released a report outlining an ambitious—and expensive—goal. Over the next eleven years, the commission hopes to expose all K–12 students to civic education so that all fourth, eighth, and twelfth-grade students will test at or above "Proficient" on the 2031 NAEP civics exam.

Those old enough to remember No Child Left Behind's passage in 2001 will recognize that language. The widely derided NCLB mandated all students test proficient in reading and math by 2013–14 school year—yet another goal the federal government was unable to effect through dictate.

The cost of the commission's proposed civics effort? It's $200 million annually for eleven years. The assumption is that distributing federal dollars to state and local education agencies, institutions of higher learning, and non-profit organizations will correct the nation's civics problem. Unfortunately, this hefty request for appropriations is both an inappropriate federal undertaking and unlikely to produce the desired results.

Although well-intentioned, spending hundreds of millions of dollars annually through a federally appointed commission is the wrong approach to bolstering civic knowledge. Washington should not – and indeed federal law says cannot – be involved in curriculum, so the report's plan for the commission to fund "best practice curricula" is misguided. More fundamentally, it is not the job of officials to spend taxpayer money at the federal level to advance a particular vision of content they like.

The report even calls for creating a new office within the Department of Education to oversee the new Civic Education Fund. But at this time of multi-trillion-dollar deficits, Congress (particularly conservatives) should be working to reduce the federal footprint in education, not expand it.?

And perhaps it's a basic civics lesson in and of itself to point out the education is simply not an enumerated power of the federal government. Those who have read their Constitutions know the word "education" is not to be found therein.

Alexis de Tocqueville, best known for his works Democracy in America and The Old Regime and the Revolution, observed America's unique potential to solve problems and advance society through what he referred to as association. "When you allow [citizens] to associate freely in everything, they end up seeing in association the universal and, so to speak, unique means that men can use to attain the various ends that they propose," Tocqueville wrote in Democracy in America "Each new need immediately awakens the idea of association. The art of association then becomes, as I said above, the mother science; everyone studies it and applies it, he observed."

We should rely on this great strength: our ability to form associations called civil society. Classroom learning is essential, but as a society, we cannot afford to depend on the government to remedy civic illiteracy. Civic learning takes place beyond the walls of the schoolhouse. It happens during Girl Scout and Boy Scout troop meetings, Rotary Club gatherings, youth and faith-based groups and summer camps. And let us not forget that sacred place called home—where learning begins and a child's first and foremost educators, his or her parents, reside.

Study after study suggests that the majority of Americans, from thought leaders to individual citizens, believe civic literacy is essential for a flourishing society and a strong Republic. Federal dollars will not solve our deficiencies in civics. Yes, schools should return to the roots of civics, teaching American history, the structure and function of government, patriotic obligations, and political thought. But teachers and school systems are just some of the many partners—outposts of civil society as well as parents—with shared responsibility for giving the younger generation a solid grounding in civics. Doing so will not only help children learn to appreciate the blessings and liberties of a free society, it will help them preserve those blessings and liberties for the next generation. ★★★

Continued from page 1 • Chris Rusch, aka Christian Reeves Continues Committing Crimes

RUSCH/REEVES LATEST VICTIM

On December 23, 2019, John contacted Christian Reeves to set up his offshore trust for asset protection with Reeves' Premier Offshore Inc. John had been intending to purchase property in Mexico and wanted to minimize his liabilities by setting it up in an offshore trust. When John first spoke with Reeves, he was not aware at the time that Reeves was a felon and had been disbarred as an attorney under his given name Christopher Rusch.

Initially, Reeves told John that the cost for setting up a trust with an offshore bank account would be $12,400.00. Half of the fee would be due up-front and the remainder due when the Trust and Bank account were set up and complete. Reeves told John the process would only take three weeks to complete. John complied and wired him $6,200.00 to start the process on December 26th, 2019.

After filling out numerous applications and forms, and sending bank documents and copies of his passport and his beneficiaries' passport, more than three months had passed. John kept contacting Reeves, attempting to push the process along. Reeves in turn just kept stringing him along.

Then on February 28th, 2020, Reeves informed John that the trust was accepted. The next day Reeves sent John the Trust Deed to fill out and send back to his office – which had moved to Tijuana, Mexico from Carlsbad, CA. This put up a red flag in the back of John's mind, especially when Reeves asked John to send him the remaining $6,200.00, which wasn't due until completion of the trust, and the trust was not complete. The deed had not been sent to the fiduciary in the Cook Islands – ORA Fiduciary – that Reeves was supposedly using to provide the diligence, approve and register the trust.

At that point in time, John had nothing but Reeves' verbal guarantee that his application was accepted. So, John decided to hold off from sending him any additional funds.

Two weeks passed after sending Reeves the Signed Trust Deed and filled-out application documents for Capital Security Bank, also located in the Cook Islands, and there was no communication from Reeves. Nor was there a response as to whether the bank had approved John's application or not. After another week passed with no response, John took it upon himself to contact Capital Security Bank. They informed John that most of the documents Reeves had sent to them were incorrectly filled-out and would need to be corrected. They also wanted to see the proof of a registered Cook Island trust. So, John contacted ORA Fiduciary and communicated with a representative, Ms. Teria Boaza. Ms. Boaza informed John that they never received the deed from Reeves, and they never received payment for the invoice for services rendered by them in regard to the diligence and processing they did on John's trust. John asked Ms. Boaza if her firm had ever worked with Mr. Reeves before and she confirmed this was the first time that they had.

At this juncture, John became genuinely concerned. He began to look through some of the documents that Reeves had sent to him early on. John noticed that the initial draft of the Trust Deed did not have ORA Fiduciary listed, but a comparable firm located in New Zealand, SouthPac Group. John called them and asked if they had any information on Premier Offshore or its sole operator, Christian Reeves. SouthPac Group representatives informed John that Christian Reeves was really Christopher Rusch, and that he had been blacklisted by their firm for fraud on other trust applicants.

After doing further research on the internet regarding Rusch/Reeves, John found fraudulent activities in the past perpetrated by Rusch/Reeves on other unsuspecting people.

John then reached out to Reeves and asked for his money back – no response. Then, he informed Reeves that he was going to report him to the FBI. Finally, he replied – faster than he ever had before – throwing out several excuses as to why he hadn't responded immediately. Reeves informed John the Trust was complete and John needed to compensate him with the rest of the money before he would send ORA Fiduciary the signed copy of the deed. When John asked why Reeves hadn't paid them their fees, he said he does that after getting the remaining fees due and reminded John that he hadn't paid that yet. When John asked him about the bank account not being approved, Reeves said that was in process and would be finished once he received the remainder of his fees from John. It was amazing to John how everything was contingent upon his paying Reeves more money. However, this is not what Reeves and John had initially agreed upon. For extra measure, Reeves also threw-in the lame excuse that the COVID – 19 lock-down had kept him from contacting John – simply another lie from a very crooked Rusch/Reeves.

John, finally having had enough, reported Reeves to the FBI on April 7, 2020. He hasn't had any response from them to date.

Rusch/Reeves owes John $6,200.00 and the US~Observer will pursue Reeves until John is paid back in-full, plus any additional funds for all of the measures that John has been forced to take due to Reeves' obvious Fraud. We will also pursue this criminal until the false criminal conviction of Michael Quiel is vacated and totally expunged.

