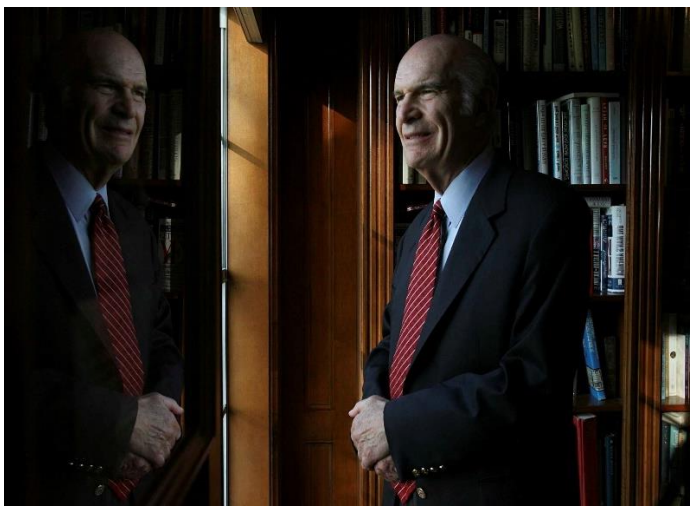
SEPTEMBER 2020- OFFICIAL NEWSLETTER FOR THE HARRIS COUNTY PUBLIC DEFENDER'S OFFICE

DEFENDER TIMES

ALL THE NEWS THAT'S FIT TO PRINT…AND THEN SOME



The late Rabbi Samuel E. Karff, one of the most strident supporters of the Harris County Public Defender's Office.

CHIEF'S MESSAGE: REMEMBERING OUR FIRST ADVOCATES

BY: ALEX BUNIN, CHIEF

Many are responsible for the creation of the Harris County Public Defender's Office. Then senator, now commissioner, Rodney Ellis, sponsored the Texas Fair Defense Act and pushed county officials and judges to open the office. His predecessor as commissioner, the late El Franco Lee, and former commissioner, now congresswoman, Sylvia Garcia, voted for the creation of the public defender's office and served on its initial board.

Private citizens, non-profit organizations and clergy were also responsible. Of the latter, three men have been of particular importance. Reverend William A. Lawson, Archbishop Emeritus Joseph Fiorenza and Rabbi Samuel E. Karff have long been known as the Three Amigos, together championing many civic and civil rights causes. I have considered each a friend and mentor.

Recently, Rabbi Karff passed away. He was 88 and lived a rich life. For 24 years he was Rabbi at Congregation Beth Israel here in Houston, the oldest synagogue in Texas. I remember meeting with Rabbi Karff many times and I was always impressed by his intellect, humor, and humanity. He was outraged by injustice and spoke truth to power.

We must always remember those who stood by our office when we were just starting out and when times were difficult. Even when prosecutors and judges strive to be progressive, it is the work of public defenders that can really change and improve the culture of our criminal legal system. For two visions of how to achieve those changes, read these new books by our friends -- Jonathan Rapping, "Gideon's Promise: A Public Defender Movement to Transform Criminal Justice" (Beacon Press 2020) and Alec Karakatsanis, "Usual Cruelty: The Complicity of Lawyers in the Criminal Injustice System" (The New Press 2020.∎

Harris County 338th Judicial District Court's Presiding Judge Ramona Franklin is running unopposed in the upcoming election.

HCCLA, TCDLA File Judicial Ethics Complaint

BARTLEBY STEVENSON, STAFF WRITER

In a rare move generally reserved for the most egregious judicial misconduct, HCCLA and TCDLA have filed a judicial misconduct complaint against Ramona Franklin, presiding judge of the 338th District Court. The complaint, filed August 25, 2020, is 85 pages of interesting reading and can be found here.

The complaint alleges that Judge Franklin has routinely and knowingly violated the constitutional rights of defendants by holding impromptu "bail review" hearings, sometimes without counsel, wherein she asks a prosecutor to read probable cause for the case, and then revokes a defendant's previously-posted bond without regard for the defendant's compliance, and then raises the bond amount or denies bond entirely.

