

# The Background Investigator

## Your Information Resource

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### Straightline Prices Lower Than Ever

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#### ALSO IN THE NEWS:

#### Lower Prices - What's In It For You?

I ask myself, "Why the lower prices? What gives? Am I giving up quality for a cheaper price?"

And I have to answer, "No."

At first look, I was wondering what or how my competition would react. It's easy to bash low prices by saying something, like the quality will suffer, that we'd have to cut something to lower our prices.

But here's the bottom line.

I've been doing criminal record searches for the longest time. I travel the world. I've always been the go-getter.... I will do what's best for our industry.

Article continues  
On Page 2

*After 20 years I know straightline gets the job done*

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## Why The Lower Prices?

I ask myself, "Why the lower prices? What gives? Am I giving up quality for a cheaper price?"

And I have to answer, "No."

At first look, I was wondering what or how my competition would react. It's easy to bash low prices by saying something, like the quality will suffer, that we'd have to cut something to lower our prices.

But here's the bottom line.

I've been doing criminal record searches for the longest time. I travel the world. I've always been the go-getter.... I will do what's best for our industry.

But what about you, the user of our products. What's in it for you?

First, one thing about what I sell - the quality of our product is by far better, and at worst, equal, to anyone's or anything that is offered by any other vendor.

As it's said, "the data remains the same." and if there's a record on a subject, and it can be read, I certainly can transcribe it. And not only transcribe it, but understand it, and become helpful to you in a thousand different ways too numerous to mention.

This is a strange business

world we live in. In our industry, even more so. I started when a Cook County felony search was \$25 each. That's not a typo, the price was \$25.

I became a part of the world where it eventually dropped to less than ten dollars and then as low as three.

After all, I was told, criminal records are a commodity. I heard this in countless meetings and seminars.

I'll buy that analogy - that criminal records are a commodity - all it takes is some kind of transfer into our "digital world - we don't need someone to manually do the work.

Now it's years forward and we're not at that perfect spot, yet, It's still not all that simplified. It's still not all digital.

But yes, it is still a commodity. Really no more different than a dozen eggs sitting on a grocery shelf.

So why the high prices? Why are you, the user, paying more?

That's my point, exactly. And it's not rocket science, either.

So, I'm working on lowering prices. Again. Many of you might not have been working in this business when I started the international side of criminal record checks, But, let me say, the prices outside there were enormous.. hundreds

of dollars for a single criminal search.

I got the prices down. I found the sources, I learned the systems. And we've all profited.

Everything seemed fine, and here we've gotten sidetracked by other issues in our business. Business is going status quo.

It's been a while, too, since I looked at what the state of our record cost pricing is. But now I have and it is amazing at how the pricing has remained the same or near the same. Nothing has been changed. Status quo. Until now.

I promise 100% to shake up this stagnation, to bring prices down, to help bring volume up, to increase the quantity and bring back dollars with new profits to our industry, benefitting everyone from the Mom and Pop to the Fortune 100.

That is my goal. We cannot sit by idly and be dazzled by bells and whistles, yet pay for a product, so near to a perfect commodity, and do nothing.

Prices are coming down. It is a new era. It is a new time. I will be the first to push this agenda through. And I'm putting my money where my mouth is. We're getting this done.

Steven Brownstein

## Indiana Trial Court Documents Free And Online

A wide range of Indiana trial court documents will soon be available online for free through the state's case management system, Odyssey, at mycase.in.gov.

The increased access is part of a larger initiative to make court documents more easily available to the public. Nearly 70% of the state's newly filed cases are in Odyssey, which is used by 258 courts in 60 counties.

Chief Justice Loretta Rush expressed appreciation to the 21-member Advisory Task Force on Remote Access to and Privacy of Electronic Court Records, "The diverse group provided thoughtful recommendations to the Supreme Court after examining how to best balance transparency and privacy in today's electronic world. The Supreme Court is pleased to make financial information and case orders available to the public through our state system."

The Court order describes the timeline for financial information and court orders to be available online. For example, financial in-

formation, such as payments made by defendants/litigants to Clerk's Offices will be available March 1. Certain civil orders and expungement pleadings will also be available March 1. Final orders in criminal cases will be available August 1.

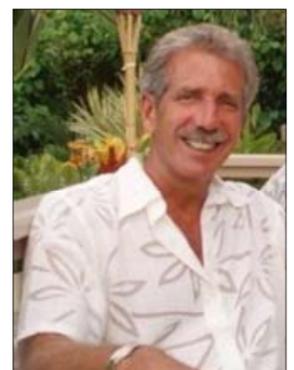
Attorneys and parties to a case will also gain greater access to cases, including their own electronic records in coming months by registering through the system.



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## Did A Canadian Court Just Establish A New Right To Be Forgotten Online?

by Michael Geist, special to The Background Investigator

The European Union shook up the privacy world in 2014 with the creation of “the right to be forgotten,” creating a system that allows people to seek the removal of search results from Google that are “inadequate, irrelevant or no longer relevant.” The system does not result in the removal of the actual content, but rather makes it more difficult to find in light of the near-universal reliance on search engines to locate information online.

Since the European decision, Google has received nearly 700,000 requests for the removal of links from its search database resulting in the evaluation of 1.8 million URLs. Moreover, privacy authorities in Europe – led by France’s national regulator – have adopted an aggressive approach on the right to be forgotten, ruling that the link removal should be applied on a global basis.

While the Canadian courts have grappled with the question of removing links from the Google search database (a key case on the issue is awaiting a decision from the Supreme Court of Canada), there has been little sense that Canada would establish its own right to be forgotten. That may have changed last week as the Federal Court of Canada issued a landmark ruling that paves the way for a Canadian version of the right to be forgotten that would allow courts to issue orders with the removal of Google search results on a global basis very much in mind.

The case – A.T. v. Globe24H.com – involves a Romanian-based website that downloaded thousands of Canadian judicial and tribunal decisions, posted

them online and demanded fees for their swift removal. The decisions are all public documents and available through the Canadian Legal Information Institute (CanLII), a website maintained by the legal profession in support of open access to legal materials (I am a former board member).

Since most decisions on CanLII are not indexed in Google, their availability is not widely known and their content does not typically come up in search queries. Globe24H.com opened its database to Google, however, leading to the discovery of the decisions for many for the first time. When users contacted the site, they were told that a “free” removal service could take six months or more. If they paid for the removal, the content was quickly deleted without issue.

The Privacy Commissioner of Canada received dozens of complaints about the website and issued a report in June, 2015, that it violated Canadian privacy law. The case moved to the federal court, which agreed with the Privacy Commissioner’s privacy findings, but was left with the question of whether it could do anything about it.

The court first ruled that it was entitled to assert jurisdiction over the foreign website, noting that the courts have applied Canadian privacy law to foreign organizations for many years. Given the connections to Canada, it ruled that it met the “real and substantial connection” standard required under the law.

Yet even if Canadian law

could be applied to the site, enforcing the ruling posed a more difficult challenge. The court concluded that it could issue an order both requiring the site to comply with the law and declaring that it was currently violating it. The declaratory order was expressly adopted with Google in mind.

The court noted that the declaration could be used to submit a request to Google seeking the removal of the offending links from its search database. While acknowledging that there was no guarantee that Google would act, it was persuaded by the Privacy Commissioner that “this may be the most practical and effective way of mitigating the harm caused to individuals since the respondent is located in Romania with no known assets.”

In doing so, the court may have created the equivalent of a Canadian right to be forgotten and opened up an important debate on the jurisdictional reach of privacy law as well as on striking the balance between privacy and freedom of expression. While more onerous than a direct request to Google, the court’s approach suggests there is now a road map for the global removal of search results of content that may be factually correct, but which also implicates the privacy rights of individuals.

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## Massachusetts District Court Searches

The Massachusetts District Court record retrieval is difficult.

To effectively search a county's district court records each court in the district must be individually checked.

There is no integration of the records among the county.

The methods of searching these records differ between courts, though most are computerized, but not online.

The records can be accessed by computer at the court or by physically reading docket books listing cases.

These docket books are usually sorted by year and are not normally current to day. Clerk assistance is then needed to complete an accurate search.

## Chicago Police Department Arrest Record Search

The Chicago Police Department official website for searching arrest records is made available for the use and benefit of law enforcement partners, news media, and members of the

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## Criminal Requests

public to search Chicago Police public arrest records including Name, Mugshot, Age, Address, Central Booking Number, Charges, Arrest Date/Time, Arrest Location, Date Time Released from Chicago Police Facility, Bond Type/Amount/Date, and the geographic police area/district/beat.