Christopher Rusch aka Christian Reeves was in the custody of the federal government prior to Michael Quiel's trial. The deal he cut to receive favored treatment included future get-out-of-jail-free cards. It was this simple; become a snitch for us, commit perjury in order to allow us to get a conviction against Quiel and we will give you your passport back as soon as you are released from your very short prison term and you can immediately travel out of country and scam innocent people at will.

Had the Department of Justice (DOJ) and the Internal Revenue Service (IRS) actually been seeking justice during that case, they would have treated the evidence for what it was; Rusch, a con man posing as an attorney, financially raping his client and setting him up for the fall. Instead, the DOJ and IRS conspired to commit fraud upon the court and much more. Had they pursued justice they would have kept an untold amount of people from getting scammed, including John, and even more importantly the court.

At this juncture it would be extremely wise for US Attorney Michael Bailey to instruct the IRS agent and the Assistant US Attorney involved in the Quiel case to sit down, discuss the Quiel case and then make the decision to vacate his criminal conviction in the interest of justice. Bailey should also instruct the FBI to conduct a thorough investigation into the recent case involving Reeves' crimes against John – they can contact the US~Observer to obtain John's real name and his contact information. Anything short of these actions and the US~Observer will turn all of the individuals involved into household names, not only in Phoenix, Arizona but throughout the country.

Editor's Note: Have you or anyone you know been scammed by Christopher Rusch, aka Christian Reeves? We want to know. Call Edward Snook at 541-474-7885 or email him at editor@usobserver.com.

★★★

Continued from page 1 • Smolich Motors of Bend, OR ...

Chuck Barker

owned his own dealership. Barker's peers, including several former co-workers stated that Barker is one of the hardest working, most honest people they have ever known. Barker proudly raises all four of his sons – as the custodial parent. Since being fired from Smolich Motors, Barker has, "wrongfully endured plenty of pain and suffering, along with public humiliation," according to a witness. Sadly, Barker's ability to provide for his family has been non-existent since his termination date of Oct. 14, 2019.

This writer talked to several past and present employees of Smolich Motors during the investigation for this, and future articles. Since litigation is pending, much of what they have to say was omitted from this article as they are likely to become witnesses for Barker's lawsuit.

BUSSE & HUNT

Barker is represented by renowned Attorney Kirsten Rush out of the Portland, OR firm, Busse & Hunt. "Kirsten has been recognized as a 'Rising Star' in Oregon's Super Lawyers publication, a distinction enjoyed by no more than 2.5% of Oregon lawyers annually."

The suit, which Rush filed on behalf of Barker, was drafted with expertise according to the US~Observer's Board of Directors. The US~Observer is a national newspaper solely dedicated to helping those who have been falsely charged with or convicted of crimes or wronged through any type of abuse. The US~Observer has helped people win cases all over the United States and has decided to champion Charles Barker's cause due to the numerous complaints we have received against Smolich and his dealership.

CLAIMS

There are several damning allegations against Smolich. Smolich was accused of telling Mr. Barker, "have a great life with your f***ing drunk ex-wife and your f***ing kids." When Mr. Barker was leaving that meeting, he looked at Crystal O'Connel, who heads Smolich's HR Department and stated, "please be sure to write all of this down." Mike Smolich allegedly replied, "She will not write that down. She will only write down what I tell her to write down."

The lawsuit alleges that, "Prior to Plaintiff's termination, he reported information he believed to be evidence that Defendants violated state and/or federal laws, rules, or regulations... Defendants subjected Plaintiff to unlawful discrimination by terminating Plaintiff's employment in substantial part because he engaged in the protected activity…"

Witnesses state that Barker was offered several management positions prior to being fired without cause. Some who are closely connected to Smolich Motors have reported that Mike Smolich withdrew multiple offers because of his discriminatory bias. Should this case result in trial, it will be interesting for the public to hear what these witnesses have to say. Several have asked to remain anonymous for now as they are currently employed by Smolich Motors as of the date of this publication.

The US~Observer will be publishing updates as Mr. Barker's suit moves forward. If you, or anyone you know has helpful information, please contact the US~Observer by emailing: editor@usobserver.com or calling 541-474-7885.

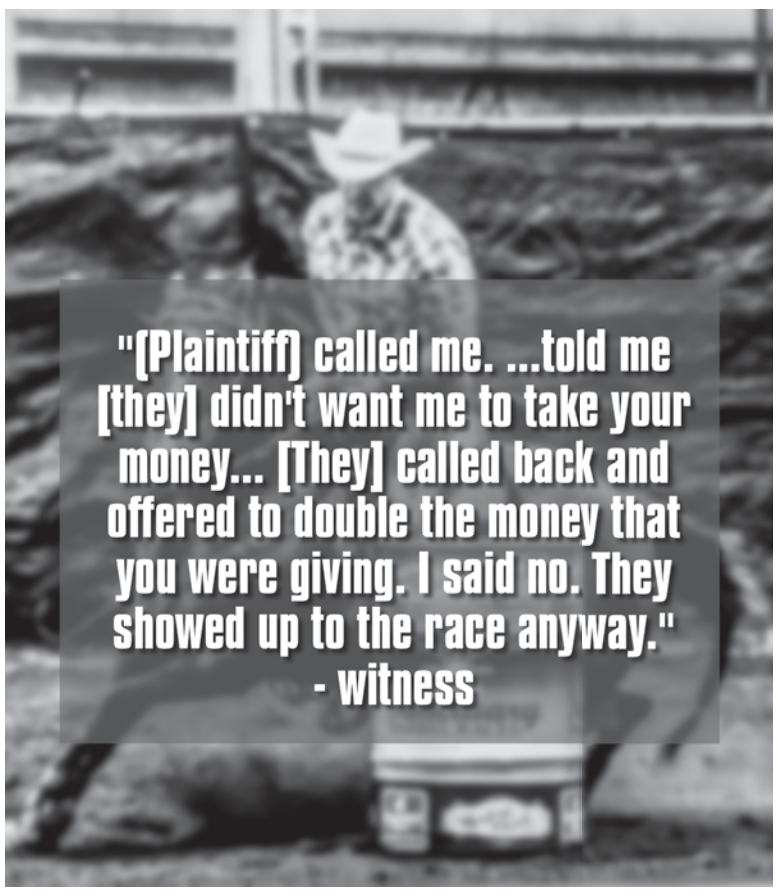
★★★

Continued from page 1 • "Frivolous" Stalking Order Dismissed!

had sought the stalking order. He claimed many lies had been told about him. Those lies were made public. According to one witness, the person seeking the stalking order against Mr. Glover was also trying to ruin his personal business relationships. Not only were harmful allegations being made publicly, attempts to destroy his business were now being reported.

The US~Observer investigated all parties involved. The accuser was totally unresponsive. Despite no response from the accuser, there was enough evidence collected to prove Mr. Glover was being smeared publicly with lies. Mr. Glover, with the help of the US~Observer, took certain actions to protect himself from further harmful allegations. Important evidence was obtained that helped Mr. Glover defend himself.

Then something important happened. During a readiness hearing, the accuser claimed that they had no evidence. They claimed that Mr. Glover had deleted them as a friend on social media which



caused them to lose their evidence. It was odd that the person who filed the order was now claiming their "stalker" had unfriended them. Does that seem like the actions of a stalker?

