The BackGround Investigator

Your Information Resource

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Our 200th Edition

And We're Still Loving It!

Most Mass. Criminal Cases Are Still Not Online

Massachusetts court officials say it could take another year to make basic information for most criminal cases publicly available online, something required under court guidelines approved by the Supreme Judicial Court in 2003 and updated last year.

Canada's Criminal Justice System Report Card

Canada's criminal justice system is facing a litany of challenges including significant under-reporting of crime by victims, delays and inefficiencies, rising costs, and grave concerns about the treatment of Indigenous people — both as victims and offenders. But, as our second annual criminal justice report card with the Macdonald-Laurier Institute has found, it's not all bad news.

Using Statistics Canada data and quantitative statistical methods, we again assessed each province and territory's criminal justice system based on five major objectives: public safety, support for victims, costs and resources, fairness and access to justice, and efficiency. We also added a national overview this year to track trends across the country over time.

Nationally, there have been notable improvements in crime rates. The violent crime rate per capita declined by approximately 12.5% between 2012-2016. A major driver of this is understood to be demographics, related to an aging population. There are now fewer police officers required per capita, and there have been increases in legal aid expenditures per crime, which supports access to justice.

On the other hand, some problems have only gotten worse. The weighted non-violent crime clearance rate (which is a measure of the proportion of crimes that are solved) has steadily declined to 29.3% in 2016. The incidents of breach of probation per 1,000 crimes have risen. The cost of corrections per capita has also gone up.

Alarmingly, the disproportionate number of Indigenous people sent to prison has continued unabated. In 2016, the ratio of Aboriginal people in total custodial admissions as a proportion of the Aboriginal population was 6.2. The problem is particularly acute in Alberta, British Columbia, Ontario, Saskatchewan, and Manitoba.

Indeed, much like the real estate market, to really understand what is going on requires drilling down from national statistics to get closer to the ground. At the provincial/territorial level, Ontario was the most-improved jurisdiction overall – its ranking improved dramatically to 4th place (from 7th place), due to relative improvements in public safety, and fairness and access to justice.

However, there are serious issues with efficiency in Ontario's justice system. It has the worst record in Canada for the proportion of charges stayed or withdrawn (43.4%), compared with a mere 7.4% in neighbouring Quebec. Ontario also has one of the highest numbers of accused persons on remand (in jail awaiting trial) per 1,000 crimes in the entire country.

Both Quebec and British Columbia had significant declines in their overall rankings. Quebec's ranking declined to 6th place (from 4th place), owing to a relative decline in fairness and access to justice in the province.

British Columbia's ranking declined to 10th place (from 8th place), due to a relative decline in public safety, and fairness and access to justice in the province. BC received failing grades for its weighted clearance rates for violent crime (only 51.7% of violent crimes were resolved by police) and non-violent crime (a mere 20.4 percent).

Once again, Manitoba was the worst performing province and the Yukon was the worst performing territory. In responding to our inaugural report card on the criminal justice system, Manitoba promised to launch a review of its justice system while the Yukon criticized the way it was being assessed. Reforms take time to achieve results and we hope that underperforming jurisdictions will take these efforts seriously.

Without leadership, the serious problems with our criminal justice system will not resolve themselves. In fact, the trend is that they typically only get worse as time goes on if nothing is done. Our criminal justice system is in major need of reform in multiple areas, requiring substantial work by all the levels of government.

Guam Record Retrieval Policy Change

Re: IMPORTANT NOTICE Re: Criminal Case History Research Requests (Effective 8 February 2018)

Effective February 8, 2018 (Guam time), all requests for criminal case history must indicate if the request is for employment on Guam pursuant to 22 Guam Code Annotated, Chapter 6, Fair Chances Hiring Process Act or Public Law 34-22, which states:

The Superior Court of Guam shall not reveal any information concerning an arrest that did not result in a filed criminal case, or concerning a court case that has been dismissed, whether it has been expunged or not, and whether or not it was dismissed with prejudice or without prejudice, except to the person whose record it is, or to a licensed attorney representing that person, or upon order of the Court.

We have the Public Law available (in pdf format) for reference

Contact Straightline International for your copy.

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Don’t Let Criminals Hide Their Data Overseas

By Thomas P. Bossert and Paddy McGuiness

Congress is now considering long-overdue legislation that authorizes faster access to internationally stored electronic data needed to prosecute serious crime and disrupt terrorist plots in the United States, Britain and elsewhere.

The legislation, the Clarifying Lawful Overseas Use of Data Act, or Cloud Act, would preserve law and order, advance the United States’ leadership in cybersecurity, ease restrictions on American businesses and enhance privacy standards globally.

This is a priority for both of our governments.

American efforts to investigate crime and terrorism are increasingly impeded by a lack of access to data stored outside the country, even when it is held by companies subject to United States jurisdiction.

Britain and other allied foreign governments face similar problems.

All too often, officials in one country investigating a serious crime with victims in that very same country cannot get data they need simply because it is on a server halfway across the world. The internet is moving fast, and our legal constructs are not keeping up.

This leaves tech companies in the difficult position of having to withhold information thatcould protect public safety.

To make matters worse, a case at the United States Supreme Court could leave our governments and others with no effective way to obtain vital evidence of serious crimes.

Oral arguments are scheduled for in that case, which asks whether Microsoft may comply with a United States warrant to disclose information related to an American crime stored on a cloud server in Ireland.

Microsoft argues that it cannot.

Fortunately, there is a legislative solution to this problem that advances a model that empowers law

The Republican senators Lindsey Graham of South Carolina and Orrin Hatch of Utah, the Democratic senators Sheldon Whitehouse of Rhode Island and Chris Coons of Delaware, and members of the House have proposed legislation that would clarify the legal authority of the United States to obtain data stored in another country, and would authorize special agreements to resolve potential conflicts of law.

The bill would authorize the attorney general to enter into such agreements, but only with allies that respect privacy and protect civil liberties, and that have records of promoting and defending due process.

The first one would be with Britain, which already has the authority to enter into such a pact.

These agreements would not apply to foreign judicial orders directed at American citizens, or anyone in the United States, for that matter.

Instead, the bill would promote swift justice among nations that share a common commitment to the rule of law, while protecting the privacy and safety of our citizens.

The prime minister has stressed the great importance of the legislation to British authorities investigating criminal and terrorist activity.

One of us, Paddy McGuinness, has testified before both houses of Congress to make the case for this change.

President Trump adopted this priority upon taking office as part of his call for lawful access to information.

In addition to improved law enforcement, this model advances American leadership in cybersecurity.

American and British innovation created the internet, and United States-based companies dominate the online landscape.

With that central role in the internet comes a responsibility to work with partners that share our values to support their safety and security.

Any nation motivated to enter into an agreement with the United States will have to meet American standards of due process and ensure a commitment to the rule of law, not authoritarian whim.

Some have argued that it is improper for the United States government to assert the authority to compel disclosure of data stored abroad.

But Britain is one of many nations that already asserts this authority.

The proposed law would not only put the United States on a par with these other nations but would also do so on its terms.

Others argue the bill unwisely provides the American and British governments new powers to obtain private information.

The reality is that courts in both governments already have the authority to compel a service provider to comply with a warrant, and we have a longstanding, but slow, treaty process for enforcing cross-border warrants.

The Cloud Act considers these issues and provides thoughtful and swifter solutions.

Neither government will issue a warrant without judicial approval.

American businesses have indicated they support this legislation.

Just ask companies like Microsoft, Google, Apple and Facebook.

If foreign governments cannot gain access to data they need for legitimate law enforcement purposes, some countries may penalize American companies or require them to store data within their territory.

Such data localization, as it is known, is costly for companies and may undermine privacy by requiring data storage in countries without due-process protections.

We can build an international system in which rights-respecting countries can have access to the data they need to investigate serious crimes regardless of where companies choose to store it.