In one notable case, *Ex Parte Gomez*, 2020 WL 4577148, at *5, Franklin raised the defendant's bond from $40,000, set the night before by the magistrate, to $150,000, and ordered the defendant back into custody. Gomez's financial resources had been exhausted after he posted the initial $40,000 bond, and he was forced to languish in jail for over 250 days due to the bond increase. Gomez filed a writ of habeas corpus, which Franklin denied, and Gomez appealed to the First Court of Appeals. In a unanimous memorandum opionion, the First COA agreed that the bond revocation was an abuse of discretion, and reversed her decision.

Several defense attorneys allege that after the decision was handed down, Franklin did not stop her practice of revoking bonds without cause or notice. In fact, in several cases outlined in the complaint, they allege that she revoked a previously-set bond and then denied bond entirely.

The complaint alleges that Franklin violated the Canons of Jucidical Conduct by failing to follow binding precedent and by denying defendants due process.

The State Commission on Judicial Conduct is notorious for slow action, but *Defender Times* will keep its readers posted on updates related to this controversial filing. ∎

NEW IN THIS ISSUE

What I Learned About Racism from Racism

ERIC J. DAVIS,
TRIAL DIVISION CHIEF

I learned a lot about racism from racism. Over ten years ago, we tried a case that landed on the front page of the Houston Chronicle.

The case ended up on the front page not because of the results of the trial, but because the prosecutors in the case used 80% of their peremptory strikes to eliminate 100% of the eligible black jurors in the Venire. Many of those jurors hadn't even been asked questions. We made a Batson challenge and it was painfully obvious that the prosecutors had no legitimate reasons for exercising their strikes as they failed to articulate any. The *Batson* Challenge was granted, the entire venire was dismissed and our case was reset to another day.

In a surprising move, the prosecutors were immediately and seriously disciplined for the *Batson* violation, hence the news story.

But what I learned came when the case was tried a second time. In that trial, the prosecution again used 80% of their peremptory challenges to eliminate 100% of eligible black jurors. We again made a Batson Challenge. But this time it was denied and we proceeded to trial with an all-white jury.

When the judge denied the *Batson* challenge, it was business as usually in Harris County (and it still is today, because lawyers just don't make *Batson* challenges). But this time I felt that our client's hope had been blown out of the room by the wind of racism. My thinking was having a few black people on the jury would hold everyone else accountable.

Part of me felt that our trial was now a thing of futility. But we reached down and tried the case aggressively and fought hard. And at the end of the day, the all-white jury quickly acquitted our client of all charges (our client was an alleged habitual offender charged with murder in case where an eyewitness testified against him and the CW said our client shot him before he died).

In speaking with the jury, it was apparent that these were good, well-meaning people who weren't going to just convict our client because of his race.

They even asked "What happened to all of the black people? Why didn't any of them make it on the jury?" They wondered what a Black person's perspective would have been. They listened to the evidence and they valued our client's life. I learned.

Why did I initially categorize these folks as folk who wouldn't listen? Why did I fear that we didn't have the best jury because there were no black people on the jury? I learned that racism in response to racism is never the right response.

A juror isn't a good juror just because of the juror's race. And certainly, a juror isn't a bad juror, just because of that juror's race. When we try cases, we must forever be vigilant and must forever guard against our biases. There are cases that I have lost and that still haunt me because of these types of assumptions. **When in doubt, don't assume things about people because of their gender or race.**

Eddie Murphy did a skit on Saturday night live decades ago where he portrayed a reggae band singing a song, "Kill the White People." The skit was making fun of reggae and its suggestion of violence as a response to political oppression. Much of Reggae music grows out of an expression responsive to the racial injustices of the 1960s. Murphy, edgy and controversial, did the skit on late-night mainstream television. But the truth of it is that stereotypes of any group throws the good in with the bad (diamonds in with coal). Any time we do that, we miss out on the diamonds. We miss out on the diamonds on our juries. And the diamonds in our lives. None of us want to lose out on diamonds. ∎