One of the most damning allegations from the accuser was that Mr. Glover had previously threatened their life. The threat of taking the accuser's life was supposedly told to another witness – in person, not online. At this point, one had to consider how the most damning claim; the alleged threat of taking a life, was no longer an issue with the accuser? The claim that all evidence (online) was lost should have raised a serious question from the Judge. Why was the "threat of taking a life" to an in-person witness, not an issue with the accuser any longer?

Immediately after stating all evidence had been lost, the Accuser, while on the record, claimed they wanted to "resolve this matter outside of court." Mr. Glover was well prepared to disprove each allegation made against him on the stalking order affidavit. He never had that chance. The Accuser signed an order of dismissal, outside of court.

Mr. Glover had to defend himself against "false allegations" for several months which consumed a great deal of his time. He also incurred costs associated with defending himself. Further, Mr. Glover has continually had to wonder who within his community still believes the slanderous words that were used to smear him online. Although the order has been dismissed, Mr. Glover has stated he intends to pursue a civil lawsuit against the Accuser.

The US~Observer will be publishing once a lawsuit is filed. For now, Mr. Glover maintains his unblemished record. He may also enjoy his right to possess a firearm.

If you find yourself defending false stalking orders and need help – contact the US~Observer by calling 541-474-7885 or via email at editor@usobserver.com.

★★★

Continued from page 3 • Exonerated man freed from prison, now in hotel quarantine

court document ordering his release from prison.

"I enjoy reading it," he said. "It's so refreshing after what I fought for all these years."

He's having trouble sleeping at night. His room gets pitch black, a stark contrast to his 17 years of sleeping in a cell with a "bright light shining into it."

But Harrington is not at all complaining about his current setup at the hotel.

"There's other people here. They're friendly. It's a cool atmosphere," he said. "If I need more sheets, towels. They got free breakfast - muffins and granola. I can get coffee."

"For free!" he exclaimed. "All the stuff is free!"

Reflecting on his quarantine status,

Kevin Harrington *Photo: Ali Lapetina / for NBC News*

Harrington said he thinks it's actually for the best. It gives him a chance to ease into his new life on the outside.

"I look at it as one chapter closed in my life and this new chapter is so bright and beautiful. It's almost like a transitional period for me," he said by phone from his hotel room. "And being here, I'm not thrust back into the hustle bustle of life after being gone so long."

Before Harrington hung up, his lawyer nudged him to explain one of his final acts behind bars.

Harrington said he took stock of the possessions he had accumulated after 17 years in captivity and figured there were others who needed them more.

So he walked along a wing of the prison known as the Rock and handed out nearly everything he had: his television, his clothes, his snacks and Ramen noodles.

"I was able to give out 54 items," Harrington said. "I knew the hardships of going through that type of journey. I just wanted to give back one last time."

The only clothes he had left were the white T-shirt and maroon shorts. It was about 35 degrees outside but at that point Harrington had no other options.

He would soon head for the prison gates, where his family was waiting for him and so was the rest of his life.

★★★

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Shutdown's Silver Lining: Homeschooling Thrives in the Face of Coronavirus

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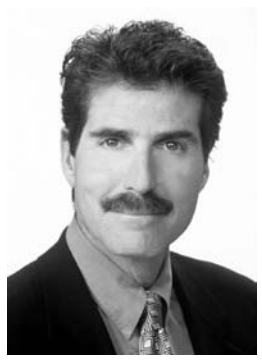

By John Stossel

(johnstossel.com) - The government has closed most schools.

So, more parents are teaching kids at home.

That upsets the government school monopoly.

Education "experts" say parents lack the expertise to teach their kids.

Without state schooling, "learning losses…could well be catastrophic," says The New York Times. Home schooling "will set back a generation of children," according to a Washington Post column. Harvard magazine's "Risks of Homeschooling" article quotes a professor who calls for a "presumptive ban."

The professional education establishment actually tried to ban it 98 years ago. Then, they tried to ban private schools, too! But the Supreme Court stopped them, writing, "the child is not the mere creature of the state."

I wish the state would remember that.

Anyway, the educator's complaints about home schooling "setting back a generation" are bunk.

Eleven of 14 peer-reviewed studies found home schooling has positive effects on achievement.

In my new video, education researcher Corey DeAngelis explains, "Children who are home-schooled get much better academic and social results than kids in government schools."

Even though they are more likely to be poor, "Home-schoolers score 30 percent higher on SAT tests." They also do better in college, and they are less likely to drink or do drugs.

"Mass home schooling during this pandemic," says DeAngelis, "may actually be a blessing."

Debbie Dabin, a mom in Utah, is one of many parents who started home schooling this spring and now is "definitely considering home schooling" next year.

Dabin bought teaching materials over the internet from a company called "The Good and the Beautiful." Her son likes the lessons better than what he got in school. "It's great," Dabin says. "He likes the activities; he wants to do them."

Before the pandemic, he'd told his mom he hated school.

I hated school, too. Classes were boring. Listening to lectures is a poor way to learn, and unnecessary today.

In addition to home-school teaching programs, there are also free internet games that teach things like math, reading, and writing, while customizing the speed of lessons to each learner's needs.

Sites like Education.com teach math by letting kids adjust pizza toppings.

For older kids, YouTube channels like TED-Ed and Khan Academy offer "free educational videos from the world's foremost experts on civics, history, mathematics," adds DeAngelis.

"Not good enough!" say "experts."

Michael Rebell, a professor at Teachers College at Columbia University, worries that if parents home-school, "There's no guarantee that kids are learning democratic values, civic knowledge."

"Were they learning that in their regular schools?" I asked.

"Well…it's in the curriculum," he responded.

So what? The Nation's Report Card, the government's biggest nationwide test, reveals that government-school students don't know much about history or civics.

One question asked fourth graders, "Which country was the leading communist nation during the Cold War?" Only 21 percent answered the Soviet Union. More said France or Germany. American students did worse than if they had guessed randomly.

Another question: "America fought Hitler and Germany in which war?" More picked the Civil War than World War II.

Nevertheless, said Rebell, home schooling is still worse because "there's no effective regulation to know what's going on."

"You sound like you think—because there's regulation, that makes something happen," I said.

"I do," he replied. "Where there's no regulation, that's a worse situation."

But "no regulation" is the wrong way to think about it. There is plenty of regulation. It just comes from legislators and families instead of education bureaucrats.

If this pandemic steers more parents away from state schools, that's probably a good thing.

Philosopher John Stuart Mill warned: "State education is a mere contrivance for moulding people to be exactly like one another…which pleases the predominant power in the government (and) establishes a despotism over the mind."

A silver lining to this pandemic is that now more parents are learning about their options outside the government system. ★★★

Continued from page 8 • The Worst Is Yet to Come ...

within the country. A prelude to the yellow Star of David badges, these stamped cards were instrumental in identifying Jews for deportation to death camps in Poland.

Author Raul Hilberg summarizes the impact that such a system had on the Jews:

The whole identification system, with its personal documents, specially assigned names, and conspicuous tagging in public, was a powerful weapon in the hands of the police. First, the system was an auxiliary device that facilitated the enforcement of residence and movement restrictions. Second, it was an independent control measure in that it enabled the police to pick up any Jew, anywhere, anytime. Third, and perhaps most important, identification had a paralyzing effect on its victims.