This legislation is the first step.

The authority is critical.

With it, law enforcement officials in the United States, Britain and other countries with similar due-process standards would be empowered to investigate people suspected of terrorism and serious crimes like murder, human trafficking and the sexual abuse of children, regardless of where the suspects’ data happens to be stored.

Obtaining access to overseas data held by companies subject to our jurisdiction is entirely consistent with our treaty obligations and international norms.

With this legislation, our countries can meet these longstanding obligations, and meet them faster.

The longer it takes to address this problem, the more our mutual public safety and national security will be undermined by the current legal obstacles to disclosure of data across borders.

Puerto Rico Police Miss Record

Puerto Rico police recently missed a criminal DUI record and conviction.

The Police had no comment .

A Straightline International criminal record check found the DUI and conviction. reporting it to a very happy customer.

Georgia Goes Bananas With Expanded Anti-Hack Law

A proposed anti-hacking law in the US state of Georgia is raising all kinds of alarms – because it could chill security research, and criminalize anyone who breaks a website or ISP's T&Cs.

The bill, SB 315, would expand the state's computer crime laws to include penalties for accessing a machine without permission even if no information was taken or damaged. Drawn up by state senator Bruce Thompson (R) in January, the proposed legislation has been approved by Georgia's senate, and is being considered by its house of representatives.

Backers of the bill, including state Attorney General Chris Carr, said expanding the protections will close a loophole, and allow the state to better pursue criminals.

"As it stands, we are one of only three states in the nation where it is not illegal to access a computer so long as nothing is disrupted or stolen," Carr said when the bill was first introduced.

"This doesn't make any sense. Unlawfully accessing any computer in Georgia should be a crime, and we must fix this loophole."

Opponents of the bill, however, say the draft legislation goes too far: it would, for example, criminalize "any person who accesses a computer or computer network with knowledge that such access is without authority." Disclosing a password to someone without permission to do so is also a no-no.

Groups including the Electronic Frontier Foundation (EFF) worry that the bill could be used against legitimate security researchers who alert private companies to vulnerabilities found in corporate systems.

Specifically, the rights warriors fear organizations could try to shut down bug reporting and disclosures by pressing charges alleging the researchers committed an unauthorized access in discovering flaws in networks and services. The EFF also argued that, as written, the law could be used to crack down on ordinary netizens: breaking the terms of service of a website or similar falls foul of this draft law, we're told.

In other words, if the terms of service on a website require you to be truthful about, say, your weight or martial status or email address, and if you're not or simply make a mistake on a form, you'll run up against the Peach state's proposed anti-hacking law.

"Terms of service come from a private company — for instance, your cable and internet provider have terms of service," said Electronic Frontiers of Georgia member Scott Jones.

"The bill is so broadly written that a violation of terms of service could possibly be construed as a criminal violation, and that would be improper delegation of powers."

The EFF has asked the state [PDF] to amend the bill to better protect researchers.

It just so happens that Georgia's electronic voting system was earlier probed by security researchers, who claimed to have found various exploitable holes. A computer system at the center of a lawsuit over the alleged vulnerabilities was later mysteriously wiped.

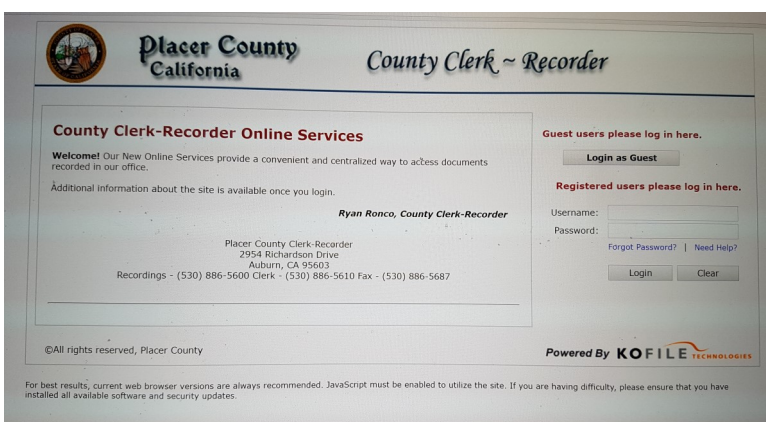
Beyond deleting evidence from servers, it would appear Georgia has found another way to avoid the hard gaze of computer security research – simply outlaw it.

Placer County Calif.

The Recorder's Office records documents affecting title on real property located in Placer County. Documents for recording may be presented over the counter or by mail. The recording window is open from 8:00 AM to 4:00 PM. Documents that are accepted for recording during those hours are recorded the same day. Documents that are accepted after the recording counter has closed are recorded the following workday.

After a document has been recorded, a scanned image of it is made. The recorded documents are also used to create a daily grantor/ grantee index. This index is cross-referenced by document type, document number and the names of the parties involved. The index and the scanned images of the original documents are available for use by the public for research or to have copies made in the office only. Scanned images are not available on -line.

SEARCH OFFICIAL REAL ESTATE RECORDS
https://county-fusion4.kofiletech.us/countyweb/login.do?countyname=Placer



When Modernization Gets In Their Way.

I sent a researcher a request that I wanted help with. I thought it would be a good idea.

----Me: Hello, Steven Brownstein here.

By chance do you still go to XXXX County Courthouse?

I need a criminal record check.

----Them: Yes, we still cover XXXX County. Please provide billing information and name to be searched with DOB.

----Me: Straightline International PMB 1007 Box 10001 Saipan, MP 96950 USA. The name to be searched is xxx, xxx.

----Them: Sorry, we are not set up to conduct searches for international companies. Our database doesn't allow for that. Could you re-assign this order?

----Me: I can't believe that your database tells you what to do! Can I talk with your database to see if it will do a search for me and perhaps think of a alternative way to bill? After all I remember when you started and you were the boss.

Modernization. How times have changed!

Nevada Arrest Records Go Dark

by Alexander Cohen

A database of Nevada arrest records that was open to public inspection for decades has been made secret by a new state law.

The Nevada Department of Public Safety, which collects the information from law enforcement agencies across the state, won approval of the new law after the Las Vegas Review-Journal requested arrest and conviction records last year.

In May, DPS submitted an amendment to Assembly Bill 76, a measure to update rules for Nevada's main repository of criminal history information such as arrests and convictions. The amendment prohibited releasing to the media any personal identifying information, such as names and dates of birth. The change, which took effect two months ago, allows the disclosure of identifying information only if media requesters ask for the records of a specific person.

It is unclear whether the new law will permit the release of data for certain offenses, such as all homicide arrests made in a given year, with only the names of arrestees removed.

Stephen Larrick, director of state and local programs for the Sunlight Foundation, a Washington, D.C., nonprofit that advocates for open government, said the Legislature violated the spirit of Nevada's Public Records Act by shielding the records.

"The fourth estate has the right to information relevant to public discourse — including information about the criminal history of individuals — and needs expedient access to such records, sometimes in bulk, in order to hold government accountable," he said.

DPS declined to comment on the law and its reason for seeking the change.

The public's right to know about the workings of government is enshrined in Nevada's public records law. The law's opening language says it was enacted "to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law."

Review-Journal Managing Editor Glenn Cook said access to a fully transparent arrest database that includes the names of those arrested is a vital public tool.

RCMP Raising Concerns About Changes To Criminal Background Checks

The RCMP is taking issue with changes the Liberal government made to criminal background checks and the pardons system, pointing to cases of people with "disturbing" records applying to work with vulnerable individuals.

The issue is how criminal background checks conducted by police for people applying to work with individuals considered "vulnerable" — children and the elderly, for example — are handled in cases where a person has received a record suspension, commonly known as a pardon.

A record suspension helps give a past offender a clean slate when it comes to renting an apartment or applying for a job. But the offence isn't completely erased, just set aside. Criminal background checks required under vulnerable sector regulations do turn up those record suspensions, mainly previous sex offences.