Arrest records provided on this public website or through its interface pertain to individuals who have been charged with a crime as an adult. All named offenders are presumed innocent unless and until proven guilty in a court of law. If expunged, the appropriate

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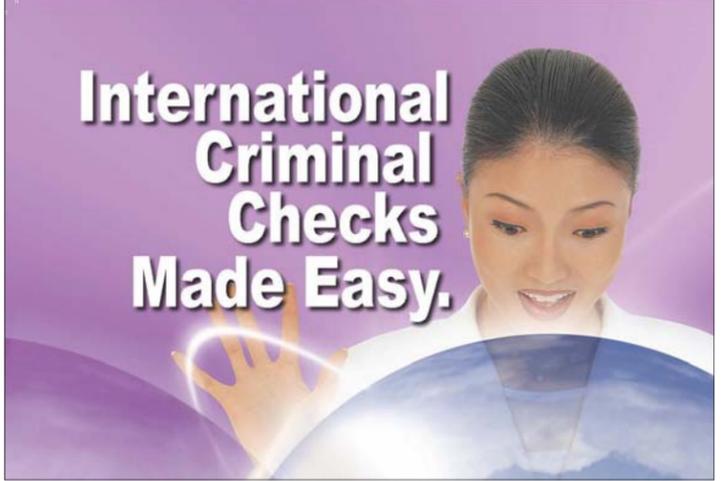
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**Les Rosen's  
Corner**  
A monthly column  
By Lester Rosen,  
Attorney at Law



**Third Edition of  
Safe Hiring  
Manual by  
Attorney Lester  
Rosen**

By Thomas Ahearn

Attorney Lester Rosen, founder and CEO of Employment Screening Resources® (ESR), has updated and expanded a new Third Edition of his comprehensive book on back-

ground checks – “The Safe Hiring Manual – The Complete Guide to Employment Screening Background Checks for Employers, Recruiters, and Jobseekers” (Facts On Demand Press/840 pages) – that will be published in late January 2017. For more information and to order the book, please visit [www.esrcheck.com/The-Safe-Hiring-Manual/](http://www.esrcheck.com/The-Safe-Hiring-Manual/).

The third edition of “The Safe Hiring Manual” – available at the list price of \$24.95 on Amazon.com, the BRB Publications website, and booksellers nationwide – goes far beyond the typical hiring handbook and is a comprehensive blueprint for developing a safe hiring program for employers, human resources, and security professionals. The book details how to exercise due diligence throughout the hiring process in order to avoid the costly financial and legal nightmares of even one bad hiring decision.

**UK Plans To  
Criminalize  
University  
Students For  
Plagiarized  
Essays**

University students who buy essays online face fines and a criminal record under plans to punish plagiarism being considered by the government.

For the first time, students caught cheating could be criminalized amid fears that a burgeoning “essay mills” industry is threatening the quality of a British university degree.

Recently it was revealed that upwards of 20,000 students enrolled at British universities are paying up to £6,750 for bespoke essays in order to obtain degrees.

The planned crackdown follows an investigation

last month, revealing that more than 20,000 students were buying pre-written essays and dissertations from the internet.

Paying up to £6,750 for a PhD dissertation, the number of students using essay mill sites has skyrocketed over the last five years, with the Quality Assurance Agency, the university regulator, confirming that more than 100 online essay services are now in operation.

Whilst universities already use complex anti-plagiarism software to detect the copying of academic texts, the process of contract cheating - students submitting paid-for essays as their own original work - means that examiners and markers are powerless to prevent foul play.

**What Is  
Contract  
Cheating?**

Contract cheating is when a student uses a third party to produce original aca-

demical work for them, usually involving fees running into hundreds of pounds.

Students are able to circumvent their university’s plagiarism systems, which can only detect where students have lifted from already published texts or those scanned through the Turnitin system.

There are hundreds of companies in the UK and abroad offering “bespoke essay and dissertation writing services” under the premise that students do not try to submit the product as their own original work.

However, in reality thousands of students are believed to be doing exactly that.

The professional essay writing industry, known commonly as “essay mills” is now thought to be worth over £100m.

In the UK, two of the biggest essay mills report that they are providing essays to more than 20,000 students a year.

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## Case Filed Against Orange County Clerk

Courthouse News filed a First Amendment action against Orange County's court clerk over his policy of withholding newly filed cases until they are processed, in violation of a series of federal rulings.

The federal complaint follows a judgment last June by U.S. District Judge James Otero on the same issue.

In that ruling, Otero enjoined Ventura's state court clerk who was also withholding access to new civil actions. Otero found that the press's First Amendment right of access attaches to new civil complaints when they are received by the clerk, not after they are processed.

Courthouse News followed on Otero's ruling by sending it to a small coterie of recalcitrant clerks in California, asking them to comply with the judge's decision on First Amendment law.

The in-house counsel for the court in Orange County answered, "The court is not inclined to alter its current procedures."

The resulting complaint on Tuesday emphasized the large number of cases withheld from news coverage as a result of those procedures.

"Orange County Superior Court withheld about half of all new unlimited complaints received during the last three months of 2016 for between one and nine days while they were being processed," the Courthouse News complaint says. The news service is represented by Rachel Matteo-Boehm and a team from the Bryan Cave law firm that includes Roger Myers, Jon Fetterly, Katherine Keating and Goli Mahdavi.

The new civil cases regularly involve controversies of public interest, such as water rights and political

disputes. One of the cases withheld in Orange County was brought by the citizens of San Juan Capistrano who said the city hiked their water rates without legal justification and refuses to refund the money.

Because of the stories found in new filings, journalists since time out of mind have checked the clerk's office at the end of the day, as part of the courthouse beat. That routine was followed in Orange County.

Throughout the 1990s, reporters from the LA Times, the Orange County Register and other newspapers would check the new cases in the Santa Ana courthouse at the end of the court day. A records room clerk gathered the new civil actions from the intake clerks and placed them in a wooden box on a table at the back of the records room.

Nearly identical routines were followed in Los Angeles, San Francisco and San Jose, as well as courts around California and throughout the nation.

But in the early 2000s, Orange County's then-head clerk Alan Slater began withholding new cases from the press. Reporters for the LA Times and Courthouse News petitioned Slater in person for a return to timely access.

He refused, saying the delay would only become longer and he was comfortable resolving the matter in court. A leader among California clerks, Slater then shut down the press room.

His successor, Alan Carlson, was equally firm in rejecting timely access for reporters as the court moved over to e-filing. He also paralleled his predecessor's outlook on the press.

In addresses to fellow clerks at national conferences in Williamsburg in 2011 and 2013, Carlson described journalists as muckrakers hustling for a buck and compared their efforts to obtain timely ac-

cess to opening the mail before delivery.

Carlson adamantly refused to improve press access in Orange County, saying he did not consider a case filed until his office "accepted" it, which in the context of e-filing means the conclusion of all clerical procedures tied to the new case.

Like the clerk before him, Carlson was considered a leader within California's statewide administrative office of the courts. He pushed his court away from paper and towards e-filing, with Orange County Superior becoming the first court in California to mandate e-filing across the board in 2013.

Paradoxically, e-filing in state courts has often slowed press access because journalists are regularly pushed down the line behind administrative tasks. Federal courts have followed a different path in the conversion to e-filing and give the press and public instantaneous access to new complaints as soon as they are received.

In Manhattan's powerful media market, for example, the court clerk dismantled a press policy of same-day access to the new complaints when the court moved to e-filing, pushing the press corps behind processing.

That move resulted in a First Amendment challenge filed by Courthouse News in the Southern District of New York in November. The case was assigned to U.S. District Judge Edgardo Ramos, who ruled from the bench in December granting a temporary injunction against the clerk's policy of withholding the new complaints.

"I find that injunctive relief would serve the public interest," Ramos said, hearing the case in the renovated federal courthouse on Foley Square. "There is an important First Amendment interest in providing timely access to new case-initiating documents."

That decision followed the

ruling and judgment in Los Angeles, where Judge Otero likewise enjoined Ventura clerk Michael Planet.

"The court concludes that CNS has succeeded in establishing a qualified First Amendment right of timely access to such complaints that attaches when new complaints are received by a court," Otero wrote.

Both judges followed a 2009 ruling in Houston by U.S. District Court Judge Melinda Harmon, who enjoined Houston's then-state court clerk Loren Jackson. Jackson was also withholding press access while he docketed them, the old word for clerical processing of paper complaints.

"It is clearly in the public interest to enjoin defendants' conduct," Harmon wrote. "There is an important First Amendment interest in providing timely access to new case-initiating documents."

The litigation over Ventura started two years later in 2011, and lasted five years. During that legal marathon, the Ninth Circuit also weighed in on the issue.

"The Supreme Court has repeatedly held that access to public proceedings and records is an indispensable predicate to free expression about the workings of government," Circuit Judge Kim Wardlaw wrote.