In South Africa during apartheid, pass books were used to regulate the movement of black citizens and segregate the population. The Pass Laws Act of 1952 stipulated where, when and for how long a black African could remain in certain areas. Any government employee could strike out entries, which cancelled the permission to remain in an area. A pass book that did not have a valid entry resulted in the arrest and imprisonment of the bearer.

Identity cards played a crucial role in the genocide of the Tutsis in the central African country of Rwanda. The assault, carried out by extremist Hutu militia groups, lasted around 100 days and resulted in close to a million deaths. While the ID cards were not a precondition to the genocide, they were a facilitating factor. Once the genocide began, the production of an identity card with the designation "Tutsi" spelled a death sentence at any roadblock.

Identity cards have also helped oppressive regimes carry out eliminationist policies such as mass expulsion, forced relocation and group denationalization. Through the use of identity cards, Ethiopian authorities were able to identify people with Eritrean affiliation during the mass expulsion of 1998. The Vietnamese government was able to locate ethnic Chinese more easily during their 1978-79 expulsion. The USSR used identity cards to force the relocation of ethnic Koreans (1937), Volga Germans (1941), Kamyks and Karachai (1943), Crimean Tartars, Meshkhetian Turks, Chechens, Ingush and Balkars (1944) and ethnic Greeks (1949). And ethnic Vietnamese were identified for group denationalization through identity cards in Cambodia in 1993, as were the Kurds in Syria in 1962.

And in the United States, post-9/11, more than 750 Muslim men were rounded up on the basis of their religion and ethnicity and detained for up to eight months. Their experiences echo those of 120,000 Japanese-Americans who were similarly detained 75 years ago following the attack on Pearl Harbor.

Despite a belated apology and monetary issuance by the U.S. government, the U.S. Supreme Court has yet to declare such a practice illegal. Moreover, laws such as the National Defense Authorization Act (NDAA) empower the government to arrest and detain indefinitely anyone they "suspect" of being an enemy of the state.

You see, you may be innocent of wrongdoing now, but when the standard for innocence is set by the government, no one is safe.

Everyone is a suspect.

And anyone can be a criminal when it's the government determining what is a crime.

It's no longer a matter of if, but when.

Remember, the police state does not discriminate.

At some point, it will not matter whether your skin is black or yellow or brown or white. It will not matter whether you're an immigrant or a citizen. It will not matter whether you're rich or poor. It won't even matter whether you're driving, flying or walking.

After all, government-issued bullets will kill you just as easily whether you're a law-abiding citizen or a hardened criminal. Government jails will hold you just as easily whether you've obeyed every law or broken a dozen. And whether or not you've done anything wrong, government agents will treat you like a suspect simply because they have been trained to view and treat everyone like potential criminals.

Eventually, when the police state has turned that final screw and slammed that final door, all that will matter is whether some government agent—poorly trained, utterly ignorant and dismissive of the Constitution, way too hyped up on the power of their badges, and authorized to detain, search, interrogate, threaten and generally harass anyone they see fit—chooses to single you out for special treatment.

We've been having this same debate about the perils of government overreach for the past 50-plus years, and still we don't seem to learn, or if we learn, we learn too late.

All of the excessive, abusive tactics employed by the government today—warrantless surveillance, stop and frisk searches, SWAT team raids, roadside strip searches, asset forfeiture schemes, private prisons, indefinite detention, militarized police, etc.—started out as a seemingly well-meaning plan to address some problem in society that needed a little extra help.

Be careful what you wish for: you will get more than you bargained for, especially when the government's involved.

In the case of a national identification system, it might start off as a means of tracking COVID-19 cases in order to "safely" re-open the nation, but it will end up as a means of controlling the American people.

For those tempted to justify these draconian measures for whatever reason—for the sake of their health, the economy, or national security—remember, you can't have it both ways.

You can't live in a constitutional republic if you allow the government to act like a police state.

You can't claim to value freedom if you allow the government to operate like a dictatorship.

You can't expect to have your rights respected if you allow the government to treat whomever it pleases with disrespect and an utter disregard for the rule of law.

As I make clear in my book *Battlefield America: The War on the American People*, if you're inclined to advance this double standard because you believe you have done nothing wrong and have nothing to hide, beware: there's always a boomerang effect.

★★★

Continued from page 9 • Coerced Confessions ...

staff, and this meant substantial increases in police budgets. In this way, the outcry against police torture inadvertently supported the growth of police at both the national and local levels.

PROSECUTORS AND PLEA BARGAINS

The use of the third degree did not die with the birth of forensic science, as the case of Jon Burge demonstrates; however, it did mark the end of any public defense of police torture. States were no longer so reluctant to pass antitorture laws, and the federal supreme court issued a series of rulings that extended the Bill of Rights to the states, including the 1936 case Brown v. Mississippi, which ruled coerced confessions unconstitutional and inadmissible even in state criminal trials. The federal government now claimed regulatory power of state and local criminal justice systems.

But even if violent confessions declined, coerced confessions have merely taken a new form. As state legislatures took over much of judges' sentencing power, they set guidelines for sentencing that constrain judicial discretion. Because prosecutors retain discretion over what charges to file – complete with an expansive list of felony categories that did not exist during the early days of coerced interrogations – district and state attorneys can threaten harsher charges against a defendant in order to convince him to take a plea deal. Although this may not be as visually shocking as dousing a teenager in gasoline and threatening to light him on fire, the use of fear to obtain criminal confessions continues the long tradition of the "third degree."

1.W. Fitzhugh Brundage, Civilizing Torture: An American Tradition (Cambridge, MA: Harvard University Press, 2018), 212–13.

2.Fiorello La Guardia, quoted in Brundage, 241.

Chris Calton is a 2018 Mises Institute Research Fellow and an economic historian.

US~Observer Editor's Note: It has been the US~Oberver's experience that all who face criminal prosecution will be coerced to take a plea deal. If you don't take one, then they get real nasty. Prosecutor's don't care if you are actually innocent but we do – 541-474-7885.★

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Articles and Opinions

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The goal of *US~Observer* is to ensure "due process" and "equal protection under the law."

Citizens who have founded and support it believe in the Bill of Rights and Article 1, Section 1, of the Oregon Constitution which states:

"We declare that all men, when they form a social compact are equal in right; that all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness and they have at all times a right to alter, reform, or abolish the government in such a manner they think proper. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people."

Get involved & send YOUR comments or concerns to the Editor

editor@usobserver.com

SCOTUS Rules Against Non-Unanimous Jury Verdicts

Ruling Leaves Unanswered Questions for Those Already Convicted in Louisiana and Oregon

By Joseph Snook
Investigative Reporter

On April 20, 2020, the U.S. Supreme Court ruled that non-unanimous jury verdicts must now be unanimous in state courts. This means every juror that sits on the jury must find the defendant guilty, not just most of them. Oregon was the last state to allow this type of verdict in all criminal cases – with one exception for felony murder cases, which required a unanimous verdict. Louisiana, the only other state that had allowed non-unanimous verdicts changed course in 2018 when voters overturned the law, requiring unanimous verdicts in felony cases.