The federal public safety minister has the final say when it comes to disclosing someone's past criminal record under vulnerable sector regulations — even if they've had an offence suspended.

The Criminal Records Act calls on the minister to take a number of factors into consideration in such cases, including whether the suspended offence involved violence, children or a breach of trust.

If the disclosure is approved, a copy of the suspended record is returned to the applicant and the police service that oversaw the request. If it's denied, the background check is returned as having found "no record."

Starting in 2016, the Liberal government made changes to the process to weigh the act's provisions alongside new evidence and research.

Public safety officials prepared a briefing note for Goodale on the status of the changes last year. It says the government should take "into account current research findings demonstrating that sex offenders who have remained crime-free for 20 years or more have a similar or lower risk to reoffend than the general population."

Research also shows that sex offenders who were 24 years old and younger "could be considered immature at the time and less likely to reoffend," says the briefing note.

As a result of the changes, there have been fewer disclosures of pardoned criminal records under the Trudeau government.

Former Conservative public safety minister Vic Toews delegated his signing power over to the department's director general of crime prevention in 2011.

"Between 2011 and 2015, almost all vulnerable sector requests seeking disclosure of a pardoned record were approved," the briefing note says. In 2015, for example, 95 per cent of all vulnerable sector disclosures were approved.

But in 2016, the year changes were made, only 38 per cent of disclosure requests were approved.

"The RCMP has expressed their concern with this approach," Goodale was told in the briefing note.

For months, the RCMP have been sending Public Safety information to support approving more disclosures of suspended records. At one point, RCMP flagged three cases up for disclosure.

The details of the cases were redacted in the Access to Information Request, but Public Safety acknowledged their severity in the briefing note.

"Undeniably, these offences are disturbing and this information is important to have in assessing [vulnerable sector] disclosure requests," it reads.

Despite flagging the issue to the department, the RCMP refused to comment on the specifics in the briefing note.

"The RCMP has provided Public Safety in the past further information on the nature of the offence with respect to individual cases. However, this type of information often does not reside in the RCMP's information holdings and may or may not still be held by the police service originally involved in the handling of the offence," said spokesperson Sgt. Marie Damian.

"The RCMP continues to work very closely with Public Safety to ensure the integrity of the vulnerable sector regime in the context of the privacy rights of Canadians and community safety."

A spokesperson for Goodale said the government's decision process still sticks to the criteria laid out in the Criminal Records Act.

"Vulnerable sector checks provide essential information to employers, school administrators and others responsible for vulnerable groups so that they can make good decisions about potential employees and volunteers. These checks help keep our most vulnerable safe," Scott Bardsley said.

"The RCMP has been providing additional information to better support these determinations."

Independent Sen. Kim Pate, the former head of the Canadian Association of Elizabeth Fry Societies, said background checks aren't the only way to protect daycares and nursing homes from those wishing to do harm.

"Of course we want to see protections. What we know, though, is criminal record checks (are) not the most effective way to prevent those kinds of abuses," she said.

"The majority of people who have committed offences, whether it's sexual offences or others, are in fact not even sometimes reported, certainly not prosecuted."

The Senate is reviewing Bill C-66, which gives the Parole Board of Canada jurisdiction to order, or refuse to order, the expungement of convictions for any of a list of past Criminal Code offences that includes gross indecency, buggery and anal intercourse. It was introduced when Prime Minister Justin Trudeau apologized to LGBT Canadians for "systematic oppression."

Pate said she's been talking about the need for a more robust conviction review scheme that would allow some convictions to expire.

The Public Record Authority

Tax Lien Searches

New Procedure in Illinois

There is a new Illinois law affecting recording and searches of state tax liens.

All state lax liens are no longer recorded at the county level by the county recorder; they are now recorded by a new agency - the State Tax Lien Registry.

The law, which was passed July 2018, created the State Tax Lien Registry which is
managed by the state's Dept. of Revenue.

The Dept. of Revenue was the entity sending the lien documents to the counties for recording, so essentially they are now
handling this function themselves electronically via the new Registry.

There are several issues that I see.

1) Limitations on Name Searches
The Registry provides online access at from the home page at
www.revenue.state.il.us. Look at the right edge under Quick Links and click on Lien Registry. A search by name
or lien number apparently includes pre-2018 liens, but a name search is limited to only a 7 day span.

So moving forward in 2018, a name search without knowing dates will be a very time
consuming process. Per our research, so far all of the IL county recorders are continuing to provide search services for pre-2018 liens.

2) Answers to Specific Questions on an Existing Lien.
The Tax Lien Registry offers a voice line for questions on specific liens, but only the
person who is a party of the lien may call and ask questions. This means CRAs, PIs, or researchers involved with a high level of due diligence will not be able to use this
service.

There is a 5 minute YouTube video about these new procedures posted by the Illinois
State Tax Lien Registry found at https://www.youtube.com/watch?v=DITvksZs2JU
Basically the video is saying that the county recorders should no longer be contacted for
searches. This fact could present a problem if a researcher is doing a pure name
search or has a question on the results of a name search.

Google Says Hackers Steal Almost 250,000 Web Logins Each Week

Looking at cybercriminal black markets and public forums, the company found millions of usernames and passwords stolen directly through hacking. It also uncovered billions usernames and passwords indirectly exposed in third-party data breaches.

For one year, Google researchers investigated the different ways hackers steal personal information and take over Google (GOOG) accounts. Google published its research, conducted between March 2016 and March 2017, on Thursday.

Focusing exclusively on Google accounts and in partnership with the University of California, Berkeley, researchers created an automated system to scan public websites and criminal forums for stolen credentials. The group also investigated over 25,000 criminal hacking tools, which it received from undisclosed sources.

Google said it is the first study taking a long term and comprehensive look at how criminals steal your data, and what tools are most popular.

"One of the interesting things [we found] was the sheer scale of information on individuals that's out there and accessible to hijackers," Kurt Thomas, security researcher at Google told CNN Tech.

Even if someone has no malicious hacking experience, he or she could find all the tools they need on criminal hacker forums.

Related: Google strengthens security to keep you from getting phished

Data breaches, such as the recent Equifax hack, are the most common ways hackers can get your data. In one year, researchers found 1.9 billion usernames and passwords exposed by breaches. The company continued to study this through September 2017 and found a total of 3.3 billion credentials.

But digital criminals can be much more proactive in stealing your information. Two popular methods are phishing, which is posing as a trustworthy person or entity to trick you into giving up your information; and keylogging, or recording what you type on your computer.

Google researchers identified 788,000 potential victims of keylogging and 12.4 million potential victims of phishing. These types of attacks happen all the time. For example on average, the phishing tools Google studied collect 234,887 potentially valid login credentials, and the keylogging tools collected 14,879 credentials, each week.

Because passwords are not often enough to access online accounts, cyber criminals are trying to collect other data, too. Researchers found that some phishers try and siphon location, phone numbers, or other sensitive data while stealing login credentials. Mark Risher, director of product management at Google, said this was one of the study's key findings.

Google can automatically recognize when you're logging in from somewhere unusual -- if the company sees you attempting to log-in from Russia when you usually login from California, Google will ask to verify it's you. As a result, Google has tightened the location radius around what it considers to be usual log-in areas.

Google has also implemented additional layers of email security on its official Gmail app. The company said that applying the research insights to its security protections prevented 67 million Google accounts from being abused.

Last month, the company launched a handful of tools for people to further protect themselves, including a personalized account security checkup, new phishing warnings, and the Advanced Protection Program for Google's most at-risk users.

Although experts have suggested using multi-factor authentication (a layer of security in addition to your password) for a long time, public adoption lags behind. According to recent data from Duo Security, most Americans don't implement the extra layer of protection.