TRIAL TIPS

Impeachment

DAMON PARRISH, II
FELONY TRIAL TEAM LEAD

Impeachment is not just for bad presidents. The best part of cross examination is busting an adverse witness in their lies and bring it out to light. But impeachment is more than just saying "you're lying, remember when you said this…"

Impeachment is a subtle art of setting the adverse witness up with their testimony, locking them in with their testimony and then knocking them down their previous statement, hopefully without them knowing what you're doing before you've done it. Take time to learn how to impeach a witness, when to do it and how to make it impactful to your case.

Many lawyers fall into one extreme or the other- too eager to impeach a witness with each tiny inconsistency when they are not relevant to the case, or too reluctant to impeach because they are too nervous. Watching experienced lawyers will help you understand how to find the right balance.

Grab as many CLE's as you can on impeachment and practice this skill so that it becomes second nature. The more comfortable you become with impeaching a witness the more impactful your cross examination and the better chance your client has of securing a favorable outcome.

Saif's Amazing Case Law Update

SAIF KAZIM
APD, FELONY TRIAL DIVISION

Editor's Note: Saif emailed me the other day telling me that he reads each decision as it comes out and makes short summaries of them and wondered if that might be of interest for the newsletter. Um, heck yes, Saif. You're making us all look bad and I love it!

Ex Parte Edwards, No. 01-19-00100-CR, (Tex. App. – Houston [1st. Dist.], Aug. 4, 2020)
The First District reversed the 209th District Court, holding that the statute of limitations barred aggravated sexual assault charges where the government failed to introduce DNA test results at the writ hearing and failed to establish that initial DNA testing "did not match the victim or any other person whose identity was readily ascertained." Accordingly, the exception to the ten-year statute of limitations did not apply under Article 12.01(1)(C)(i) of the Code of Criminal Procedure.

Hines v. State, No. 01-18-00816-CR (Tex. App – Houston [1st. Dist.], Aug 6. 2020)
The First District held that an indictment charging theft was defective because it failed to allege either of the two statutory means of "appropriation" in Penal Code 31.01(4). Denying the motion to quash was error, but the court concluded that it was harmless.

Trevino v. State, No. 01-18-00937-CR (Tex. App – Houston [1st. Dist.] Aug. 6, 2020)
The First District reversed a conviction for forgery of a government document because the evidence was insufficient to prove an "intent to defraud and harm another," where the accused forged a signature on a jet-ski title he had legitimately purchased from the original owner and the original owner had forgotten to sign the title himself.

Ex Parte Gomez, Nos. 01-20-00004-CR, 01-20-000050-CR (Tex. App. – Houston [1st Dist.] Aug. 7, 2020) (not designated for publication)
The First District held that the 338th District Court abused its discretion by revoking bond, arresting the accused in court, and increasing bail without any factual findings and where no relevant circumstances had changed in the 30 hours since a magistrate set the initial bail amount.

Stredic v. State, No. 14-18-00162-CR (Tex. App. – Houston [14th Dist.] Aug. 13, 2020)
The Fourteenth District reversed a murder conviction where the trial court provided the jury with written excerpts of the accused's trial testimony, as opposed to read backs. Go Ted!

In Re Pete, No. 14-20-00456-CR, (Tex. App. – Houston [14th Dist.] Aug. 13, 2020)
The Fourteenth District granted mandamus relief to a pro se litigant in the 179th District Court, where the trial court refused to sign written orders reflecting its oral rulings on motions for discovery.

Broussard v. State, No. 14-19-00008-CR (Tex. App. – Houston [14th Dist.] Aug. 20, 2020) (not designated for publication)
The Fourteenth District held that it was harmless error when the trial court resumed jury selection for seven minutes without the accused present in the courtroom. Because the accused voluntarily did not appear after recess, she waived her constitutional right to be present, but did not waive her statutory right to be present under Article 33.03 of the Code of Criminal Procedure.