The Supreme Court decision read, "…it may be argued that today's decision does not impose a new rule but instead merely recognizes what the correct rule has been for many years." The obvious question many are now asking is; "What about the cases of those who have already been convicted by a non-unanimous jury?"

John Simerman, a Staff writer for NOLA said it best: "As expected, the Supreme Court left for the future the question of retro activity, and whether this was the kind of 'watershed' ruling that warrants do-overs for anyone convicted by a split jury, ever. That means split-jury convictions will remain intact, at least for now, for more than 1,000 inmates in Louisiana, in addition to perhaps hundreds in Oregon."

In the 6-3 Supreme Court decision, the high court ruled that the Sixth Amendment's right to a jury trial requires a unanimous verdict. Part of the ruling also meant that the need for jury consensus in federal courtrooms applies equally to state courts through the 14th Amendment.

Oregon and Louisiana now have a huge debt to society. At very least, these states should allow those previously convicted under these unjust rules, a chance to try their case again. Rather than pursue justice, prosecutors and their ilk are expected to argue that revisiting the cases of those convicted by a split jury will overburden the court. That should not matter. Justice should matter. Nonetheless, legal experts believe government will fight to maintain standing convictions. For now, hundreds, if not thousands of future convictions have been curbed.

Supporting today's ruling were justices Neil Gorsuch (wrote the decision – Trump appointee), Brett Kavanaugh (Trump appointee), Ruth Bader Ginsburg (Clinton appointee), Stephen Breyer (Clinton appointee), Sonia Sotomayor (Obama appointee), and Clarence Thomas (Bush H. W. Bush appointee). Opposing were Elena Kagan (Obama appointee), Chief Justice John Roberts (George W. Bush appointee), and Samuel Alito (George W. Bush appointee).

The US~Observer believes that a unanimous verdict is, and should have always been, the only means by which a person should ever be convicted. What is unconstitutional today, was always unconstitutional. Today's ruling is a huge win for U.S. Citizens.

Editor's Note: The US~Observer is a national newspaper that helps prevent and overturn wrongful convictions.

If you or someone you know has been wrongfully charged or convicted, please contact the US~Observer today! Email: editor@usobserver.com, or call 541-474-7885. ★★★

Oregon DOJ Concedes Hundreds of Non-unanimous Verdicts Should Be Tossed

By Conrad Wilson

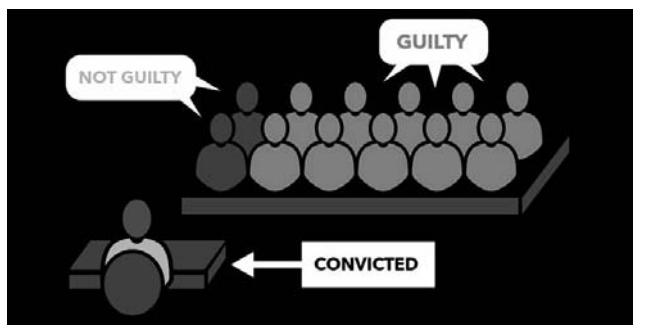
(OPB) - The Oregon Department of Justice conceded that convictions on at least 269 cases should be tossed out following a U.S. Supreme Court ruling last month. The court found in Ramos v. Louisiana that convictions by non-unanimous juries in state criminal courts violate the Constitution.

While the case before the court was out of Louisiana, Oregon was the last state in the country to allow non-unanimous convictions in felony, non-murder cases. Before that ruling, juries could convict defendants by 10-2 and 11-1 verdicts, a practice that was based in discrimination and racism because it made it easier to convict defendants of color and silence perspectives of jurors of color.

The 269 cases likely represent just a small number of the total cases that could be affected.

"These lists are likely not a complete account of cases that will require reversal, but they represent the cases that the Department of Justice has been able to identity based on the information we have," Oregon Solicitor General Benjamin Gutman wrote to state court officials.

The list of cases presented Monday to the Oregon Supreme Court and the state Court of Appeals are cases on direct appeal. The Justice Department noted some of the cases could require some further litigation if some or all of the charges are unanimous or it's unknown because the jury wasn't polled on how they voted.



The cases cover a wide range of criminal charges, from sodomy, burglary and assaulting a public safety officer to drug charges.

The cases still require the approval of judges and justices on either court before the convictions can be reversed.

Some of the defendants are serving sentences in prison, others are on parole or probation, while others still have served their sentence and could be paying restitution.

Many of the cases could be sent back and retried by local district attorneys. In other cases, prosecutors could choose not to retry the case, effectively dropping the charges.

Oregon courts have been reduced to only their essential functions because of the COVID-19 pandemic. These cases will further strain the backlogged court system once more normal operations resume. ★★★

Universities try to block Congress from accessing documents detailing their ties to China

By Christian Schneider
Senior College Fix Reporter

(The College Fix) - Memo exclusively obtained by The College Fix shows schools applying pressure to keep files secret

Attorneys for universities under investigation by the U.S. Department of Education are trying to block Congress from obtaining records that detail the schools' ties with China, according to a May 19 letter exclusively obtained by The College Fix.

The letter, written by the Education Department's General Counsel Reed Rubinstein, tells lawmakers who requested the documents that the universities' lawyers "claimed Freedom of Information Act exemptions and legal privileges to block record production to Congress."


Reed Rubinstein

Rubinstein wrote that some schools may be overly aggressive in marking some documents "confidential" or "privileged."

Nevertheless, he added, staff will contact each school under investigation and let them know which records will be provided to Congress. To block a document being handed over, an objecting school "must provide written specification of the records designated for withholding and specific supporting legal grounds," the letter states.

The letter does not explicitly state which schools lobbied the department to keep their records confidential.

Rubinstein's memo is a response to a May 4 letter from several top House Republicans asking the Education Department to turn over documents on all findings or reports detailing gifts from China to U.S. colleges and universities, citing China's infiltration of the American higher education system and concerns over theft, spying and propaganda.

The letter from Republicans, led by House Oversight Committee Ranking Member Jim Jordan (R-Ohio), also requested details on all open and closed investigations by the Education Department "regarding false or misleading reporting of foreign gifts."

In February, the Education Department announced it would be investigating Harvard and Yale for failing to report hundreds of millions of dollars in foreign gifts and contracts. The department has said once it began applying pressure on schools in July of 2019 to begin reporting foreign funding, over $6.5 billion in foreign money has been disclosed.

Rubinstein has told representatives the Education Department shares their concerns, and campus leaders are also "starting to acknowledge the threat of foreign academic espionage and have been working with federal law enforcement to address gaps in reporting and transparency."

"However, the evidence suggests massive investments of foreign money have bred dependency and distorted the decision making, mission, and values of too many institutions."

Rubinstein added that some of the department's own documents will remain confidential to protect "the integrity of its investigations."

"Inappropriate disclosure of confidential information could lead to separation of powers concerns and will certainly impair the fact-finding and enforcement work Congress has authorized us to do," the letter states.

He explained some "institutions have yet to produce requested emails, metadata, and other information regarding business relationships with, and faculty funding from, Chinese, Middle Eastern, and Russian foreign sources."

In March 2018, the FBI released a report indicating some foreign scholars on American campuses "seek to illicitly or illegitimately acquire U.S. academic research and information to advance their scientific, economic, and military development goals." The report noted the Chinese government "has historically sponsored economic espionage, and China is the world's principal infringer of intellectual property."