The three-judge panel reversed a lower court ruling against Courthouse News.

Despite that body of law, the state court administration in California has hired a white-shoe law firm at public expense to continue fighting the Ventura case, with the full panoply of corporate litigation tactics. The case is currently back before the Ninth Circuit on appeal.

And a small group of California clerks continue to withhold new cases while they process, keeping them away from the press until they are stale news.

They have pursued that

policy despite letters from Courthouse News that included copies of Otero's ruling. Orange County's new clerk, David Yamasaki, has received the same information twice, once while he was the clerk in Santa Clara County Superior Court in San Jose, and again after he moved to Santa Ana this past fall.

In both courts, the policy of withholding remains in place. Both courts have another key policy in common that also affects press access.

They close the doors to the clerk's office early, further delaying press access and making work harder for all those who visit the clerk's office to pay fines, file other forms and conduct research into public records. Santa Clara closes the clerk's office at 3:00 p.m., and Orange County at 4:00.

The early closure compounds the effect of withholding the cases in Orange County in particular because the office is the only means of seeing the new cases without paying an exorbitant online fee. While the press and public are excluded, the clerk's staff continues to work until 5:00 p.m. behind locked doors.

In its entreaties to the resistant California clerks, Courthouse News regularly offers practical, no-cost solutions which include a media box on the intake counter for paper filings or an electronic inbox for e-filed complaints. Those solutions were offered in both Santa Clara and Orange County.

"Defendant's actions deprive CNS, and by extension its subscribers, of their right of access to public court records secured by the First Amendment of the U.S. Constitution," the complaint says. "CNS is therefore entitled to declaratory and both preliminary and permanent injunctive relief to prevent further deprivation of the First Amendment rights guaranteed to it and its subscribers."

## A Note From Phyllis Nadel



### 1 In 4 Child Bullies End Up With A Criminal Record

...the PTA needs to do more, says Trinidad-Tobago psychiatrist

One in four children who are bullies will have a criminal record by age 25, says Secretary of the Association of Psychiatrists Dr Varma Deyalsingh.

Deyalsingh recommended greater involvement of the Parent/Teacher Association, more training of teachers to detect the signs of bullying or learning disabilities in children, a school nanny initiative and more initiatives to the anti-bullying campaign.

Recently reported was the case of a nine year old Mayaro boy whose arm was broken when he was stomped on by a school-mate at their primary school. The injured boy, Tristan Khan, is recovering at home and the boy who injured him has been sent home for a week while the Education Ministry investigates the case.

Deyalsingh said the issue of bullying is a recurring one which needs to be seriously addressed. He said every stakeholder needs to protect children against any form of abuse.

He called on everyone to be a watch guard with since "every case of bullying there is a chance that a child can die."

Deyalsingh said some bullies may "act up" in school because they are bullied at

home or see bullying as something normal.

He said: "A child who is bullying may have problems at the home. He may be a bully because he sees bullying at home. He may be a bully because at home, something is going on that makes that child act up in school.

So we have to realise is that any little cases of bullying may result in another child being damaged and again it has to be taken very seriously because the teachers have to be very vigilant. The difficulty children may have is that they may see that (bullying) at home and in society and they may think that bullying is a normal thing and the way to get through in life in by bullying."

He added: "Studies have shown that people who actually are bullies when they reach 25 years one in four of those would have had criminal record. They may go through life being violent. So picking them up early in school will help society against violence in the next few years."

Teachers play a vital and in monitoring these children and should be alert to the issue of bullying or if a child has a learning disability,

"because a child may have a learning disability and not learn like a normal child and may act out in class," he said. He said teachers need trained to recognise signs.

With the anti-bullying campaign, Deyalsingh recommended there be an anonymous drop box for pupils to address their concerns over other pupils bullying them as many who are afraid to let a teacher know personally the issue. Another recommendation for the anti-bullying campaign is for signs to be placed around the school speaking against bullying.

He said given the economic state the country faces, having a school psychologist may be difficult. However, if retired teachers were hired and serve as school nannies to monitor and look after the emotional well-being of the children would prove effective.

Another recommendation is for the PTA to become involved when the teachers do not deal with the issue of bullying.

Deyalsingh said: "Some teachers may say that they don't want anyone to come and control their class but an active PTA can now bring pressure on the teachers for not dealing with it in the first place. Remember every case of bullying there is a chance that a child can die."

He also said that Student

Support Services also play an important role in the schools and it needs to become involved with the schools and in dealing with the various issues at the schools.

### German Lawyer Speaks Up About Data Protection

German employee data protection rules are very tight.

The information to be gathered is likely to be 'personal data' for the purposes of the German Federal Data Protection Act (Bundesdatenschutzgesetz). Therefore, without the explicit consent of the employee, personal data of an employee may only be collected, processed or used for employment-related purposes where necessary for hiring decisions or, after hiring, for carrying out or terminating the employment contract.

All other personal data may only be collected if the employee explicitly consents. German law places strict conditions on the obtaining of valid consent. The employee must be informed both in principle and in detail about the extent and the purpose of the data collection and processing. General information that personal data will be used is not sufficient. The employee must be explicitly informed about the specific use of his

data, the specific purpose for processing and the full name of the third parties that will receive the data in the course of the search to be conducted (generic words like "service providers" are not sufficient). Even if these strict requirements are met, it is often debatable whether consent given in an employment relationship can be valid, as another requirement of valid consent is that the consent be freely given. The extent to which consent can be relied upon in the context of employment is limited, primarily because the inevitable power imbalance between an employer and employee generally undermines the extent to which an employee can be said to have freely given their consent. If the consequence of not entering into an employment contract containing a consent clause is that a job applicant is not offered a position, or an existing employee's continued employment or provision of benefits is conditional on entering into such a contract, then it is questionable whether the employee has any realistic alternative and is freely consenting. Consent will be void if not considered to be given freely. In addition, under German data protection law, consent can be withdrawn. If consent needs to be obtained, it is therefore advisable to do so via a side agreement.

(Editor's note: Got it?)

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## Better To Be Smart Than Dumb - Study

Having a high IQ and coming from a small family could mean school bullies are less likely to become criminals.

This is one of the findings of the Cambridge Study in Delinquent Development, led by Professor David Farrington and Dr Maria Ttofi

Starting in 1961/62 the study assessed 411 eight year old London boys and followed them up until 48 years of age. Information

was collected via face-to-face interviews with the boys and their parents (ages 8-14), peer ratings (ages 8 & 10) and teacher ratings (ages 8-14). 93 per cent of the participants were interviewed again at 48 years of age. Dr Maria Ttofi said: "We also checked if they had received any criminal

and violent convictions from the age of 15-50 inclusive."

The results showed that 18 per cent of those identified as bullies at age 14 had been convicted for a violent offence and 39 per cent for a criminal offence.

Dr Maria Ttofi explained: "An interesting aspect of the findings was the contrast between bullies with high and low IQ's. Those with a high IQ were less likely to be convicted of a violent criminal offense (5 per cent) compared to those with low IQs (26 per cent). We also found that those who came from a small family, with a good income and attending a good school were much less likely to go on to commit crimes.

Another interesting finding was that factors that appeared to prevent these boys going on to violent offending tended to be related to the individual (e.g. IQ) whilst factors that appeared to prevent criminal offending tended to be family and social factors. The main implication of this is that different types of interventions may be differentially effective in interrupting the path from school bullying to later crime or violence."

## Want To Read Some Unbelievable News?

The man accused of killing five people at a Florida airport lied about his criminal record on his application to be a security guard in Alaska, and was fired after only a few months on the job because of the state of his mental health.