State v. Grays, No. 03-18-00531-CR (Tex. App – Austin, Aug. 7, 2020) (not designated for publication)
The Third District affirmed an order suppressing evidence in a DWI case where the trial court determined that the testifying officer was not credible, signs of intoxication at the scene were consistent with injuries from a car accident, the HGN test failed to account for potential head injuries, the smell of alcohol could have come from recently purchased alcohol inside the vehicle, and the admission of drinking was by itself insufficient for probable cause.

Clifton v. State, No. 09-19-00068-CR (Tex. App. – Beaumont, Aug. 5, 2020) (not designated for publication)
The Ninth District reversed and granted a new trial in a deadly force self defense case where the jury requested a definition of the word "attempt" in the justification charge and the trial court defined the word too narrowly by including intent language in the definition, thus preventing the jury from freely giving the word its common meaning.

Guajardo v. State, No. 10-18-00273-CR (Tex. App. – Waco, Aug. 10, 2020).
The Tenth District reversed and granted a new punishment hearing where the jury sentenced the accused as a habitual offender even though the evidence showed that his second offense was committed while he was on probation for the first offense.

Cisneros v. State, No. 13-18-00652-CR (Tex. App - Corpus Christi Aug. 6, 2020) (not designated for publication)
The Thirteenth District reversed convictions for aggravated sexual assault under Penal Code 21.02(e) where the accused was convicted of continuous sexual abuse with the same complainants for incidents during the same period of time, even though the specific acts in the aggravated sexual assault convictions were not the alleged predicate offenses in the continuous sexual abuse convictions.

EDITORIAL

Where's the Cake?

*Also, it is noisy as **** in here*

DEXTER MIDNIGHT
STAFF WRITER

I have been coming into the office with some frequency of late, in order to escape my increasingly terrible family. It feels pretty COVID-safe these days, at least to just sit in your office. I mean, mostly it's just Scott Pope up there, wandering the halls like the Ghost of Christmas Past, hoping to find someone to talk to, turning on computers and checking mail.

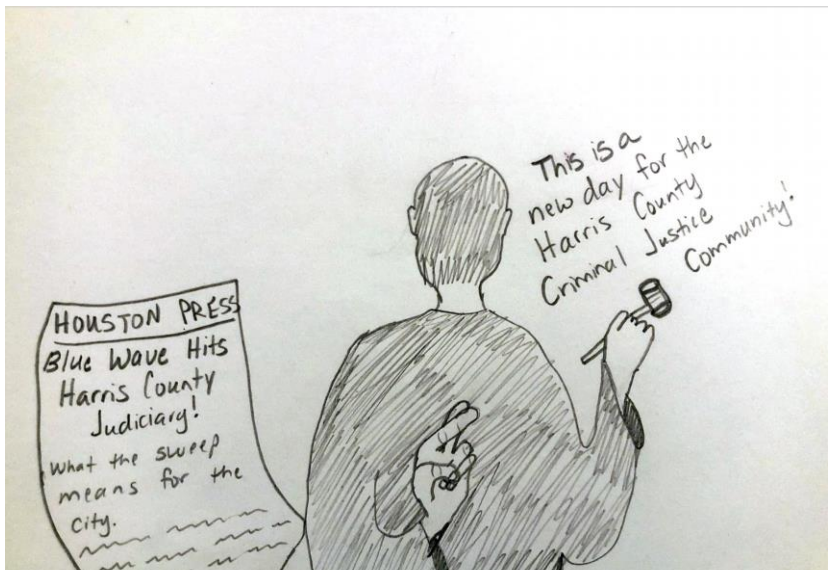
However, I have noticed that there is no cake around ever anymore. Even on the days when Miranda Meador comes in, she doesn't bring cookies. There used to be cake pretty frequently, or at least Tiff's Treats on 12 when Deanna Sanchez was bringing them in every other day, or bagels from BBall or Russell's cheesecake or something. But it's all gone now.