Dr. Qing Wang

In the past two weeks, several researchers have been arrested for hiding their financial ties to China. On May 13, Dr. Qing Wang, a former researcher at the Cleveland Clinic, was arrested and charged with making false claims and committing wire fraud after failing to disclose substantial financial backing by the Chinese government.


Professor Simon Ang

Professor Simon Ang, head of the University of Arkansas High Density Electronics Center, was later arrested for hiding connections to China when he applied for grants from NASA.

Last week, former Emory University professor Dr. Xiao-Jiang Li pleaded guilty and was sentenced to one year of probation on a felony charge and ordered to pay $35,089 in restitution for filing false tax returns in which he failed to report at least $500,000 in income from work at Chinese universities.


Dr. Xiao-Jiang Li

The researchers targeted by the FBI typically take place in a program called the Thousand Talents Plan, which the FBI believes China uses to steal intellectual property cultivated through American research.

In the May 19 letter, the Education Department agrees to host a one-hour presentation detailing its China findings for House Republicans, as well as a separate briefing for Democrats.

"The danger posed to our national interest by undisclosed IHE (Institutes of Higher Education) foreign funding and lax federal enforcement is thoroughly nonpartisan in nature," reads the letter from the department.

"His story has never changed." ★★★

Prosecutor to dismiss charges against Breonna Taylor's boyfriend, wants more investigation...

By Darcy Costello and Andrew Wolfson

(Courier Journal) Louisville, KY - Saying the case demands more investigation, Commonwealth's Attorney Tom Wine announced Friday his office will move to dismiss all charges against Breonna Taylor's boyfriend after he fired a gun in her apartment and seriously wounded a police sergeant.

Kenneth Walker, 27, was charged with attempted murder and assault in the March 13 incident in which plain-clothes officers fatally shot Taylor while executing a "no-knock" search warrant at her apartment.

Kenneth Walker

"I believe that additional investigation is necessary," Wine said.

But Wine said Walker's case could be presented to a grand jury a second time, depending on the results of investigations by the FBI and Kentucky Attorney General's Office.

The prosecutor also delivered a strong defense of the police who executed the search warrant of Taylor's home, saying evidence clearly shows that police knocked on her door multiple times before using a battering ram to get in.

Still, Walker's attorney, Rob Eggert, said he was "thrilled" by the dismissal.

"Theoretically, they can bring it back," he said, "but now he is freed from home incarceration and can go on with his life."

Walker had previously been released from jail in March and placed on home incarceration.

Attorneys for Taylor's family, Ben Crump, Sam Aguiar and Lonita Baker, said in a statement that the charges never should have been filed.

"This is a belated victory for justice and a powerful testament to the power of advocacy," they said. "Kenneth Walker and Breonna Taylor did everything right the night police ambushed their home."

POLICE SAY THEY KNOCKED '6 OR 7' TIMES

In an unusual news conference, Wine played statements from Walker on the night of the shooting in which he acknowledged that someone repeatedly banged on the door.

Angrily disputing assertions that police didn't knock, Wine told reporters that is "clearly refuted by one person inside that apartment who knows best what happened — Walker."

Wine also played a statement from Sgt. John Mattingly, who Walker allegedly shot, and who said officers announced on "six or seven occasions" that they were police and had a warrant.

Wine said that ultimately a jury will have to decide if Walker was truthful when he said he didn't hear that, which Wine said would depend on "what you think of his credibility."

Wine played another clip which showed that Walker initially told police that it was Taylor who fired the single shot from inside the apartment that wounded Mattingly.

Walker said he said that because "I was scared."

DETAILS OF THE SHOOTINGS REVEALED

The news conference began with Wine offering his condolences to Taylor's mother.

Then Wine suggested that no-knock warrants are not worth the risk in drug cases such as this one.

"No amount of cocaine or marijuana or other drug or money from the sale of drugs if worth the life of one person like Breonna Taylor or a police officer," he said.

In other disclosures, Wine said:

Officer Brett Hankison, Sgt. Jonathan Mattingly and officer Myles Cosgrove (Photo: LMPD)

• Mattingly was hit in the femoral artery and might have died if not for the wallet in his pocket, which apparently provided some protection from a bullet that hit him.

• Mattingly was not hit by "friendly fire," despite "misinformation" on social media.

• Walker did not call "911" before police entered the apartment, despite reports to the contrary.

Breonna Taylor, killed by police during a botched no-knock raid

• While police obtained a no-knock warrant, they decided before the search to knock and announce anyway, according to Mattingly's statement and a plan for the search written in advance on a "whiteboard" that Wine showed reporters.

"There is a tremendous amount of false information that has been disseminated," Wine said.

Wine also denied allegations of Walker's lawyer, Rob Eggert, that prosecutors acted unethically when they failed to disclose to the grand jury that indicted Walker that he had told police he didn't know the intruders were police officers.

The Courier Journal reported Thursday that a police sergeant who presented the case didn't mention that or that Taylor was killed. But Wine noted that state law and the U.S. Supreme Court have held police do not need to present exculpatory evidence to a grand jury.

Still, Wine told reporters that more information on Walker's statement to police should have been presented. And Wine said if the case is offered to a grand jury again, Walker will be invited to testify.

'SHE WAS SCARED TO DEATH, AND ME TOO'

Wine played for reporters long excerpts of the statement Walker gave to police.

He said he and Taylor were in bed watching a movie when they first heard banging at the door.

"She was scared to death, and me too," he said.

He said they feared it might be a man she had dated, and that she yelled "at the top of her lungs, 'Who is it?'"

He said there was no response. He said they heard more banging — "Boom! Boom! Boom! Boom!"

He said he was walking with his gun pointed towards the front door when it was blasted off its hinges.

He said he fired one shot at exactly that moment and aimed down.

"I didn't want to kill anyone," he said. "I just wanted to get them out of there."

He said he and Taylor fell to the floor. She was bleeding.

"Then I saw it was police," he said.

He acknowledged then that officers may have already identified themselves and that he may not have heard them.

POLICE DESCRIBE BURSTING IN TO TAYLOR'S APARTMENT

According to Mattingly's statement, which also was played for reporters, officers had decided to knock even though they had a no-knock warrant because they had heard Taylor was in the apartment alone.

Mattingly said he knocked on the door the first time without saying he was an officer, then gave Taylor plenty of time to come to the door.

When she didn't, he said he began to repeatedly bang on the door, and he and other officers shouted they were police and had a warrant, including each of three times they struck the door with a battering ram.

He said when the door finally came open, he saw a woman and a man in a hallway and the man was in a "stretched-out position with his hands with a gun."

Then the man fired, Mattingly said, "like he was at a shooting range."

Mattingly said he returned fire at least four times before he had to withdraw, bleeding for his gunshot wound.

★★★

Continued from page 1 • ABA President's Backwards Message ...