But that might be changing. Risher said Google is seeing more people adopt less convenient options in order to keep themselves safe. For example, Google said Amazon sold out of the Advanced Protection Program kits soon after they launched. The kit contains two physical security keys a person would be required to have in order to access to their account.

Google said it is sharing its latest findings so other companies can also implement better protections to guard against account hijacking.

"We talk a lot about how airlines don't compete over which one crashes more frequently," Risher said. "Likewise, we don't think security is something to keep to ourselves."

Not Too Surprising

Police officers across the country misuse confidential law enforcement databases to get information on romantic partners, business associates, neighbors, journalists and others for reasons that have nothing to do with daily police work, an Associated Press investigation has found.

Court Dismisses Drivers' Lawsuit Challenging Info In PSP Reports

A six-year-old lawsuit brought by five truckers challenging the efficacy of the U.S. DOT's Pre-Employment Screening Program reports has been mostly dismissed by a federal court. However, two drivers involved in the suit could be awarded damages for information contained with their PSP report, the court ruled.

At issue in the case were inaccuracies within drivers' PSP reports, which carriers can access to make hiring decisions. The drivers argued their PSP reports contained false information that could have been damaging to their job prospects. For all five drivers, citations had been issued or criminal charges had been filed. In all five cases, the drivers fought the citations or charges in court and won. Despite adjudication and dismissal of the citations and charges, violations were still listed in the drivers' PSP reports.

The driver plaintiffs in the case argued this violated their rights to due process and could make it more difficult for them to find jobs.

A carrier can opt to use PSP to screen a potential hire by submitting a consent form signed by the driver and paying a $10 fee. This release form informs potential employees they agree to allow the company access to the past five years of their crash data, the last three years of inspections and "serious safety violations for an individual driver."

The Owner-Operator Independent Drivers Association filed the lawsuit on behalf of truckers Fred Weaver, Klint Mowrer, Mark Moody, Brian Kelley and Robert Lohmeier. The U.S. Supreme Court denied last summer to hear a similar case brought by OOIDA about information contained within drivers' PSP reports. That lawsuit, Flock vs. DOT, claimed that PSP reports contained records of violations that shouldn't have been included in the reports.

Most of the claims within the lawsuit about inaccuracies were dismissed by the D.C. Court of Appeals on January 12. However, the three judges overseeing the case said drivers Weaver and Mowrer could have "standing to seek damages," and it has sent the ruling back to a lower court to determine what those damages will be. The case was heard and decided by judges Srikanth Srinivasan, Thomas Griffith and David Tatel.

At the time the lawsuit was filed, it was protocol for FMCSA to leave violations in place on PSP reports even if citations had been dismissed in court. FMCSA argued it had no system in place for states to remove such citations from drivers' records after they'd been issued.

Two years after OOIDA and the drivers filed the suit, however, FMCSA took measures to fix the issue, directing states to remove violations or charges that had been dismissed. The court factored this move into its decision. "Any risk of future disclosure of inaccurate information has been virtually eliminated," the judges wrote.

The D.C. appellate court judges said three of the drivers could not prove they were harmed by the inaccurate information in their report, or even that the reports had been used by carriers or other third parties. "The mere existence of inaccurate information in the [DOT's] database" did not cause them to "suffer concrete injury," the court said. "Inspection data remains available for only three years after the relevant inspection and all of their disputed violations occurred more than three years ago," the judges added. "[OOIDA] has offered no evidence that any other member faces a risk of dissemination."

Reports for Mowrer and Weaver had been pulled by arriers, thereby entitling them to seek damages, the judges wrote in their January 12 decision.

Message Syria And The UK:

Are you able to do a criminal check in Syria? UK? Price and turnaround time?

Hello.
Steven Brownstein here.

We are currently doing requests in Damascus and Aleppo. $79.99 each

The UK pricing varies from $19.99 in London to $32 in smaller towns and villages.

Turnaround time in London is 24-72 hours; Damascus is a little slower. 3 days - 2 weeks.

Family Violence Crimes Top List Of Crimes Charged In Guam Court

More than four years ago, 35-year-old Emma Catapang Cepeda was shot to death by her estranged husband.

Emmanuel Cabrera Cepeda was on pretrial release on charges of terrorizing and family violence. Emma Catapang Cepeda had a restraining order against him so he wouldn't threaten, harass or disturb her or her three children, Pacific Daily News files state.

He went to her house with intent of killing her and then himself but after he shot her, the gun malfunctioned, files state.

About four months before Emma Catapang Cepeda was killed, Emmanuel Cepeda was charged in 2012 with terrorizing and family violence, files state.

His case was among the 435 family violence cases filed in 2012, according to Judiciary of Guam reports.

Last year, 494 family violence cases were filed, averaging 1.35 cases per day.

Family violence was the top charged offense in Superior Court in 2016, 2015 and 2014, records show.

“Too often, domestic violence is a multi-generational cycle. That means as we slowly remove the stigma of domestic violence—convincing our family members, friends, and neighbors to get help—reporting will increase and the statistics will reflect that,” said Guam legislature Speaker BJ Cruz.

Before serving as a senator, Cruz was a local family court judge.

"While nothing can excuse family violence, Guam’s homes are exposed to a crosswind of economic, social, and cultural pressures," Cruz added."Unless we learn the right emotional and psychological tools necessary to cope, unjustifiable violence can become the sad symptom of deeper problems."

For perpetrators, it’s about control of the other person, according to LisaLinda Natividad, who earned her doctorate degree, is a licensed clinical social worker, provider for I Gima-ta Counseling Services and an associate professor of Social Work for the University of Guam.

“Often times the violence is what is used to control a person’s behavior,” Natividad said. “When tensions arise in a relationship—which all relationships have—then that leads to the actual outburst, the violent act.”

In domestic violence cases, Natividad said many times these outbursts start as yelling, not necessarily physical abuse. “What starts out as yelling and screaming eventually becomes starting to break things,” she said. “The remote control is probably one of the most common things that people report gets broken.”

These are the early signs of domestic violence, she said.

Breaking items leads to throwing things at a partner, then the outbursts turn to physical abuse, like a push or a shove during an argument or squeezing a person’s shoulders in that frustrating moment, Natividad said. “It’s not actually hitting at this moment. It’s a slow progression of violence,” she said.

The pushing and shoving becomes a slap, then a punch. “Then it continues to escalate to the point where often times there’s the use of weapons,” Natividad said.

And for different relationships, this progression of violence could reveal itself at different stages of the relationship. Some may notice violent tendencies in their partner while they're dating; for others, partners become abusive after the couple has moved in together or even after they are married, according to Natividad .

“A person who killed their partner, that person doesn’t wake up one day and say, ‘You know what I’m going to kill this person in my anger, in my haste.’ It’s this slow progression, an escalation that comes to that point,” Natividad said.

Perpetrators many times deliberately isolate their partners from their families or friends, making it easier to control the other person, Natividad said. At the same time, the abusive partner will criticize their loved one so much so that the person starts to believe the criticisms, even if they aren't true, she added.

When Natividad speaks with survivors of family violence she asks them to address their thoughts patterns, those criticisms from an objective point of view. “I ask them… ‘Who do these thoughts sound like?’” she said. “More often than not, it sounds like the voice of their perpetrator.”

In her practice Natividad said she’s found this to be true of adults who were abused as children, in addition to spouses or partners who survived domestic abuse.

“Essentially what’s happened is you lose yourself into your perpetrator,” Natividad said.

Doris Leon Guerrero Tolentino, a licensed professional counselor, said violence in the home significantly affects children. “I have seen kids who have been traumatized by this,” Tolentino said. Kids who grow up with family violence are often anxious, walking on eggshells for fear that they say the wrong thing or otherwise offend the perpetrator, Tolentino said.

Children carry their anxieties into adulthood and it subsequently affects their relationships as adults, she added.