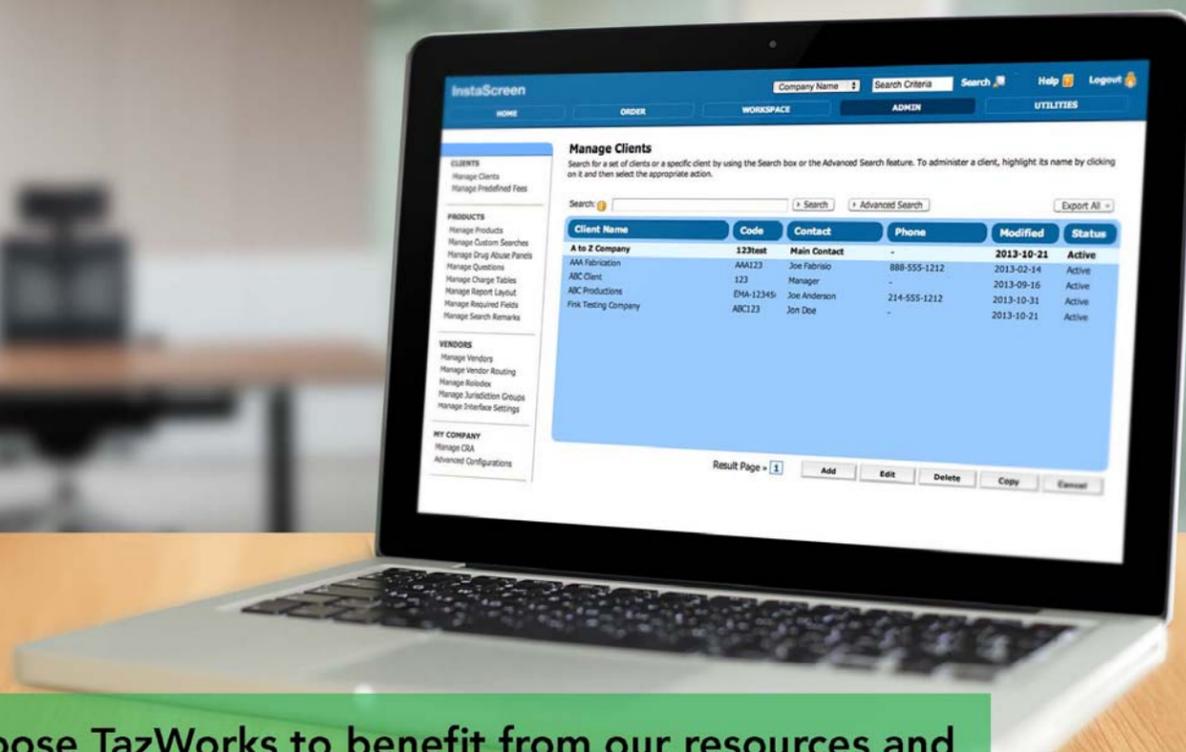
The new information is contained in the security guard application Esteban Santiago filed last summer for a license from the state of Alaska so he could work at Signal 88 Security in Anchorage.

The state released the application to The Associated Press, which had appealed the state's initial refusal to release the document made through an open records request.

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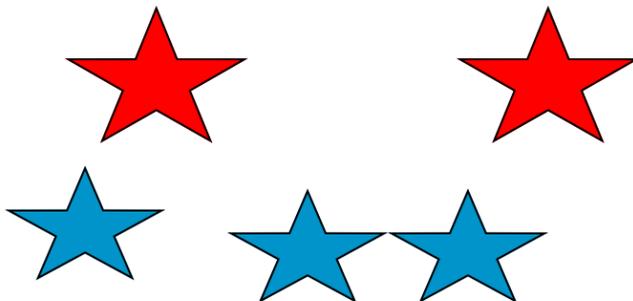
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## In Britain, Criminal Records Dog Offenders For Decades

About 17 years ago, Mrs P received a caution for stealing a sandwich. She also stole a 99p book, for which she was prosecuted. Homeless and suffering from schizophrenia, she failed to appear in court, and so received two convictions. She has since failed in her efforts to get work as a paid teaching assistant, which she attributes in part to the fact that she has to disclose her criminal record, and by extension her mental-health history, to prospective employers. Now Mrs P and others will challenge this system in the Court of Appeal, in a case which highlights Britain's punitive approach to criminal records.

England and Wales boast a complicated system with three levels of background checks. For the most basic review, after a set period (which depends on the sentence) criminals' records can be considered "spent". More rigorous scrutiny is needed for jobs such as teaching and the law. Certain crimes can be "filtered" out of the records, following a tortuous set of rules. But about 1,000 offences, including violent or sexual ones, must always be revealed, as must any that led to a jail sentence. Those with multiple convictions, no matter how minor, must divulge them. A 19-year-old fined in court for a theft would be 30 before it was removed from his record.

All this adds up to a system that affects ex-offenders for longer and more profoundly than those elsewhere in Europe, says Christopher Stacey of Unlock, a charity that helps ex-cons. Not all countries include cautions in criminal records, as England and Wales do. In some, employers tend only to ask for background checks when required to do so by law. Sweden allows crimes that

have resulted in imprisonment to be expunged after ten years. In France, a judge can deem a person to be "rehabilitated" and wipe the slate clean.

Young Britons are treated especially harshly, according to the Standing Committee for Youth Justice, a campaign group. Of 16 jurisdictions it examined, 11 had some provision for expunging childhood criminal records; England and Wales do not. In 2014 New Zealand, one of the countries that tries hardest to avoid giving children criminal records, landed just 48 youngsters under 17 with one. In England and Wales almost 60,000 criminal records were imposed on children. Accounting for population, that makes it about 90 times stricter.

Criminal records can be crippling. Employers are risk-averse, says Mr Stacey, and often assume that if something is flagged on a background check they cannot hire the applicant. Councils are increasingly unwilling to allow those with criminal records access to social housing. Insurers charge them more.

Recently the Law Commission, an independent body that reviews the laws of England and Wales, published a report on the filtering system. It argued that it risks disclosing both too much and too little. If the government loses the case against Mrs P, it may make changes. Mr Stacey argues that old and minor convictions and cautions should not be disclosed when no longer relevant. He says the number of crimes that may be filtered out could be expanded. The police review the most stringent checks and could always reveal more information if deemed necessary.

The dilemma is how to balance risk with rehabilitation. At present, Britain leans heavily towards minimizing the former. A criminal record is, in effect, an additional sentence, says Mr Stacey—one that can run for the rest of a person's life.

## Top UK Academic Calls For Sex Offenders-Style 'Hate Crime Register

Head of Durham University Law School Professor Thom Brooks has told a Commons inquiry that people found guilty of committing 'hate crimes' should be put on an official register.

A professor of law and government at the university, Brooks advised that a 'Hate Crime Offenders Register' would work in a similar fashion to the sex offenders register, putting restrictions on what jobs people who are listed are allowed to do.

Such an approach would send a "clear signal" about the severity of such offences, the professor argued in a written submission to the Commons Home Affairs Committee, which is holding an inquiry into hate

crime and its consequences. keep quiet on issues like immigration.

He said: "Given increasing concerns about hate crimes, there may be scope for Parliament to consider establishing a Hate Crime Offenders Register along the lines of the Sex Offenders Register – and to similar effect.

"Anyone on a Hate Crime Offenders Register could be restricted from working with children and/or working in certain professions. This seems sensible, mirrors current policies in place and would help send a clearer signal of how serious these offences are."

Since last year's referendum, the media has regularly reported on "record levels" of hate crime as evidence that Britain is in the grip of an epidemic of intolerance.

The rise has also attracted the attention of international bodies like the UN and NGOs like Human Rights Watch, who have used the soaring figures claimed to demand that politicians

However, a key aim of the UK government's strategy against hate crime is to raise the number of reports. Much of what is outlined in the "plan for tackling hate crime" is dedicated to furthering this goal, with the Home Office unveiling a whole host of measures which are being introduced "with a view, ultimately, to increase reporting."

The document states: "[An] increase in recorded crime is welcome as it is likely to reflect improved police practice and victim confidence in coming forward to report crimes."

And in January, the Crown Prosecution Service issued revised guidelines reaffirming the fact that no evidence is needed to bring a criminal complaint against someone for a "hate crime", as "reporting... is subjective and is based on the perception of the victim".

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## UK - No Evidence Needed To Report Hate Crime

The Crown Prosecution Service (CPS) has held a “public consultation” and issued “revised” guidelines on “hate crimes” and “transphobia”, which are likely to result in ever increasing numbers of people being dragged through court for speech crimes.

As well as setting out policy on racism, homophobia, and “transphobia”, the new guidelines include the “first public policy statement on Crimes Against Disabled People” to stress the CPS “understand[s] the serious nature of these crimes”.

The new guidelines reaffirm the fact that no evidence is needed to bring a criminal complaint against someone for a “hate crime”, as “reporting... is subjective and is based on the perception of the victim”.

“In order to treat a crime as a hate crime for the purposes of investigation, there is no need for evidence to prove the aggravating element”, the guidelines add. “Hate crimes” receive harsher sentences than other crimes, and “aggravating” factors are often vague, such as the definition of “transphobia”.

Speaking to Breitbart London, London Assembly Member and UKIP Education Spokesman David Kurten explained the possible impact of these guidelines.

“While judges may not actually find the accused guilty, more people may be dragged through the courts for months and years for their opinions and beliefs, and in the process lose their job, their house, their marriage and their kids, as well as being left destitute after fighting a lengthy court battle,” he said.

The number of “hate crimes” recorded by the police has grown annually for several years. Six years

ago, there were 42,255. In 2014/15, there were 52,528.