How I long for the days when there were donut boxes littered around the break rooms, and we could all just break off chunks with our unspeakably filthy hands, pretending that we're really only able to eat ¼ of a donut, and leave the rest for some other fortunate soul who also eats fractionally.

Also, it's super noisy. The construction workers don't seem to care that Alex and I are up there, working away. They continue to saw and hammer and drill things, and increasingly encroach, inch by inch, on Alex's much-smaller office. I walked in there the other day looking for crumbs from his Subway veggie sandwich and the wall was at least 6" closer to his desk than it was the day before. I think they're trying to gaslight us.

Quod Stultus Viverra

Cartoons Fresh From the Gallows



UPDATE ON HOLISTIC SERVICES

LESLIE GINZEL, HOLISTIC DIVISION CHIEF

Holistic Services is has been buzzing with activity this summer. In addition to bringing on four new Client Advocates we've begun the process of staffing civil legal attorneys and paralegals to seal records through expunction and nondisclosure. We've already begun receiving referrals and we encourage all attorneys to refer any cases you resolve through acquittal or dismissal. Additionally we are going to begin working back through closed cases to identify those eligible for expunction and nondisclosure. If you have current or former clients that you would like us to review for eligibility, please do not hesitate to make a referral.

Over the last several legislative sessions, great strides have been made in expanding eligibility for Nondisclosure and myself and Ted Wood are working with a collective of advocates to continue this work. If you are interested in learning about eligibility, here is a link to a CLE presentation that was recorded earlier in the pandemic.

PDO PET OF THE MONTH

Jani and Ted's pup, Tosca

NICHOLAS SMITH, APD MMH

Tosca came to live with Jani Maselli and Ted Wood in October 2018 after that had lost their previous dog of 15 years, Princess. After walking all over BARC and playing with three other dogs, Jani and Ted found "Ace." She was shaking and scared in her cage, but once Jani and Ted walked her, she was so happy, they knew they had found the dog they needed. They knew Ace was a name that didn't fit, so they decided to name her Tosca after the Puccini opera. She is very sweet, loyal and an amazing guard dog, protecting the home from those pesky UPS delivery men. Sometimes dogs end up rescuing us.

LEGISLATIVE UPDATE

TED WOOD
APD, APPELLATE DIVISION

SB 1902 (84th Legislative Session) – Automatic Orders of Nondisclosure

Effective Date: 09-01-15
Author: Sen. Charles Perry (R), Lubbock
Relevant Statute: Texas Government Code, Section 411.072

Did you know that there is such a thing as **an automatic order of nondisclosure**? It used to be that a defendant could only obtain an order of nondisclosure upon filing a petition seeking such an order. This is still the main way to get an order of nondisclosure. But in 2015, the 84th Legislature enacted legislation requiring trial courts to issue orders of nondisclosure in limited circumstances. The bill that accomplished this was Senate Bill 1902.

There are numerous requirements for an automatic order of nondisclosure.

First, the defendant must have been placed on deferred adjudication for a misdemeanor offense.

Second, the offense must be a misdemeanor other than one under one of the following Penal Code provisions: (1) Section 49.04 (DWI); (2) Section 49.06 (Boating While Intoxicated); (3) Chapter 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons; (4) Chapter 21 (Sexual Offenses); (5) Chapter 22 (Assaultive Offenses); (6) Chapter 25 (Offenses against the Family); (7) Chapter 42 (Disorderly Conduct and Related Offenses; (8) Chapter 43 (Public Indecency); (9) Chapter 46 (Weapons); and (10) Chapter 71 (Organized Crime).

Third, the trial judge did not affirmatively find "it is not in the best interest of justice that the defendant receive an automatic order of nondisclosure."

Fourth, the defendant has never been convicted of (or placed on deferred adjudication for) another offense (other than a fine-only traffic offense).

Fifth, the defendant's period of deferred adjudication has expired and the trial judge has not adjudicated the defendant's guilt.