One thing is certain, there is an uptick on the personal attacks on judges and prosecutors. American Bar Association (ABA) President, Judy Perry Martinez recently stated at the ABA meeting in Austin, Texas, that, "The personal attacks on judges and prosecutors must cease." A "standing ovation" followed. Remember, this was at a conference where many attorneys, including judges and prosecutors were in attendance. What Martinez said next, is a great indicator as to why the "personal attacks" are increasing. Martinez said, "No one - no one - should interfere with the fair administration of justice." What her words really meant – to non-lawyer laypersons like us – is, we should not complain about injustice. You see, those who are in the know understand that injustices by many judges and prosecutors, has replaced justice. And, they most often get away with it. The reality of her words weighs much heavier on those who know how flawed our system is. When someone has ultimate power, say a prosecutor for example, and is also immune from liability for their actions when they ruin innocent lives – they should become public enemy number one. Perhaps this is where ABA President Martinez really disconnects from the citizens whom she claims to be personally attacking her ilk.

Seeking justice is what prosecutors and judges are supposed to do. And some do just that. However, far too many prosecutors have violated their oath by putting their blinders on in pursuit of convictions. Same with judges. Judges often belittle the very people who pay their salary. We have all seen it. Prosecutors by and large are mostly concerned with convictions, not justice. A corrupt prosecutor will say, "throw enough charges at the person so they won't take the case to trial. Offer a plea for a year or two, instead of life in prison if they go the trial route. That will ensure we get a plea deal." Just like that – the case is resolved, and the prosecutor gets another conviction to hold up to their voters, despite, in many cases, the defendant being innocent. This happens far too often. Simply put, most statistics show that anywhere between 90-97% of all criminal matters in both state and federal courts are resolved this way. And its not because everyone charged is guilty. Not by a long shot.

The United States has the highest incarceration rate, per-capita, of any developed country. Yes, there are under-developed countries that do horrific things to alleged criminals. That is truly sad. But the United States is supposed to be the "land of the free," right? Do we really have the highest crime rates of any developed country? Or, has our system, through people like ABA President Martinez, perverted justice to the point where it is losing public trust at warp-speed? Perhaps Martinez should re-consider her words and realize that nothing could be further from the truth. Judges and prosecutors should reconsider their actions. They should not allow for the stacking of charges to force plea deals. They should not allow defendants to be treated like lower class citizens. They should not always rule in favor of the police, and they shouldn't cover-up for the corruption in their own ranks.

If bar associations were really concerned about justice, they wouldn't routinely toss out bar complaints when attorney's financially rape their clients and/or violate their oaths.

It is highly doubtful, however, that people like Martinez will change. Many of her words at the recent ABA meeting, were disgustingly false and lacked an honest appraisal of the system. She, and attorneys like her need not worry about personal attacks, rather, they should worry about doing what is right, just, and lawful. The personal attacks would cease if the corruption ended.

U.S. Citizens need to wake up and realize that We The People have let ourselves become modern day slaves to a system that allows for the innocent to be incarcerated! Not sometimes. Not accidentally. The innocent are imprisoned daily because their case is just one more possible conviction to hold up to voters come election day. Enough is enough.

Martinez's message should have been an apology. It should have been reformatory. But it wasn't.

Martin Luther King, Jr. aptly recognized that "Injustice anywhere is a threat to justice everywhere."

The personal attacks should and will continue until the ABA, judges, the police, even the government as a whole, realize the weight of King's words and the truth of their sentiment.

Our government, and this system of justice are formed by the consent of the people. For the sake of justice, perhaps it is time to revoke that consent.

Editor's Note: The US~Observer prides itself on holding corrupt prosecutors and judges accountable. We won't stop until the corruption ceases.

★★★

Prosecutors Back Dismissal of 91 More Cases Involving the Houston Cop Who Lied to Justify a Deadly Drug Raid

By Jacob Sullum

(Reason) - Harris County, Texas, District Attorney Kim Ogg plans to support the reversal of "at least 91" more convictions in cases involving Gerald Goines, the former Houston narcotics officer whose fraudulent search warrant affidavit led to the January 2019 drug raid that killed Dennis Tuttle and Rhogena Nicholas. Ogg's office had already backed the dismissal of 73 cases initiated by Goines, who faces state murder charges and federal civil rights charges in connection with the deadly invasion of the middle-aged couple's house on Harding Street.

"We will continue to work to clear people convicted solely on the word of a police officer who we can no longer trust," Ogg said in a press release last Thursday. "We are committed to making sure the criminal justice [system] is fair and just for everyone."

The latest batch of questionable cases all involved search warrants obtained by Goines. The previous batch involved cases in which Goines was the only purported witness to drug transactions he claimed to have observed.

Prosecutors are filing motions asking that lawyers be appointed for each of the 91 defendants. If those lawyers decide that Goines' sworn statements were material in convicting their clients and seek new trials on that basis (both of which seem likely), prosecutors "anticipate that they will agree to relief and eventual dismissal," Ogg said.

"We've come to the conclusion that every conviction in which Goines was the major player, for the past 11 years, needs to be flipped," said Josh Reiss, chief of the Post-Conviction Writs Division at Ogg's office. "The number of cases may grow."

Goines, who served the Houston Police Department (HPD) for 34 years, has admitted that he invented a fictional heroin purchase by a nonexistent confidential informant to justify the no-knock Harding Street raid. Four officers were wounded by gunshots during the exchange of fire that killed Tuttle and Nicholas, which began when the cops broke into the house and immediately used a shotgun to kill the couple's dog. Lawyers for Nicholas' family say she and Tuttle were napping at the time of the raid. Police found no evidence that the the couple was selling heroin, as Goines had claimed.

Ex-Houston Officers Gerald Goines and Steven Bryant

One of the men framed by Goines, Otis Mallet, was sentenced to eight years in state prison because the officer claimed he was involved in a 2008 crack cocaine sale. Mallet, who served two years of that sentence, has always denied Goines' account. He was declared "actually innocent" in February, along with his brother, Steven Mallet, who served 10 months after Goines implicated him in the same purported transaction.

"If the magistrate who Goines asked to sign a warrant to permit the raid on Harding Street had known of his history of lies and deception, he would not have signed it, and Rhogena and Dennis would likely still be alive today," Ogg said. While Tuttle and Nicholas were white, all of the defendants in the 164 cases identified by Ogg's office so far are members of minority groups, and the vast majority are black (as is Goines).

Houston Police Chief Art Acevedo, who initially hailed Goines as a hero while posthumously tarring Tuttle and Nicholas as dangerous heroin dealers, has denied that the problems revealed by the disastrous Harding Street raid reflect a "systemic" failure within the HPD's Narcotics Division. At least 164 suspect convictions over 11 years involving a single officer suggest otherwise.

Another former Houston narcotics officer, Steven Bryant, faces state and federal charges because he backed up Goines' phony story about a "controlled buy" that never happened. It is hard to believe that no one else was complicit in Goines' shady practices spanning more than a decade, either by actively assisting him, by looking the other way, or by failing to adequately supervise his activities. Ogg said her office is investigating "other officers" in Goines' squad. ★★★

Continued from page 1 • Matthew Ellis Ousts 20-Year Incumbent Eric Nisley ...

District Attorney, Wasco County (Vote for 1)
8343 ballots (0 over voted ballots, 0 overvotes, 516 undervotes), 17570 registered voters, turnout 47.48%

Matthew Ellis	5679	72.56%
Eric Jon Nisley	2115	27.02%
Write-in	33	0.42%
Total	7827	100.00%
Overvotes	0	
Undervotes	516	

when Nisley was first elected. A victim of Nisley recently stated, “No more! No more innocent lives will be ruined by this man. Today we should all rejoice that Mr. not-so-Nisley is gone!”