Many reports are now filed in minutes via the police’s True Vision website, which was used by anti-Brexit campaigners to fabricate a “hate crime epidemic” after the referendum.

On the transgender issue, the new CPS guidelines claim that “we are aware of the increasing confidence of people to identify” with such labels as “non-gender, non-binary, pan-gender or poly-gender...”

The CPS concedes that “the legal framework has yet to acknowledge the rights of gender nonconforming people” but insists they will continue to pursue perceived speech crimes against these groups because it is “in the public interest to prosecute, as is the case with all hate crime”.

Mr. Kurten questioned the confusing and rapidly changing lexicon of “gender politics” used in school and universities, adding:

“Who would have thought five years ago that it would be politically incorrect to call kids boys and girls, or parents mothers and fathers... Yet these new guidelines make that a potential ‘transphobic hate crime’ if anyone feels ‘perceived hostility’.”

The guidelines seem to acknowledge that people may commit such crimes accidentally or out of confusion, but claim that only the “victims”’ feelings matter in their deliberations.

“Derogatory language and disrespect for personal characteristics can be hurtful and unsettling but often incidental. Despite what may be perceived as the low-level nature of such offending, the impact will often be significant and victims need recognition of the harm caused,” they read.

“While real crimes against people and property should be prosecuted equally regardless of race, religion, gender, ability or sexual orientation, we should not be criminalizing opinions which run contrary to the politically correct ‘progressive’ establishment”, Mr. Kurten added. “A free and healthy society does not criminalize opinions; it allows open and rigorous debate.”

“The CPS’s new policies on hate crime are an attack on freedom of speech and freedom of conscience,” he said.

### 6 Traits That Lead To Criminal Behavior

Anti-social values: This is

also known as criminal thinking. It includes criminal rationalization or the belief that their criminal behavior was justified. Individuals possessing this trait often blame others for their negative behavior, and show a lack of remorse.

Criminal Peers: Individuals with this trait often have peers that are associated with criminal activities. Most are often involved with substance abuse including drugs or alcohol. Peer influence often persuades the individual to engage in criminal behavior. They will also typically present with a lack of pro-social community involvement.

Anti-social personality: These traits often include atypical behavior conducted prior to the age of fifteen and can include, running away, skipping school, fighting, possessing weapons, lying, stealing and damage to either animals or property.

Dysfunctional family: One of the most common traits includes a lack of family support, both emotionally and otherwise. An individual’s family lacks the ability to problem solve and often is unable to communicate effectively. Family members often don’t possess the ability to express emotions in an appropriate manner. More often than not, they are also involved with criminal activity.

Low self-control: This involves one’s ability to control temperament and impulsivity. People that carry this trait often do things that they didn’t plan, and will fail to think before acting. The mindset is of the here and now, and not on the consequences of the behavior.

Substance abuse: The use of drugs or alcohol that significantly affect one’s ability to engage in a successful and productive lifestyle. There is often an increased tolerance to substances, in addition to an inability to stop use.

### USA Today NFL Arrest Database

USA Today maintains a database of arrests, charges, and citations of N.F.L. players for anything more serious than a traffic citation. It goes back to 2000 and covers instances in which pro football players have had a run-in with the law that was reported by the news media.

The data set is imperfect; after all, it depends on news media outlets, so some arrests may well fall through the cracks. Moreover, arrests are included even if charges are dropped or the player is found not guilty, so it presumably includes legal run-ins in which the player did nothing wrong.

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## Secret Docket Hides Court Cases In Nassau County, NY

Judges and court employees in Nassau County have maintained a secret docket of cases that hides their existence from the public, a practice that runs counter to core legal principles that have defined American courts since their inception.

Chief Deputy Nassau Clerk John Ferretti confirmed that judges have sealed case numbers, making it impossible for his office to reference the actions on the public docket. He said he did not know how long the practice had gone on and declined to share the motivations of the individual judges involved because they clearly wished to withhold their reasoning from the public.

"We are just the filing cabinet," he said of his office. "It's coming from the judge."

It's unknown how many cases state court judges in Nassau have withheld from the public docket, though it may be as few as nine. That's the number found by a reporter on a court computer as secretly docketed due to unexplained "security restrictions." Also unknown are the parties, the nature of the cases, their significance to the public, who requested the secrecy, the outcomes and whether secret dockets are maintained elsewhere in the state court system.

When a criminal or civil action is begun, it's assigned a case number, which along with the names of the parties is committed to a public docket. Dockets are available at clerk's offices and on the web and make scrutiny of courts possible.

Stephen Gillers, a New York University law professor who specializes in legal ethics, said by email that the maintenance of secret dockets conflicts with constitutionally guaranteed rights of court access meant

"to foster public confidence in the rule of law and the fairness of the administration of justice."

"There can be no private justice in American courtrooms," Gillers wrote.

State court leaders chose not to address Newsday's questions about Nassau's secret docket and even denied its existence. The federal appellate court with jurisdiction over New York found unanimously in a 2004 Connecticut case that secret dockets violate the public's constitutional right to court access.

New York State Unified Court System spokesman Lucian Chalfen declined to make Chief Judge Janet DiFiore available to answer questions. In a statement, Chalfen said neither DiFiore nor Chief Administrative Judge Lawrence K. Marks had the authority to review decisions by individual judges to secretly docket cases.

Daniel Klau, a First Amendment attorney involved in the Connecticut litigation, said court leaders were "stonewalling." While administrative judges cannot alter or undo the orders of other justices, Klau said, they should address questions about unconstitutional practices within the courts they oversee.

"A judicial system cannot run a secret court and not answer questions," he said.

When news of a secret docket in Connecticut became public in 2003, Klau said, state court leaders initially took a hands-off approach similar to their New York counterparts. Ultimately, however, court leaders launched an inquiry, placed cases on the public docket that had been hidden, and abolished the practice.

The outcome was similar in Florida after secret dockets were revealed there in 2006. Florida's attorney general and chief judge began an investigation and the state's Supreme Court outlawed the maintenance of secret dockets.

Individual cases that had been secretly docketed in the two states involved prominent figures in law, business, politics and entertainment, including an ex-CEO of Xerox, a prosecutor's wife, the president of Connecticut's largest state university, now-sitting Rep. Vern Buchanan of Florida, and Clarence Clemons, the late saxophonist for Bruce Springsteen's band.

After the Connecticut revelations, the U.S. Court of Appeals for the Second Circuit, which includes Vermont and New York, unanimously found the practice violated the right of public access to court proceedings.

"The ability of the public and the press to attend civil and criminal cases would be merely theoretical if the information provided by docket sheets were inaccessible," Judge Robert A. Katzmann wrote for the appeals panel.

The U.S. Court of Appeals for the 11th Circuit, which includes Alabama, Florida and Georgia, has twice found secret dockets unconstitutional. One of those rulings stemmed from the Florida prosecution of a defense attorney and state prosecutor on charges of conspiracy, extortion and bribery.

The defense attorney had been paying the prosecutor to fix cases.

The prosecution was initially hidden from the public by way of secret docket.

Newsday first questioned New York officials on the issue last year while preparing a series of stories

that explored whether judges were properly applying the state court rule that governs the sealing of civil litigation. The newspaper found that Long Island judges had improperly sealed cases that involved an investment adviser later convicted of fraud, a doctor charged with sexually assaulting a mentally disabled patient, a state senator's alleged misappropriation of his elderly aunt's assets, and public agencies, including the Suffolk County Police Department.

Though records in sealed cases are confidential, sometimes for legally valid reasons, case numbers and party names remain public. That allowed Newsday to identify cases of public importance that judges had improperly sealed. In the case of secretly docketed cases, however, such identification is impossible.

Last March, a reporter asked the Nassau and Suffolk County clerk's offices whether cases were being kept off the public docket. Suffolk Deputy County Clerk Chris Como stated no unequivocally. In Nassau, Deputy County Clerk Eileen O'Donnell was less categorical. In an email, O'Donnell said her office sealed cases "in accordance with the direction of a sealing order as issued by the courts, or by operation of law for designated case types."

Asked by email for a more substantive answer, O'Donnell did not respond.

Subsequently, a reporter noticed that a list of sealed cases in Nassau generated at a public computer in the clerk's office noted that some had been removed "due to security restrictions." In August, a Newsday attorney asked state court leaders to identify all cases withheld from the docket in Nassau, including those removed on the basis of "security restrictions." The attorney also asked court leaders to explain the term "security restrictions" and its legal relevance.

In September, counsel to the state Office of Court Administration John McConnell wrote to Newsday's attorney, stating that "in neither Nassau nor Suffolk counties are court matters left undocketed or unindexed for security reasons."

Attempts to get additional information from McConnell have been unsuccessful. Ferretti, the chief deputy Nassau clerk, said Feb. 10 that his office discussed the matter with McConnell months ago and assumed Newsday had gotten answers.