Guam law defines an act of family violence as any attempt or any actual bodily injury to a family or household member. A person can also be charged with family violence if they intentionally impeded a family member or household member's breathing.

When lawmakers in 1994 passed the family violence act, they cited more than 1,000 family violence cases reported to the Guam Police Department between January 1994 and August 1994, the measure states. At the time Guam was home to about 143,000, according to a Bureau of Statistics and Plans report.

Four years after that measure was enacted, senators passed the Family Violence Act of 1998, expanding on the law. The legislation stated that it's purpose "is to promote the protection and the safety of all victims of family violence in a fair and effective manner and the prevention of future violence in all families."

Years later in 2005, the Guam Police Department reported 587 family violence-related arrests in that year’s uniform crime report. The latest publicly available uniform crime report is from two years ago. It shows a decade later, in 2015, police logged 296 family-violence reports.

GPD's report from 2005 showed 259 of the 587 arrests, were people who were Chamorro. Another 101 arrests in 2005 were of people who were Chuukese.

Unlike the 2005 report, the 2015 crime report doesn't have the same categories for offenders by race, with respect to the islands in this region. Instead the 2015 report categorizes family violence offenders as either White, Black, Pacific Islander, Asian, Hispanic or Native Indian. Of the 296 offenders arrested in 2015 for family violence, 244 were Pacific Islanders.

Neither uniform crime reports break down family violence offenders by gender.

Local family violence law isn’t limited to assault of one’s spouse or a boyfriend or girlfriend.

“The family violence law is very broad and encompasses almost everybody on the island,” said Basil O’Mallan, longtime assistant attorney general. Family violence can be charged in an assault or strangulation among of a person's sibling, cousin or any blood relative. The law also applies to people who used to be in a relationship, people who share a child, people who used to be married, roommates, or even people who used to live together.

The elements of assault in Guam statute and the elements of family violence are the same, according to O’Mallan.

When there is a familial or household connection between the perpetrator and the victim, then the assault legally is considered an act of domestic violence.

While prosecutors can charge a person with both assault and family violence, O’Mallan said that’s usually not done. “We can charge both but we find it’s duplicative. It’s cleaner and less confusing for people to absorb it all up in the family violence charge,” he said.

But if a case involves suspected child abuse, prosecutors will add that charge, O’Mallan said. “That’s our discretion and that’s usually because there’s different elements to family violence and child abuse,” he added.

O’Mallan currently handles cases filed in Superior Court’s family violence court. And he says it’s one of the busiest courts in the Guam Judicial Center.

Continues ↗

STRAIGHT LINE

Family Violence Crimes Top List,
Continued

The family violence court allows families to have all civil and criminal cases heard by the same judge. Currently Judge Arthur Barcinas is presiding in that court.

Everyone involved in the family violence court is trained to handle these types of cases, O'Mallan said. "The dynamics of a family violence case are very complex," he said.

In other assault cases the perpetrator and the victim might not even know each other. But in family violence cases, many times the defendant and the victim have a strong bond. The judge usually orders the defendant to stay away from a victim, but sometimes a domestic abuse victim still wants contact. Sometimes a victim asks that the charges are dropped, according to O'Mallan.

O'Mallan said he and his team has had to sit down with victims and told them that the case needs to go forward.

"We make it very clear to them we're not here to interfere on their decisions of their relationship. That is their business," O'Mallan said. "We're just here to stop the violence."

One benefit of going through the family violence court is a deferred plea agreement. In a deferred plea, a defendant enters a guilty plea and is ordered to follow certain probation conditions for a set number of years. If at the end of their probation period they've complied with their conditions, the court can dismiss and expunge their case.

Eligible defendants are also ordered to undergo a counseling as part of the family violence court. Most charged with misdemeanor family violence go through this program and it's been successful, O'Mallan said.

The court has two programs primarily for male offenders that last between 30 to 35 weeks, according to Juan Rapadas, clinical psychologist for Judiciary of Guam. The participants learn to recognize anger and abusive behavior, change their attitudes, learn to communicate and use non-violent skills to deal with stress or anger, according to the Judiciary's brochure.

These court ordered programs have proven in studies to reduce recidivism, Rapadas said.

But there are some some participants who don't always find success in the program.

"Sometimes when we see them back in the system, even when they learned the skills or adjusted their attitudes a little bit, sometimes they found themselves back to using alcohol or maybe "ice," which causes other problems," Rapadas said.

Many in the island don't have jobs or live with lower incomes and they turn to drugs and alcohol and it becomes a ripe environment for family violence, Rapadas said. "I think we have a high number of folks who just aren't making it," he said. "That's not an excuse, because there's a lot of people who aren't working who don't get arrested, I just think the environment is ripe for family violence."

Family violence registry

For repeat offenders, the government maintains an online record of their crimes, their names and photo. In 2011 the family violence registry was created by law, in part, to provide the public a "greater sense of security" and "protection" through a central database naming people who are repeat offenders.

Users can look up the criminal history of those in Guam who have repeated multiple family violence, domestic violence, dating violence or stalking convictions. As of Oct. 10, there were 68 people on the list.

That law that created the registry isn't the only amendment to the Family Violence Act. Last year, Cruz introduced a new law that would make strangulation a separate felony charge.

A recent Supreme Court of Guam decision also changed one definition of family violence in current law, finding that the part of the law that stated putting a family or household member in fear of bodily injury was "unconstitutionally vague."

"What the Supreme Court decision did is it eliminated threatening someone as a family violence charge," O'Mallan said. "There must be some kind of physical harm."

But the AG's office is working with Vice Speaker Therese Terlaje on Bill 175 -34. The bill clarifies that section of the law that the high court found vague. O'Mallan said the bill's already had a public hearing and they hope they legislature will pass the measure.

Another family violence related bill Terlaje introduced cited Emma Catapang Cepeda's story. Bill 177-34 proposes electronic monitoring for family violence defendants on pretrial release.

While these efforts to protect victims through the statute continue, officials agree that public education is necessary for preventing family violence.

"Criminal laws are built to punish crimes after they have occurred. Sadly, while some laws can help us identify and prosecute domestic violence before they lead to murder, the law is not built to prevent domestic abuse outright," Cruz said. "To do that, the penal system must learn from the public health system. That means education, treatment, and early identification are essential if preventing domestic violence is just as important to us as punishing it."

Natividad stressed that it's important for friends and families who see or suspect domestic abuse, that they be available to victims. Suspend all judgment and get them help, Natividad said.

Rarely does a person leave an abusive partner one time and never return. On average it takes a person about seven tries before they leave an abusive relationship, Natividad said. "Leaving's a process," she said.

Since Cruz was a family court judge 30 years ago, he said the island's come a long way.

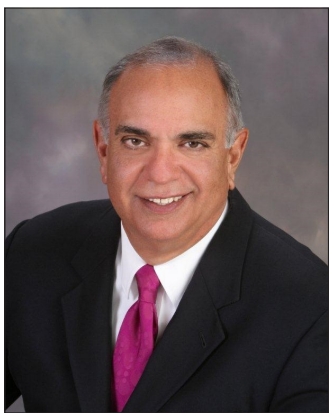
"But we have so much further to go. By far, the most effective way to combat this crime is to continue educating the community to speak up, not cover up," he said.

"Studies have shown that, as the community becomes more aware of the harms of domestic violence, the rate of reporting has generally coincided. But so long as we ignore the loud noises across the hall, keep physical conflicts behind closed doors, or cover up the cuts and bruises, we will never be able to reduce the number of victims afflicted by violence in the family."

Les Rosen's Corner

A monthly column

By Lester Rosen, Attorney at Law



Census Bureau Background Check Program Not Fully Prepared

by Thomas Ahern

In February of 2018, the Office of Inspector General (OIG) released an audit report entitled "2020 Census: The Bureau's Background Check Office Is Not Fully Prepared for the 2020 Census" that reviewed the revised background check policies and procedures of the United States Census Bureau as well as the Bureau's plan for accommodating the background check and hiring needs of the 2020 Census.