Sixth, the trial judge has dismissed the proceedings against the defendant and has discharged the defendant. (Please note that the judge is statutorily required to dismiss the proceedings and discharge the defendant when the defendant's period of deferred adjudication has expired and the judge has not adjudicated the defendant's guilt. *See* Tex. Code Crim. Proc. art. 42A.111(a).

Seventh, the trial judge has made a finding that the defendant has satisfied the requirements of Section 411.074 of the Government Code. These requirements are numerous and will not be repeated here. They mainly concern disqualifying factors such as an affirmative finding by the court that the offense in question involved family violence.

Eighth, the defendant pays a $28 fee to the clerk of the court.

If these requirements are met, the trial judge is required to *sua sponte* issue an order of nondisclosure. This order is to be issued at the time of the trial court's order of discharge and dismissal if the dismissal and discharge occurs on or after the 180th day after the defendant was placed on deferred adjudication. If the discharge occurred before the 180th day after the defendant was placed on deferred adjudication, then the trial court is to issue the order of nondisclosure as soon as practicable on or after the 180th day.

There is no requirement that the State be given notice of the issuance of an impending order of nondisclosure. There is no requirement that there be a hearing. There is no requirement that the trial judge find the order of nondisclosure to be in the best interest of justice.

While the numerous requirements for an automatic order of nondisclosure can cause many defendants to be ineligible for such an order, there are many situations in which defendants are eligible. Consider a defendant who is placed on deferred adjudication for the Class A Misdemeanor offense of criminal mischief. The defendant successfully completes deferred adjudication and has never been convicted of (or placed on deferred adjudication for) another offense (other than a fine-only traffic offense). Assuming the other requirements are satisfied, this defendant should receive an automatic order of nondisclosure.

Unfortunately, in the nearly five years that this automatic-order-of-nondisclosure statute has been on the books, it appears that there has yet to be an automatic nondisclosure in Harris County. The judges don't seem to know about the statute mandating the issuance of orders of nondisclosure in proper circumstances. And it is probably fair to say that most defense attorneys do not know about this either. **But if you have read this column, now you know.**

CLIENT ADVOCATES: SPOTLIGHT ON VOTER RESOURCES

We are almost one month away from **October 5th, the deadline to register to vote** for the 2020 elections! Talk to your clients to see if they need any information about voting or would like to register to vote.

Since the 2013 *Shelby County v. Holder* decision, when the Supreme Court gutted the landmark Voting Rights Act (VRA) of 1965, Texas and other states whose voting laws were previously subject to Justice Department review have implemented a slew of laws and policies that increase voter suppression. Many of these laws target and disproportionately impact low income people and people of color. The COVID-19 pandemic further complicates access to voting, especially considering Texas has exceptionally restrictive absentee ballot laws.

We have the unique opportunity to make sure our clients are aware of their voting rights and help them register to vote if they are interested in doing so. In Texas, people who are currently incarcerated, on probation, supervision, or parole for a felony conviction are **not eligible to vote.** Otherwise, people with criminal histories, including people who are charged with a crime, but not convicted; people who are convicted of a misdemeanor (those still in jail can vote absentee); and people who have completed their sentence or who have been pardoned for a felony conviction **are eligible to vote.**

Multiple Client Advocates have been certified to register people to vote. Please reach out to the client advocate email at pdo.advocates@pdo.hctx.net if any of your clients would like to register to vote or need information about voting rights and the voting process in Texas. As always, reach out to pdo.advocates@pdo.hctx.net if your clients are in need of any other services, including help navigating housing, unemployment, benefits, education, and more.

Basic Texas voting information:

To vote in Texas, voters must bring one of the following forms of ID:
(If you don't possess a required voter ID for state and need free assistance to obtain one, you can contact VoteRiders at voteriders.org or 844-338-8743.)