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## New Research Suggest Ways To Improve Ban-The-Box Employment Policies

New research suggests a policy to remove a check-box on job applications that requires upfront disclosure of felony convictions should be accompanied by efforts to increase enforcement of equal employment laws.

A new report from the Urban Institute recommended that improving enforcement of laws intended to prevent workforce discrimination could help reduce discrimination among people of color generally, but especially when combined with so-called "ban-the-box" policies aimed at helping people with criminal records find jobs.

The report's authors argue against repealing such policies, which have been adopted in more than 150 cities and counties and 24 states, Detroit among them. Rather, they contend, the benefits of banning the box for ex-offender job applicants outweigh evidence that the practice could increase racial discrimination during the hiring process — especially if policymakers take steps to minimize potential harm.

"There's pretty much no evidence showing that people with criminal records are worse employees than people without criminal records," said Christina Stacy, a senior research associate with the Washington, D.C.-based think tank and the report's lead author.

There could be added time and energy on the part of employers to interview someone, only to have a criminal record flagged in a background check that would nullify any job offer, she said. But: "We think that that minimal cost of added time is nothing compared to the overall benefits."

The institute did not con-

duct new research on ban-the-box policies, but rather synthesized numerous previous studies — including a study released in June that was co-authored by a University of Michigan law professor — in order to draw conclusions about policy recommendations.

Some researchers have found evidence that shows ban-the-box policies could increase racial discrimination during the hiring process.

Crain's has written about the growing ban-the-box movement in Michigan as more employers in the state consider hiring people with felony convictions in an effort to resolve a talent shortage in skilled trades fields. In addition, the Senate this month approved a bill that would offer a financial incentive to Michigan employers that hired ex-offenders.

The Urban Institute's report suggests:

- Increasing and improving enforcement of equal employment laws, despite the difficulty in proving employment discrimination after the fact, Stacy said. The authors cited research that suggested using more government "testers" to uncover instances of employment discrimination and updating government contract guidelines to use current economic and demographic data.

- Removing racially identifying information from job applications, such as a candidate's name and address. That could help applicants receive callbacks or interviews before the employer knows his or her race, which could help avoid implicit bias, Stacy said.

- Improving the system for criminal background checks to avoid returning inaccurate information. The institute's report indicates the FBI database often used in background checks doesn't always include what happened after an arrest was made, including whether charges were dropped. And private companies that are consulted to

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run background checks don't always include complete criminal history from multiple states. Job applicants also could be given access to their background check results in order to contest inaccuracies.

- Increasing opportunities to expunge criminal records, which could remove some records from background searches.

- Boosting employment services for ex-offenders that can help them with skills training and connecting with employers. The Michigan Department of Corrections has started to take resumes of some of its inmates enrolled in skilled trades training programs directly to employers; other agencies that assist ex-offenders include Michigan Rehabilitation Services, a unit of the Michigan Department of Health and Human Services that helps people with disabilities, and Goodwill Industries of Greater Detroit, whose "Flip the Script" program prepares people with felony records for work.

Expanding employer training about ban-the-box policies "could entail making them aware of the law's potential to increase dis-

crimination against people of color and assistance in developing safeguards for assuring that that does not happen," the report states. "These new findings, while they're concerning, we don't think that they mean that the law should be completely repealed or not put in place," Stacy said, adding that updating other programs or practices related to discrimination in the hiring process could help minimize unintended consequences of banning the box.

### Former Wells Fargo Employees Sue

Eleven former Wells Fargo employees sued the bank over being fired based on background checks showing minor criminal violations that in some cases were decades old or expunged from their records.

The bank conducted the background checks after a 2008 federal law did not allow banks and mortgage companies to employ people with criminal violations involving dishonesty.

"Pursuant to the Background Checks Project,

Wells Fargo abruptly fired thousands of exemplary employees, some of whom had worked for Wells Fargo for decades and were approaching retirement, others who had just received promotions or had bonuses forthcoming," the suit said. "No other FDIC-insured banking institution engaged in mass employee termination under the auspices of 'compliance.'"

Wells Fargo stood by its decision to fire the affected employees.

Several of the plaintiffs allege that they were hired after disclosing their criminal convictions and told that it would not affect their employment with the San Francisco-based bank. Some of the plaintiffs said criminal charges never resulted in a conviction. Others said that the conviction stemmed from misdemeanors or, as one plaintiff put it, a "hairbrush incident," previously disclosed to Wells that had occurred 30 years prior to her firing from the bank in 2012, according to the suit.

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## Sweden- "We've Got Nothing To Hide"

According to the Swedish National Council for Crime Prevention's Swedish Crime Survey, some 13 per cent of the population were the victim of an offence against them personally in 2015. This is an increase on preceding years, although it is roughly the same level as in 2005.

The Swedish National Council for Crime Prevention has conducted two studies into the representation of people from foreign backgrounds among crime suspects, the most recent in 2005. The studies show that the majority of those suspected of crimes were born in Sweden to two Swedish-born parents. The studies also show that the vast majority of people from foreign backgrounds are not suspected of any crimes.

People from foreign backgrounds are suspected of crimes more often than people from a Swedish background. According to the most recent study, people from foreign backgrounds are 2.5 times more likely to be suspected of crimes than people born in Sweden to Swedish-born parents. In a later study, researchers at Stockholm University showed that the main difference in terms of criminal activity between immigrants and others in the population was due to differences in the socioeconomic conditions in which they grew up in Sweden. This means factors such as parents' incomes, and the social circumstances in the area in which an individual grew up.

Swedish government agencies seek an open and fact-based dialogue. Sweden is an open society governed by a principle of public access to official documents. This means that members of the public, e.g. private individuals and media representatives, have the right to insight into and access to information about the activities of central and local government.

## The Roots Of Pakistani Savagery

by I.A. Rehman

According to the high priests of public morality, many normal Pakistanis have become so heartless that they rape and kill little girls or sell deadly poison under the label of essential drugs, or foodstuffs — because the moral order has collapsed. But they are unlikely to offer this explanation for the recent carnage in Sehwan.

Such simplistic answers prevent identification of the material factors contributing to the wave of savagery in the country and make remedial action difficult, if not impossible.

The foremost cause of the rise of beastliness in society is that the law has ceased to be a deterrent to crime. The state's effort to meet this situation by making penalties for offences harsher misses the point that the majesty of the law rests not so much on punishments as it does on the public belief that nobody can escape paying for his misdeeds. In today's Pakistan, most wrongdoers believe they can get away with anything.

One major cause for this is a sharp fall in the conviction rate, generally believed to be less than 10pc. The main contributing factors are known to be: primitive and flawed investigation, inefficient and corrupt prosecution, and the privilege of the rich and the influential to beat the law.

For example, in a recent case of illegal trade in human organs the defence team comprised about 60 advocates, headed by one of the country's most talked about lawyers. The ability to engage the topmost lawyers is considered conclusive proof of a party's being in the right. A glance at the legal armada assembled for the defence of Lahore's Orange Line train project is enough to confirm this.

In murder cases, however,



the conviction rate is much higher than the average. But resourceful offenders are able to secure reprieve by buying out key witnesses and often the complainants too. The recent instances of complainants' dropping the charges against rich young men should have surprised only the less informed citizens. The use of money and social/political power to defeat justice has been going on since ancient times.

The capacity of the legal system to punish for murder has been grossly undermined by making the offence compoundable and a private affair between the killer and the victim's family. Anybody who has resources to pay blood money to the victim's family or who is capable of causing the latter further harm can get off scot-free at any stage, from within days of the occurrence of murder to minutes before the time of hanging. Stories of corruption in judicial ranks, often confirmed by the superior courts, have done not a little to rob the law of its grandeur.

Pakistan is also paying for the disconnect between its legal code and socially accepted practices. The law says the giving away of minor girls to compound a crime is an offence, but the state has done little to undercut the social sanction for such transactions in large parts of the country. Women's vulnerability to offences against them has been aggravated by ignoring the social and psychological fallout of discriminatory laws, such as Zia's evidence law. By prescribing capital punishment for rape, gang rape and abduction, the state has given the

offenders an incentive to kill their victims and thus dispose of the most essential prosecution witnesses.

Besides, the law has suffered considerable decline after the emergence of pressure groups in support of its violators. The public clamour against houbara hunting has no effect because influential waderas and sardars have hitched their economic fortunes to this game. They ensure that the stock of houbaras on their lands is not depleted by indigenous poachers; they also provide the foreign princes with local guides and trackers who like to stay in five-star hotels, ride in luxurious vehicles and get expensive gifts.