The audit report from the OIG – which works to improve the efficiency of the U.S. Department of Commerce – found escalating costs and inadequate quality assurance practices pose risks to 2020 Census background check activities, the Census Bureau is not adequately monitoring contractor activities, and program officials are not always allocating background check costs to the correct fund. Specifically, the audit report found:

Escalating costs and inadequate quality assurance practices pose risks to 2020 Census background check activities. Since October 2010, the Bureau has used a series of time-and-materials (T&M) and labor-hour contracts – at a cost of $16.7 million – to support its background check activities. These types of contracts are considered high-risk because the price is not fixed and depends on the number of labor hours that contractors need to complete the requirements. There is no incentive to the contractor to control the cost or ensure labor efficiency.

The Bureau is not adequately monitoring contractor activities. We identified issues specifically related to the manner in which program officials are currently managing contractors, as well as the manner in which both program officials and contracting officials are administering the current T&M contract. Unless program officials begin performing required oversight and surveillance, the expenditures scheduled for the remainder of the first option period and remaining three option periods ($11,132,002.56) may be considered funds to be put to better use.

Program officials are not always allocating background check costs to the correct fund. Program officials did not understand that costs for specific activities, such as processing background checks for decennial census applicants, should be charged against the correct funding sources. As a result, between January 2016 and April 2017, a total of 22,704 hours, at a cost of $1.1 million, were allocated to the wrong project codes.

In the interests of national security, all persons hired for a federal job undergo, at a minimum, a basic background check to ensure that they are "reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States." The Census Bureau relies on background checks to ensure public safety and protect sensitive household data. The audit report recommendations included:

Use available data to estimate the number of staff needed to complete background checks to support the 2020 Census workload and assess whether a T&M contract is needed or if there are other, more efficient methods to control costs.

Develop written policies and procedures that address supervisory and employee responsibilities in approving background check applications.

Evaluate whether the current contract is being managed as a personal services contract and make the necessary changes required to prevent circumventing the Federal Acquisition Regulation.

Train contracting and program officials to ensure they perform proper oversight and surveillance of service contracts.

Train program officials to charge salary costs appropriately.

Verify the obligation of appropriated funds for background checks and determine whether they have been apportioned and allotted correctly.

Pursuant to Department Administrative Order 213-5, the Census Bureau must submit an action plan to the OIG that addresses the recommendations in this report within 60 calendar days. The final report will be posted on OIG's website. The complete initial audit report of the Census Bureau background check program is at www.oversight.gov/sites/default/files/oig-reports/2018-02_27_OIG-18-015-A.pdf.

This is not the first time that the background check process used by the Census Bureau has come under fire. In April 2016, ESR News reported that the Census Bureau agreed to pay $15 million to settle a lawsuit that claimed the criminal background check system used to hire workers for the 2010 census racially discriminated against African American and Hispanic job applicants with arrest records.

The settlement ended a lawsuit claiming that job applicants for the 2010 Census with an arrest record for any offense had to produce "official court documentation" of the disposition of their arrests within 30 days to remain eligible for work. This requirement caused 93 percent of the job applicants with an arrest record – approximately 700,000 people – to be excluded from being hired for Census jobs.

A website for the lawsuit stated the background check program excluded people "with old and minor convictions for non-criminal offenses, misdemeanors, and other crimes that do not involve violence or dishonesty, which are irrelevant according to Census' own policy for work in the field or at a desk job." The Census Bureau was required to design new criteria for their background check program for the 2020 census.

Australia Police To Get Access To Driver's Licence Photos Without Warrant

Authorities will soon have speedy access to photos from driver's licences, visas and passports, without seeking a warrant to hunt suspected terrorists.

Legislation will likely be passed through Queensland Parliament this week, allowing police to more quickly access facial images for non-transport-related offences to match against potential offenders.

The bill will also set up Queensland's participation in the Australia-wide Identity Matching Services, a biometric face matching system, with information shared between states and territories, after an agreement at COAG in 2017.

Australians convicted of terrorism offences have used fake names when buying ammunition and chemicals to make explosives, and pre-paid phones to communicate anonymously.

Authorities argued name-checking was vulnerable to identity fraud as it could not detect instances where criminals had stolen someone's identity documents and substituted their own photograph, and they instead needed comprehensive matching of facial images to biographical information.

Identity crime can enable drug trafficking, money laundering, people smuggling, child exploitation and terrorism.

It will not allow fully automated or real-time surveillance of public spaces, but it would allow more targeted searching using images taken from CCTV to quickly identify a "person of interest" for public safety reasons.

Queensland Council for Civil Liberties president Michael Cope expressed

misgivings, stating when driver's licences with photos were introduced 10 years ago, the government accepted the database should be subjected to special protections.

"One of those protections was that police should not be able to access the database without a warrant except when investigating offences under transport legislation," he said.

Bar Association of Queensland president Sandy Thompson submitted the risk of inappropriate use of the system was not adequately managed if the Queensland Police Service was able to access driver's licence images for non-transport law enforcement without judicial oversight or rigorous reporting obligations.

The Bar Association was concerned the current requirement to prepare annual reports of access to digital photos, to be tabled in Parliament, would be discontinued.

"Such transparent reporting obligations provide the opportunity for public scrutiny and departmental accountability," Mr Thompson said.

In response, the QPS noted the system would have in-built system controls to restrict access to information, maintain an audit trail of information access and use, and that the frequency of searches, and the number of agencies involved, would make reporting impractical.

Police intend to use the IMS as an investigative tool, but not as a form of identification in criminal prosecutions.

Queensland will pass the legislation first, ahead of next month's Commonwealth Games.

Police Minister Mark Ryan said the database was not about taking anyone's rights away, but ensuring every Queenslander and visitor's rights to stay safe were assured.

"I am pleased that Queensland is again leading the way in implementing the legislation our police require to keep people safe," he said.

Mr Ryan said the national system would be implemented in consultation with the Australian Privacy Commissioner and it would be subject to audits by the Office of the Australian Information Commissioner.

"It is also important to note that the Queensland Police Service and other agencies will continue to be held accountable for the legal use of the database by external bodies such as privacy commissioners, ombudsmen and anti-corruption or integrity commissioners," he said.

"Agencies will require a lawful basis to collect and use facial information."

Queensland's Legal Affairs and Community Safety Committee recommended the bill be passed, and a review be conducted after two years to evaluate the frequency, purpose and type of identity matching services used, the users, error rates and any risk of "function creep".

Other states and territories, and the federal government, need to pass similar legislation before Queensland can access their data without a warrant.

The bill would also allow licensees in Broadbeach and Surfers Paradise to sell liquor for an extra hour each night of the 2018 Gold Coast Commonwealth Games.

However, it would not change the existing photo ID scanning obligations.

Modernization Gets In The Way.

I sent a researcher a request that I wanted help with. I thought it would be a good idea.

----Me: Hello, Steven Brownstein here.
By chance do you still go to XXXX County Courthouse? I need a criminal record check.

----Them: Yes, we still cover XXXX County. Please provide billing information and name to be searched with DOB.

----Me: Straightline International PMB 1007 Box 10001 Saipan, MP 96950 USA. The name to be searched is xxx, xxx.

----Them: Sorry, we are not set up to conduct searches for international companies. Our database doesn't allow for that. Could you re-assign this order?

----Me: I can't believe that your database tells you what to do! Can I talk with your database to see if it will do a search for me and perhaps think of a alternative way to bill? After all I remember when you started and you were the boss.