It is no surprise why Voters overwhelmingly decided to get rid of Nisley. He had been publicly shamed many times throughout his career for being outright dirty. Perhaps the real question for Wasco County Voters is, “how did Nisley remain the elected prosecutor for twenty-years?”

• Nisley prosecuted several innocent men for false sex crimes alleged by dangerous women, some of whom were merely seeking victim’s assistance benefits.
• Nisley was accused of sexual misconduct himself in 2011.
• Nisley knowingly prosecuted an innocent Armando Garcia, attempting to help a local law enforcement officer involved in the case.
• Nisley “knowingly made a false statement of material fact in connection with a bar disciplinary matter.”
• The Oregon State Bar suspended Nisley’s license to practice law while he held public office for District Attorney.
• The Oregon Supreme Court upheld Nisley’s suspension after he appealed the decision.
• According to OPB, “Nisley was ousted after the Oregon Department of Justice said he couldn’t continue to hold elected office after being suspended from practicing the law.”
• Sadly, a disgruntled Nisley continued to run his campaign while his law license was suspended.
• Nisley was found to have lied to Department of Justice Investigators at least six times.
• Nisley “abused his authority by ruining Wasco County resident, Gary West, and his family” in a high-profile case he oversaw.
• Nisley was accused of immigration fraud and racketeering in 2010.
• Gary West claimed Nisley abused his authority, with intent, which led to the death of Mr. West’s daughter, Ashley West. Mr. West would often protest Nisley outside his office, holding a sign saying, “Tar and Feather D.A. Nisley.”
• Nisely “improperly investigated a county official.”
• According to Edward Snook, Nisley is among the six most corrupt District Attorneys in Oregon History. We have had more complaints against Nisley than any other prosecutor.

After losing the election, Nisley refused to return this writers call for comment. Perhaps Nisley does not fully understand the impact of his horrific actions? In a public announcement, Eric Nisley wrote, “All the money from Portland swung the election here. It is a sad day for Wasco County.”

The US~Observer commends Wasco County Voters for doing the right thing. When almost 75% of Voters say, “NO MORE NISLEY,” that is a GREAT day for Wasco County! Congratulations to Mr. Ellis for his victory. We certainly look forward to having justice restored in Wasco County.

★★★

The US~Observer's services have defeated over 5,000 false charges to-date.

Are You Facing False Criminal Charges?

Have You Been a Victim of False Prosecution?

Welcome to the largest racket in history: The American Justice System

If you are facing prosecution for false charges then you are aware of how the 'justice' industry (racket) in America works. You (the innocent person) have been falsely charged with a crime. Most of the time you receive a myriad of stacked charges intended for the sole purpose of extracting a "plea bargain" from you.

You then rush to an attorney, pay him a huge retainer to cover the usual $200.00 per hour (if not higher), which he/she charges, to supposedly defend your innocence. The attorney usually files some motions, writes some worthless letters and makes many unproductive (unless they pertain to you accepting a plea bargain) phone calls until you are broke. Generally, you haven't even started your trial and 99% of the time the attorney hasn't completed any investigation.

All of a sudden your attorney is telling you that you can't win your case and you should accept the benevolent plea bargain that the almighty prosecuting attorney has offered you. "Do you want to take the chance on spending 30-40 years in prison when you can plea bargain for 18 months," your attorney tells you. What happened to: "I think we can win this case, it's a good case." Remember? Isn't that pretty close to what your attorney told you as he/she was relieving you of your money?

You then accept a plea bargain and go to jail or you have a jury trial, you're found guilty (because your attorney hasn't produced enough evidence-if any and because the judge directs the jury to find you guilty) and then you go to jail. When you finally wake up you realize that on top of now being a criminal, you are flat broke and incarcerated. You find that the very person (your attorney) you frantically rushed to retain, became your worst enemy.

There is only one way to remedy a false prosecution: Obtain conclusive evidence by investigating the accusers, the prosecutors – everyone involved with your case. In other words, complete an in-depth investigation before you are prosecuted and make the facts public, forcing a just outcome.

The US~Observer newspaper will not waste your time or your money. This is not a game, it's your life and your freedom. We do not make deals. If you are innocent, then nobody has the right to steal what belongs to you, most of all, your liberty. Nobody! That includes your attorney - as well as your supposed public servants.

Why have a bad day when it's still possible to force justice ... right down their throats?

The US~Observer investigates cases for news. We want to win, just as you want to prove your innocence.

For justice sake, don't wait until they slam the door behind you before contacting us if you are innocent. Preventing a wrongful conviction is much easier than achieving a post-conviction exoneration.

Call Us Today!
541-474-7885

If you prefer email:
editor@usobserver.com

"One false prosecution is one too many, and any act of immunity is simply a government condoned crime." *- Edward Snook, US~Observer*

Faces of the US~Observer's VINDICATED

Angela Nobilis-Faire

"I want you to know how very grateful I am to each one of you. There are not enough words that can express what is on my heart and mind. Simply put, you saved my life; you have saved James' life."

Charges

Murder - 1st Degree
Vehicular Homicide
Manslaughter
Vehicular Assault
Assault - 1st Degree
Assault - 2nd Degree
Trespass - 1st Degree
Theft - 1st Degree
Theft - 2nd Degree

Status: Dismissed

James Faire

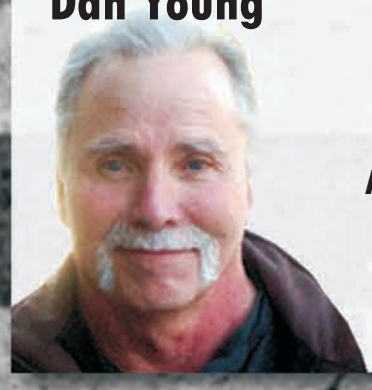
"If it wasn't for the US~Observer being involved and promoting the truth in my case I very well could have died in jail. I almost certainly would have never seen any amount of freedom. And without doubt, the prosecutors would have never, in a million years, stopped their unjust prosecution of me. Few will ever know the time spent on this epic war for righteousness, truth and justice."

Rusty Liscoe — Felony Grand Theft/RICO

"I want to thank you for all you have done - from the bottom of my heart. You defeated my false RICO charges."

Status: Dismissed

Dan Young — Menacing & Reckless Endangerment



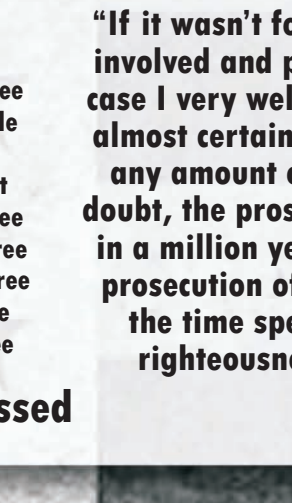
"Having spent over $50,000.00 in Attorney's fees, Doctor bills, etc., your services were well worth it."

Status: Acquitted

Assault — Stan Strange

"My jury acquitted me in 13 minutes. I even won a settlement. I can't thank you enough, US~Observer!"

Status: Acquitted & Compensated



Sex Abuse — Timothy Tignor

"My false sex abuse charges were dismissed before an unnecessary third trial thanks to the US~Observer. Praise Jesus!"

Status: Dismissed

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