Further, Pakistan always had a tendency to follow the theory of the ends justifying the means. The use of tribals in missions that could be disowned became an excuse for keeping them out of the mainstream. Gen Zia did a great deal to sanctify this theory. Charlie Wilson's role in the Afghan war justified his being draped in the field marshal's uniform and the grant of a licence in Zia's own handwriting to hunt any endangered species. The general saw no harm in socialising with thieves and smugglers who did his bidding. One doubts if such blatant circumvention of the law has ceased.

We must also realize that many of those who excel in callousness began with petty crime when they were denied fair opportunities to make a living, or their merits were rejected, or they simply wanted to emulate the ways of privileged sections, including the rulers themselves. While lament-

ing the progress of a criminal from petty larceny to direct or indirect homicide, it is perhaps equally necessary to question the non-criminal sections of society about their guilt in passively tolerating much that must never be tolerated. The principle that society must accept a part of the responsibility for each crime an individual commits is inviolable.

As if all this were not enough to wreck the system of retributive justice firmly embraced by Pakistan, we are now challenged by a new breed of zealots who justify their utterly brutal acts as a duty enjoined by their faith. They have turned the principles of jihad upside down and given everybody a licence to slit the throat of anyone suspected of nonconformism.

Mausoleums and shrines have been targets of these extremists for years. The massacre in Sehwan, which the orthodoxy will not attribute to a collapse of moral values, was the inevitable follow-up of the bloodshed at the Noorani shrine in Balochistan, and the latter was the inevitable follow-up of the attacks on the Rahman Baba shrine and others. Mischievous tolerance at its birth grows exponentially.

How long will it take for the custodians of power to realise where the roots of organized savagery lie?

## EU Court Rules In Favor Of Transparency Rather Than Privacy

An Italian business owner trying to have links to a past bankruptcy erased from the public record hit a barrier after the European Union's highest court ruled that his local chamber of commerce can refuse to remove the links under the EU's personal data laws.

**STRAIGHTLINE**

## You Could Face A Criminal Record If You Find Money On The Floor

from Cosmopolitan UK

Let this be a lesson to us all: if you find money on the street, pick it up and keep it, you could get yourself a criminal record. Because that's exactly what happened to 23-year-old Nicole Bailey, when a group of police officers who were clearly having a quiet day down the station caught her in the act on CCTV and decided to track her down.

METRO reports that the young woman was filmed picking up a £20 note off the floor in Blurton, Stoke-on-Trent, which it turned out had initially belonged to a man who'd recently withdrawn it from a cash machine but accidentally dropped it.

The man went back to the shop where he'd got the cash, but the staff hadn't seen it anywhere, so decided to check the CCTV. Upon inspection of this, Nicole was seen picking it up, so police called her in for an interview.

After initially denying that she'd taken the money (though come on, you'd have to be a saint not to pick a £20 note up if you just saw it lying there, apparently ownerless on the street), officers showed Nicole the footage and she eventually confessed to her heinous crime. As a result, the young woman was called into court on a theft charge to which she pleaded guilty. And while, yeah, we get it - the money wasn't hers - it does seem a little over the top to hold an entire court hearing over it.

The legal definition of theft is "the dishonest appropriation of property belonging to another with the intention of permanently depriving the other of it," and not that I'm professing to be any kind of criminal lawyer or anything, but I would

struggle to see how her actions were "dishonest". It wasn't as if the real owner of the £20 saw her pick it up and asked her for it back. There was hardly active dishonesty involved.

And mitigator Simon Dykes seems to think the whole thing was blown out of proportion, too, saying she'd have been better with a police caution. He did, however, confirm that there's a common misconception about just how legal that kind of behaviour is. "She didn't know who the money belonged to. People don't realise picking up something you have found amounts to a theft. She has been quite naive in doing so," he said.

And if Nicole has been naive about it, how many

other people have previously been, too?

Nevertheless, Nicole had to go to court, where she was given a conditional discharge and has been made to pay £175 in costs and charges. So what started out as a stroke of luck finding £20 ended up costing her almost nine times that amount.

### London Applicants Waiting SIX Months For UK Police Clearance Court records still effective

Thousands of jobseekers are at risk of missing out on dream roles due to delays in police

background checks, according to new research.

Applicants for teaching and nursing positions are among those frustrated by protracted waits for Disclosure and Barring Service (DBS) clearance, a survey found.

Londoners faced the longest waits, being left hanging by 109 days on average - with some left in limbo for as long as six months.

Delays have left many applicants unable to start new roles, while employers have even

reported having to sack existing staff ..

### SHRM VP Gives Some Great Advice

Tony Lee, vice president of editorial at the Society for Human Resource Management and is responsible for talent acquisition at SHRM, gives this tip:

"Turn it back to the candidate." HR can "tell them they're a finalist," ask them to contact three former supervisors for references and have them call a specified phone number within 48 to 72 hours. "There's no more motivated person than the candidate wanting to close the job offer," he said.

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## On A Need To Know Basis

Important steps in the federal criminal process:

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Initial Hearing/  
Arraignment  
Discovery  
Plea Bargaining  
Preliminary Hearing  
Pre-Trial Motions  
Trial  
Post-Trial Motions  
Sentencing  
Appeal

## The Two Measures Of Crime

The U.S. Department of Justice administers two statistical programs to measure the magnitude, nature, and impact of crime in the nation: the Uniform Crime Reporting (UCR) Program and the National Crime Victimization Survey (NCVS). Each of these programs produces valuable information about aspects of the nation's crime problem. Because the UCR and NCVS programs are conducted for different purposes, use different methods, and focus on somewhat different aspects of crime, the information they produce together provides a more comprehensive panorama of the nation's crime problem than either could produce alone. See Nation's Two Crime Measures.

Violent crime

\*Homicide  
\*Rape - Forced sexual intercourse, including both psychological coercion as well as physical force. Forced sexual intercourse means vaginal, anal, or oral penetration by the offender (s). This category also includes incidents where the penetration is from a foreign object, such as a bottle. Includes attempted rapes, male as well as female victims, and both heterosexual and same sex rape. Attempted rape includes verbal threats of rape.

\*Robbery - Completed or attempted theft, directly from a person, of property or cash, by force or threat of force, with or without a weapon, and with or without injury.

\*Assault  
\*Aggravated assault - Attack or attempted attack with a weapon, regardless of whether or not an injury occurred and attack without a weapon when serious injury resulted.

\*Simple assault - Attack without a weapon resulting either in no injury, minor injury (for example, bruises, black eyes, cuts, scratches or swelling) or an undetermined injury requiring less than 2 days of hospitalization. Also includes attempted assault without a weapon.

\*Purse snatching and pocket picking - Theft or attempted theft of property or cash directly from the victim by stealth, without force or threat of force.

Property crime

\*Burglary - Unlawful or forcible entry or attempted entry of a residence. This crime usually, but not always, involves theft. The illegal entry may be by force, such as breaking a window or slashing a screen, or may be without force by entering through an unlocked door or an open window. As long as the person entering has no legal right to be present in the structure a burglary has occurred. Furthermore, the structure need not be the house itself for a burglary to take place; illegal entry of a garage, shed, or any other structure on the premises constitutes household burglary. If breaking and entering occurs in a hotel or vacation residence, it is classified as a burglary for the household whose member or members were staying there at the time the entry occurred.

\*Theft - Completed or attempted

theft of property or cash without personal contact. Incidents involving theft of property from within the sample household would classify as theft if the offender has a legal right to be in the house (such as a maid, delivery person, or guest). If the offender has no legal right to be in the house, the incident would be classified as a burglary. Motor vehicle theft - Stealing or unauthorized use of a motor vehicle, including attempted thefts.

## What Is The Difference Between Criminal Charges In Massachusetts Superior Court And Criminal Charges In District Court?

Criminal cases in district court begin with an application for a "complaint" that

is filed by the police, private individual, or other organization, in the district court clerk's office. In superior court, cases begin with an indictment (a document listing the charges) that has been returned by a grand jury. The grand jury is a group of citizens who hear evidence presented by the prosecutor. If the grand jury decides there is probable cause to believe a crime has been committed, they issue an indictment and the individual is then notified of the indictment and must appear in superior court on the arraignment date, the first court date. This charge does not mean that the person has committed the crime. Guilt must be determined later by a judge or jury.

Most crimes begin in district court, and the more serious crimes are then brought to the grand jury. If the grand jury issues an indictment, the district court complaint will be dismissed and the case will be handled in superior court. The

district court is generally limited to deciding cases for which the maximum authorized penalty for a crime is not more than five years' imprisonment, although there are a few additional crimes set out in the statutes that a district court may also decide. G.L. c. 218, section 26; G.L. c. 274, section 7.