- Texas driver license
- US passport (book or card)
- US military ID card with photo
- US citizenship certificate with photo
- Texas handgun license
- DPS issued Texas election ID certificate
- DPS issued Texas personal ID card

To be eligible to vote by mail in Texas voters must:

- be 65 years or older;
- determine that you have a disability or specific condition that makes it likely that voting in person will injure your health;
- be out of the country on election day and during the early voting period;
- or be in jail, but otherwise eligible to vote

Organizations doing voter registration and anti-voter suppression work in Texas:

- OCA - Asian Pacific American Advocates of Greater Organization: http://www.ocahouston.org/programs/civic-engagement
- Mi Familia Vota - https://www.mifamiliavota.org/where-we-are/texas/
- Texas Freedom Network - TexasRising: https://txrising.org/
- Houston Justice - #ProjectOrange works to register incarcerated ppl and family members during visits at Harris County jail : https://www.houstonjustice.org/inmatejustice
- League of Women Voters of Houston: https://lwvhouston.org/
- Houston in Action: https://www.houstoninaction.org/elections/
- Move Texas: https://movetexas.org/register/
- NAACP: https://www.naacp.org/campaigns/voterhelp/

PRACTICE POINTERS

HOW TO TALK SO PROSECUTORS LISTEN

ASHLEY M. GUICE
APD, FELONY TRIAL DIVISION

Editor's Note: Ashley Guice is a former prosecutor who knows what it's like to work on both sides of the aisle. In this column, she shares her experience as an ADA in Harris County with the intention of helping defense attorneys make effective arguments.

"That officer is lying." I know, I know…water is wet. Prosecutors hear the line so often that it rarely prompts them – as it should - to start truly evaluating their case. Some prosecutors have at least ten defense attorneys tell them this in any given week and when you are a prosecutor responsible for hundreds of cases, that statement - without more - turns into white noise. And honestly, most prosecutors have read so many vague, poorly written, inaccurate offense reports during their career that they unfortunately tend to disregard those lies as innocent inexactitudes. In my past life, when dealing with a defense attorney who was asking for a dismissal or a better plea deal based on their belief that an officer lied about something it was always helpful when they gave me an example of the lying. While I understand why a defense attorney is not eager to share information, sharing some immutable fact that exposes the weakness of a State's witness can put your case at the forefront of a prosecutor's attention and on top of the figurative pile of files in their paperless world. The key word here is "immutable"!

The sad reality is that we often have to goad prosecutors into doing their jobs. A good prosecutor does not want to sit through a trial where you can chop their cop to pieces. So give them a clear indication that you are on to their shady officer – or any shady witness for that matter. Consider offering the prosecutor a timestamp of the officer being caught in a lie on video or directing their attention to the contents of a statement that directly contradicts what the officer has reported as fact. A good prosecutor will look into what you have shared, evaluate their case, and be open to a dialogue about the dismissal or reduction you have requested. And then there is the prosecutor who will try to explain away the lie. You may not get what you want out of them, but at least you know how they operate and can

Chapter and Verse

ALLISON MATHIS, APD POST-CONVICTIONS

Dear and Beloved Colleagues,

Last we spoke, we talked about the great rights of jury trials in Texas, and how lovely and ubiquitous they were, that is, until the current peculiar situation we find ourselves in. Today, we move on from the jury and onto maybe my favorite word in the English language, the Outlaw. Article 1.18 of this fat, miserable companion of mine specifies, "No citizen shall be outlawed, nor shall any person be transported out of the State for any offense committed within the same." "Ok, Allison," you're saying, "what on earth does that matter?" And I ask you, in return, does Jesse James matter? Does Wild Bill Hicock matter? Does absolute freedom from tyranny and injustice matter?

The purpose of outlawry is basically banishment. You, as a person, have been deemed to illegally exist in our jurisdiction. You have no legal rights anymore. It's interesting, because in a former life in a different country, we frequently resolved cases by making the sole condition of probation that the defendant would "leave the jurisdiction and not return during the pendency of the probated sentence." It worked pretty well, and I remember recounting this to a salty old DA in New Mexico once. He laughed. "You know, when I used to practice in Oklahoma, we would kind of do the same thing," he said, "I'd tell repeat misdemeanor defendants to just not show up to court and we'd bench warrant them. Since misdemeanors weren't extraditable, it basically meant if they left the county, they'd never have to face charges for it." Not in Texas, you wouldn't, my Salty DA.