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Provides both Summary (misdemeanor) and Indictable (felony) offenses

Canada City Court Searches	Lower Price
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Vancouver	7.99
Ottawa	9.99
Quebec City	9.99
Hamilton	9.99
Winnipeg	7.99
Halifax	9.99
Regina	9.99
Victoria	7.99
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Turnaround times average 3 days from date of order in all Provinces except Alberta where there can be court clerk delays. Rush orders are excepted.

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England Criminal Court Searches

The Magistrate Court in the selected city is the primary search.

The secondary search is the Crown Court and may cover one or more Magistrate Courts

England *Criminal Searches*

At the City or Magistrate level

Provide Summary (misdemeanor) offenses while most Indictable (felony) offenses are at the Crown.

England Civil Law Cases are available at the county level.

A judgment search is also available

Civil searches begin at 48

England Criminal Court Searches	Lower Price
London	19.99
Manchester	19.99
Birmingham	19.99
Liverpool	19.99
Leeds	19.99
Sheffield	19.99
Bristol	19.99
Leicester	19.99
Oxford	19.99
Dover	19.99
Portsmouth	19.99
Hull	19.99
Others	32

Turnaround times average 3 days from date of order in all Courts.

Rush orders are excepted

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Philippines Trial Court Searches

The Regional Trial Court (RTC) or Municipal Trial Court (MTC) in the selected City is checked.

All Philippines Court searches are $50 each, except for cities in the Manila Metro area. (see list).

Philiipines RTC *Searches*

Provides (felony) offenses.

Philiipines MTC *Searches*

Provides (misdemeanor) offenses.

All Public Record Searches are available. Civil from $60

Philippines City Court Searches	Lower Price
Manila	12.99
Quezon City	14.99
Makati	14.99
Pasig	14.99
Pasay	14.99
Davao	16.99
General Santos	16.99
Cebu City	14.99
Cavite	14.99
Paranaque	14.99
Others	49.99

Turnaround times average 3 days from date of order in all Provinces except Alberta where there can be court clerk delays. Rush orders are excepted.

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Mexico

Services and Pricing

Mexico Court Searches

The Superior courts are checked for criminal and civil records.

The prices for criminal record searches are $11.99 for the cities on the right. All other Superior court locations for criminal records are $36.

Civil record searches in Mexico are $54 regardless of the court's location.

Civil record searches of businesses in Mexico begin at $60, the cost to be determined.

Mexico Superior Court Searches	Lower Price
Mexico City	11.99
Guadalajra	11.99
Tijuana	11.99
Monterrey	11.99

Turnaround times average 3 days from date of order in all Cities.

Rush orders are excepted.

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Ireland

Services and Pricing

Ireland Court Searches

The Circuit and District courts are checked

Dublin and Cork Criminal Court Searches are $24.99 each.

Other criminal record checks such as in Limerick, Galway, Waterford and other outlying city criminal record checks are $32 each.

Civil record searches in Ireland are $48 regardless of the court.

Civil record searches of businesses in Ireland begin at $52, the cost to be determined.

Ireland City Court Searches	Lower Price
Dublin	24.99
Cork	24.99
Limerick	31.99
Galway	31.99
Waterford	31.99
Drogheda	31.99

Turnaround times average 3 days from date of order in all Cities.

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A Note From Phyllis Nadel

Iowa's Bizarre Booze Laws May Make You A Criminal

In Iowa, you could be a bootlegger and not even know it.

If you bring back a couple of bottles of zinfandel from a California winery, or even from an Omaha supermarket, you may be committing a serious misdemeanor.

If you vacation in Wisconsin and return with a case of New Glarus Brewing's Spotted Cow ale — popular but sold only in that state — you could end up, theoretically, in the hoosegow.

But if you import four liters of tequila from your trip to Mexico? No problem.

Such is the bizarre state of Iowa's alcohol laws. Last week, the Iowa Alcoholic Beverages Division sent out an education bulletin clarifying that "only alcoholic liquor can be personally imported" — up to one liter from another state or four liters from another country.

But beer and wine, even if it's consumed only in your home? No, according to the division's interpretation.

Beer and wine are not expressly mentioned in the law on importation and do not fit the definition of liquor, said Stephanie Strauss with the Iowa Alcoholic Beverages Division. She said the division sent out the bulletin because it has received questions about the law, including from returning members of the military.

A serious misdemeanor is punishable by up to one year in jail and a fine of between $315 and $1,875.

Whether the law is ever enforced is beside the point. It certainly could be and make criminals out of unsuspecting shoppers. Why have it on the books?

Strauss said the division has brought the law to the Legislature's attention in the past, but nothing was done.

Fortunately, state officials and lawmakers have shown an interest in reforming Iowa's backward and byzantine booze laws. In 2015, the Register highlighted many of the problems with the alcohol laws — in particular those that harm local distillers — and the opposition to change from the powerful Iowa Wholesale Beer Distributors Association. Last year, then-Gov. Terry Branstad ordered a review of the state's alcohol laws in an effort to remedy some of those disparities, and a group of stakeholders issued its recommendations this year.

The Legislature then passed, and Branstad signed, a bill with changes, including allowing Iowa's craft liquor distillers to mix cocktails at their manufacturing facilities. That helps level the playing field with craft breweries and wineries, which could already serve customers on site.

But there's more work to be done. A second working group — led by Stephen Larson, administrator of the Iowa Alcoholic Beverages Division, and Roxann Ryan, commissioner of the Iowa Department of Public Safety — includes city and county officials, law enforcement, public health officials, prevention specialists and businesses.

The group is looking specifically at Iowa's licensing and permitting laws. The number of outlets selling alcohol have boomed, which can put more demands on police and other local officials. The group is considering whether Iowa should change the types of licenses available, put a quota on the number of licensed outlets, or make other changes. The goal is "properly balancing business needs with the legal and social responsibilities that protect the public."

The division has held public meetings around the state.

At the conclusion of the study, the group will recommend changes to the governor and Legislature.

The importation law is not part of the study, but does it really need to be? The Legislature should quickly pluck that low-hanging fruit off the vine.

Greenwood County Goes Digital

Greenwood County's courts are going digital, in the hopes of saving time, money and headaches caused by mountains of paperwork.

The state's E-filing pilot program rolled out Feb. 6 in Greenwood, meaning the paperwork many attorneys used to file in hard copies at the courthouse can now be filed online, at any time.

It'll mean a quicker turnaround, less clerical work, and he imagines it'll save taxpayers money as well as private litigants.

E-filing also means that new court records will be available online for viewing, and court officials are working to scan all pending paperwork in so that's accessible online, too. Cases from across the state can be found at sccourts.org/caseSearch, though not every county has implemented e-filing yet.

The state courts system expects all counties to have e-filing by February 2019, according to a statement from Tonnya Kohn, interim director of the court administration. The switch over began in 2015.

"I think it takes more off of the staff," said Greenwood County Clerk of Court Chastity Copeland. "It's not just paperwork everywhere.'

Houston, Texas Courthouse Still Closed

Houston's 20-story downtown criminal courthouse, the hub of Harris County's criminal justice system, will likely remain closed because of flooding from Hurricane Harvey until late 2019 or early 2020, Precinct 3 Commissioner Steve Radack said Thursday.

The disclosure dismayed courthouse insiders who called the situation an unworkable system, as abbreviated court dockets are being conducted in makeshift courtrooms in the basement of the jail while people who are free on bail are being rushed to trial.

It also means that hundreds of courthouse staffers, including lawyers and investigators with the district attorney's office, will continue their long slog of working in crowded quarters in satellite offices around the county while the building is renovated.

"Obviously a lot of people have been displaced and that's a major problem and we want them back in as soon as possible," he said after the quarterly meeting of the Criminal Justice Coordinating Council. "But this is an opportunity to make the necessary repairs and make some major improvements, such as in the elevator systems, as well as make more room and relocate a lot of our mechanical equipment to a different level."