Offenses Within District Court Criminal Jurisdiction in pdf format ([www.mass.gov/courts/docs/forms/district/offenses-in-dist-ct-criminal-jurisdiction.pdf](http://www.mass.gov/courts/docs/forms/district/offenses-in-dist-ct-criminal-jurisdiction.pdf)) provides a list of crimes that can be resolved in the district court (district court has jurisdiction).

All of the crimes on this list can also be handled in the superior court because superior court can hear all criminal cases. If a crime does not appear on this list, it can only be resolved in superior court (although it the case may begin in district court).

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## Dutch Get Creative To Solve A Prison Problem: Too Many Empty Cells

The Netherlands has a problem many countries can only dream of: a shortage of prison inmates.

While countries like Belgium, Britain, Haiti, Italy, the United States and Venezuela have grappled with prison overcrowding, the Netherlands has such a surplus of unused cells that it has rented some of its prisons to Belgium and Norway. It has also turned about a dozen former prisons into centers for asylum seekers.

About a third of Dutch prison cells sit empty, according to the Ministry of Justice. Criminologists attribute the situation to a spectacular fall in crime over the past two decades and an approach to law enforcement that prefers rehabilitation to incarceration.

“The Dutch have a deeply ingrained pragmatism when it comes to regulating law and order,” said René van Swaaningen, professor of criminology at Erasmus School of Law in Rotterdam, noting the country’s relatively liberal approach to “soft” drugs and prostitution. “Prisons are very expensive. Unlike the United States, where people tend to focus on the moral arguments for imprisonment, the Netherlands is more focused on what works and what is effective.”

Recorded crime has shrunk by about a quarter over the past nine years, according to the country’s national statistics office, and that is expected to translate into a surplus of 3,000 prison cells by 2021. The government has shuttered 19 of nearly 60 prisons over the past three years, and a government report leaked last year suggested that more cuts were coming.

The relative dearth of pris-



oners has spurred the Dutch to be creative.

At jails transformed into housing for asylum seekers, former cells for prisoners have been converted into apartments for families, albeit some with the original cell doors. At De Koepel, a former prison in Haarlem, refugees played soccer in a large interior courtyard that doubled as a soccer field. Some of the converted jails also have gymnasiums, kitchen facilities and outdoor gardens.

To make refugees feel more at home at a former prison in Hoozeveer, in the northeast, the authorities removed the high exterior walls and barbed wire and retooled the former cell doors so that they could open from the inside. Jan Anholts, a spokesman for the Central Agency for the Reception of Asylum Seekers, said the agency took special care not to house former political prisoners in cells, unless they felt at ease. “We want people to feel safe and secure,” he said.

At a time of austerity, the government has also been able to raise money by outsourcing empty prisons to countries with overpopulated detention facilities.

Two years ago, Norway agreed to pay the Netherlands about 25 million euros, or \$27 million at current exchange rates, per year for a three-year lease of Norgerhaven Prison, a high-security facility, where it sent 242 prisoners. Earlier, Belgium had sent about 500 prisoners across the border.

At Norgerhaven, where some prisoners can raise chickens and grow vegetables, Norwegian convicts live under the watchful eye of a Norwegian prison superintendent and Dutch guards. To make room for the Norwegians, long-term Dutch convicts — who make up an exclusive club in a country with only 35 adults serving sentences of life without parole — were relocated from comfortable cells, equipped with work spaces and televisions. None too pleased, they filed a lawsuit but did not succeed in blocking the move.

Criminologists say that, beyond a drop in crime levels, the repurposing of prisons can be attributed to a building spree by the Netherlands in the 1990s that resulted in a glut of jails as crime decreased and the country’s population aged.

Professor Swaaningen al-

so argued that in the digital age, an increasing number of 12- to 18-year-olds — the most high-risk age group for committing petty street crime — spent time hunched over their computers, taking them off the streets and potentially reducing levels of criminality.

He said that prisons had also emptied because of an emphasis on other surveillance methods such as electronic tagging.

After a surge in jail population in the ’90s, the Netherlands now imprisons roughly 61 of every 100,000 citizens, a rate similar to that in Scandinavia, according to data recently collected by the Institute for Criminal Policy Research at Birkbeck, University of London. In the United States, that number is about 666, among the highest in the world.

In Europe, the countries with the most crowded prisons include Albania, Belgium, France, Greece, Hungary, Macedonia and Spain, according to a recent report from the Council of Europe.

Yet in the Netherlands, not everyone is rejoicing, including many of the

roughly 2,600 prison guards who could lose their jobs in the next four years if more prisons close. Moreover, some law enforcement officials also say that the excess of vacant cells is a symptom of poor policing and the reporting of fewer crimes, rather than a reflection of Dutch crime-fighting prowess.

Frans Carbo, a senior official with the union FNV, said the closing of prisons was the result of penny-pinching — not effective policing. “If you close prisons now, you will only have to open them in a few years,” he said.

With the center-right government of Prime Minister Mark Rutte facing a tough re-election bid later this year, officials have been careful not to gloat about the overabundance of vacant cells.

“Not losing too many jobs from the start was our main concern,” said Jaap Oosterveer, a spokesman for the Ministry of Security and Justice, which oversees the federal prison system.

The surplus of empty jail cells, he added, is “good and bad news at the same time.”

**Dennis Brownstein's Extreme Court News (And Other Things, Too)**



**No Need For Court  
The 'Science Daily' Says Prior DUIs Predict Future Criminal Activity Among Firearm Owners**

Among individuals who legally purchased handguns in California, prior convictions for driving under the influence (DUI) and other alcohol-related crimes were associated with a substantial increase in risk for subsequent violent or firearm-related crime, according to a study published Jan. 30 in Injury Prevention by the UC Davis Violence Prevention Research Program.

Many prior studies of the general population have established strong associations between acute alcohol intoxication or a history of alcohol abuse and an increased risk for suicide, homicide and other forms of violence using firearms.

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They also have shown that DUI offenders have a high prevalence of excessive alcohol consumption and alcohol-use disorders and are more likely to engage in criminal activity, including violence and weapon-related crimes.

The UC Davis study, however, is the first to associate the misuse of alcohol with future criminal activity among legal firearm owners, a group that is also more likely than others to report excessive alcohol consumption. The research, along with similar studies now under way that are larger and rely on more current data, may help inform the development of violence prevention measures focused on access to firearms by high-risk individuals.

"We found prior DUI and other alcohol-related convictions among legal handgun owners in California increased the risk of arrest for a violent or firearm-related crime fourfold to fivefold," said Garen Win-temute, professor of emergency medicine and director of the UC Davis Violence Prevention Research Program. "The increase in risk was large and independent of other well-known risk factors for future violence. This suggests that prior convictions for alcohol-related crime may be an important predictor of risk for future criminal activity among firearm owners."

Contrary to the results of

<http://extremecourtnews.blogspot.com/>

some previously published studies, the extent of the increase in risk of future arrest was not related to the number of prior alcohol-related convictions. The relative increase in risk associated with alcohol-related convictions was greater than those associated with younger age, male sex, and a prior history of violence.

For the current study, the researchers conducted a secondary analysis of data originally published in 1998 that assessed prior criminal activity as a predictor of future violence among handgun purchasers. They studied a random sample of individuals under age 50 who purchased a handgun from a licensed retailer in California in 1977, stratifying the group according to the presence or absence of an arrest record at the time of purchase.

Using criminal records from the California Department of Justice, the researchers identified individ-

uals having prior convictions for DUI and other alcohol-related crimes and compared them with purchasers who had no criminal history. They tracked criminal activity from 15 days after the handgun purchase (California had a 15-day waiting period at the time) up through December 31, 1991.

The study population included an oversample of persons with an arrest history. Of the 4,066 individuals studied, 31.3 percent (1,272) had alcohol-related convictions at the time of purchase, 77.8 percent of which were for DUI. Sixty-eight percent (2,794) had no prior criminal history. By 1991, 32.8 percent of those with prior alcohol-related convictions and 5.7 percent of those with no prior criminal history were arrested for a violent or firearm-related crime. Nearly 16 percent of those with prior alcohol-related convictions and 2.7 percent of those with no prior criminal history were arrested

for murder, rape, robbery, or aggravated assault.

In a subset analysis, handgun purchasers with only one DUI conviction and no arrests or convictions for crimes of other types were 4.2 times as likely as those with no prior criminal record to be arrested subsequently for a firearm-related or violent crime, and 3.8 times as likely to be arrested for murder, rape, robbery, or aggravated assault.

"Understanding risk factors for violence is obviously of interest in a population that by definition has universal access to firearms," Win-temute explained. "In essence, we've learned that a history of alcohol-related crimes such as DUI has the same type of predictive significance among firearm owners that it does in the general population."

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