Smarter lawyers than I have argued that the outlawry provision effectively prohibits sex offender registration requirements, which I think is a pretty interesting way of turning things. Unfortunately, the 14th COA slapped that down pretty handily in *Velez v. State,* 2002 Tex. App. LEXIS 1153 at 15, basically saying that registrants don't give up all their legal rights, and registration is not a punishment, technically, so nyah.

But I just need to tell you dear friends, that there's a *legal* definition of outlawry, which I don't really care for, and a *true* definition of outlawry, which I aspire to.

Please turn, if you are able, to one of Daucie Schindler's favorite authors of all time, Tom Robbins, who is still alive in LaConner, Washington, where I once worked and frequented the same coffee shop (the only coffee shop) in the hopes of catching a glimpse of the Outlaw King himself. My icy, outlaw-wanna-be heart skips a beat when I read this passage from "Still Life With Woodpecker":

The difference between a criminal and an outlaw is that while criminals frequently are victims, outlaws never are. Indeed, the first step toward becoming a true outlaw is the refusal to be victimized. All people who live subject to other people's laws are victims. People who break laws out of greed, frustration, or vengeance are victims. We outlaws, however, live beyond the law. We don't merely live beyond the letter of the law-many businessmen, most politicians, and all cops do that-we live beyond the spirit of the law. In a sense, then, we live beyond society.

When war turns whole populations into sleepwalkers, outlaws don't join forces with alarm clocks. Outlaws, like poets, rearrange the nightmare.

The trite mythos of the outlaw; the self-conscious romanticism of the outlaw; the black wardrobe of the outlaw; the fey smile of the outlaw; the tequila of the outlaw and the beans of the outlaw; respectable men sneer and say 'outlaw'; young women palpitate and say 'outlaw'. All outlaws are photogenic. 'When freedom is outlawed, only outlaws will be free.' Unwilling to wait for mankind to improve, the outlaw lives as if that day were here. Outlaws are can openers in the supermarket of life.

Dear Friends, I so encourage you to find your inner outlaw. The outlaw doesn't listen to the definitions or branding of the State. The outlaw creates the world he wants to live in. But still, you know, wash your hands.

Love Always,

Allison

MARY ACOSTA'S OUTRAGEOUS BROWNIES

1 pound unsalted butter
1 pound plus 12 ounces semisweet chocolate chips
6 ounces bitter chocolate
6 extra-large eggs
3 tablespoons instant coffee granules
2 tablespoons pure vanilla extract
2-1/4 cups sugar
1-1/4 cups all-purpose flour
1 tablespoon baking powder
1 teaspoon salt
3 cups chopped walnuts

Preheat the oven to 350 degrees.
Butter and flour a 12 x 18 x 1-inch baking sheet.
Melt together the butter, 1 pound of chocolate chips, and the bitter chocolate in a medium bowl over simmering water. Allow to cool slightly. In a large bowl, stir (do not beat) together the eggs, coffee granules, vanilla, and sugar. Stir the warm chocolate mixture into the egg mixture and allow to cool to room temperature.
In a medium bowl, sift together 1 cup of flour, the baking powder, and salt. Add to the cooled chocolate mixture. Add the walnuts and 12 ounces to the chocolate batter. Pour into the baking sheet.
Bake for 20 minutes, then rap the baking sheet against the oven shelf to force the air to escape from between the pan and the brownie dough. Bake for about 15 minutes, until a toothpick comes out clean. Do not overbake! Allow to cool thoroughly, refrigerate, and cut into squares.

Every time I make these brownies everyone loves them. Even people who do not like brownies. They are a cross between a brownie and a truffle.

Editor's Note: Yes, I put Mary Acosta's brownie recipe on the same page as my own column to get attention! I am the editor, this is my prerogative!

WORK ANNIVERSARIES

REDACTED