Australia's Facial Recognition Plan

A Bill to set up the federal government's biometric identity system is currently going through Parliament. But there are concerns over just how much information the system would be allowed to gather, and how that might be used to establish more than just the identity of a person.

Strongly based on the FBI model in the United States, the Identity Matching Services Bill and its Explanatory Memoranda prescribe what data can be collected, shared and processed, by who and for what purposes.

The Bill is based on the Council of Australian Governments (COAG) agreement, signed in October 2017.

The public purpose of the system is to provide identity-matching services to government agencies and some private entities (such as banks and telcos). But the Bill will also establish the Department of Home Affairs as an incredibly data-rich law-enforcement and security agency, with a wide remit for data collection and use.

Accessing the 'hub'

The first layer of the identity matching system is what's called the "interoperability hub". This is the interface for those government and private entities seeking access to identity services.

These identity services effectively answer the questions: "is this person who they say they are?" and "who is this person?".

The hub works on a query and response model. This means that users of the system do not have access to any of the underlying data powering the biometric processing. They won't be able to browse the databases; they will only have their identity verification questions answered.

The second layer of the system, underneath the hub, is the databases that drive the biometric identity matching. These include passport and citizenship information as well as the new National Drivers License Facial Recognition Solution database, which will be housed in the Department of Home Affairs.

Along with images, these databases include an extraordinary amount of personal information. Roads agencies, like VicRoads in Victoria, hold rich databases of biographical information including names and addresses, age and gender. Those records are also linked to information about vehicle ownership and registration.

Commonwealth criminal intelligence agencies have been seeking access to state-held driver's licence images and associated personal information for years. The 2017 COAG agreement is what will finally enable a Commonwealth agency to have custodianship over this data on behalf of states.

You ask, it collects

But the use of the hub for identity-matching services means that the amount of data in these database will grow. Each time a user makes a request for identity-matching services, the hub will supply more data to the Department.

The Department can collect and process all information included in an identity document that has a photograph. It can also collect all of the information associated with that document held by the authority that created it.

When an entity (like law enforcement) seeks identity verification, it will likely supply images from its own camera or CCTV systems (or supplied by other parties), along with whatever data associated with those images that might help identify the person.

That could include where and when the images were taken or supplied, and potentially what a person was doing at the time the image was taken or supplied. All of those data are provided to the Department of Home Affairs when an identity verification is done.

Similarly, when banks and telecommunications companies use the hub, that potentially links those records to the Department databases - or at least facilitates those linkages down the track.

This creates the possibility of aggregated criminal and civil histories in a single identity record, like what has occurred with the FBI's biometric system in the US.

This is all without access to the largest, most sophisticated facial recognition database in existence: Facebook. If sources such as public CCTV and social media are eventually linked into the system, its significance changes again, radically.

Joining the dots

So what is all this data for? On one hand, it provides identity services to hub users. But on the other hand, it generates insights on behalf of the Department of Home Affairs for the sake of policing. Data at a large scale, and especially when used in the context of security and intelligence, means insights and predictions.

The purposes for which the Department can use the information it gathers are very broad. They include preventing and detecting identity fraud, law enforcement, national security, protective security (protection of government assets, persons or facilities), community safety (for instance where a person is acting suspiciously in a crowded public place), and road safety.

Those categories include criminal intelligence gathering and profiling, policing of public spaces and public events, and policing of activist communities and protests.

Many of these policing exercises are highly data-driven, using new predictive techniques to identify criminal suspects and political agitators before any activity has even occurred.

Identity technologies have historically been used by governments to answer two questions:

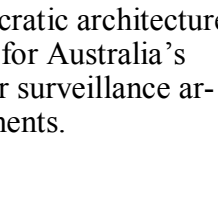
1) What person is that? 2) What kind of person is that?

Identity is more than merely biographical information. It is a narrative that we tell about ourselves and that others tell about us. That narrative is what is at stake in this type of security surveillance.

Beyond facial recognition, we have already seen machine vision systems designed to predict sexuality on the basis of a person's image. It's research that has already generated plenty of controversy.

If the data sets can be construed, and the results are to be accepted, there is no reason why machine vision systems cannot be targeted to answer questions about criminal propensity, IQ, suitability for certain tasks, political leanings, or anything else.

We need to understand what these new database arrangements will enable in terms of high-level or political policing by the Department of Home Affairs, and what this new technical and bureaucratic architecture means for Australia's broader surveillance arrangements.



Fire Destroys Documents At Ho High Court

Documents and other valuables within the Ho (Ghana) High Courts Premises were burnt after a fire outbreak.

Heaps of documents on several court cases, petitions and judicial administration items including office furniture were burnt.

Following the incident, scheduled court cases have been adjourned until further notice.

This incident brings to the fore the importance of running a paperless court system where cases are not only documented electronically, but are saved in clouds for easy recovery.

Plea Bargaining As A Way Of Life

by Dylan Walsh

Shondel Church was arrested in Kansas City, Missouri, last July, accused of stealing a generator and a tool box from his stepmother. He sat in Lafayette County Jail for six weeks before his first conversation with a public defender, Matthew Gass. Gass was reportedly hopeful that he could win the case at trial, but explained that the intensity of his workload meant he would need six months to prepare—six months during which Church would remain jailed. As a father of four and his family's primary breadwinner, Church felt he couldn't wait that long and instead pled guilty to a misdemeanor. He received two years of probation and a $2,600 bill for his stay in pretrial detention.

Ninety-seven percent of federal cases are settled the way Church's was, by plea bargain. State-level data suggest similar numbers nationwide. Though access to a public trial is enshrined in the Sixth Amendment, taking a plea forecloses that possibility. "This constitutional right, for most, is a myth," U.S. District Judge John Kane wrote in 2014—one voice among a chorus of jurists, advocates, and academics all calling for reform. Some want tweaks to the regulation and oversight of pleas; others urge more ambitious overhaul of the way trials are conducted, streamlining the process to make it accessible to greater numbers of people.

Plea bargains were almost unheard of prior to the Civil War. Only in its aftermath, as waves of displaced Americans and immigrants rolled into cities and crime rates climbed, did appellate courts start documenting exchanges that resemble the modern practice. The plea became a release valve for mounting caseloads. Appellate courts "all condemned it as shocking and terrible" at the time, said Albert Alschuler, a retired law professor who has studied plea bargains for five decades. The courts raised a range of objections to these early encounters, from the secretiveness of the process to the likeliness of coercing innocent defendants. Pleas, wrote the Wisconsin Supreme Court in 1877, are "hardly, if at all, distinguishable in principle from a direct sale of justice."

The practice nonetheless continued, and, by the turn of the century, a minor economy had settled in its orbit. "Fixers" could be hired to arrange for alternatives to a prison sentence. Police regularly toured jails to "negotiate" with the inmates. One New York City defense attorney and friend to local magistrates loitered in front of night court hawking 10 days in jail for $300, 20 days for $200, and 30 days for $150. By the 1920s, as violations of the federal liquor prohibition flooded court dockets, 88 percent of cases in New York City and 85 percent in Chicago were settled through pleas. When the Supreme Court in 1969 finally heard a case concerning the legality of the issue, it unanimously ruled that pleas are constitutionally acceptable. They are "inherent in the criminal law and its administration," the Court declared.

A few justifications are used to explain the widespread use of pleas. In cases that involve organized crime, prosecutors can use plea bargains to advance the case, extracting information from low-level offenders and pushing further up the criminal hierarchy. Pleas can also provide genuinely good deals to people facing long prison sentences. Most fundamentally, basic economics supports their use. Trials are expensive and protracted. Two rational parties, goes the logic, can more cheaply and quickly come to an agreeable outcome through stripped-down bartering: The prosecutor offers a lenient charge if the defendant foregoes trial and admits guilt.

This final rationale raises tough moral questions, which were perhaps best articulated by Chief Justice Warren Burger in 1971: "An affluent society ought not be miserly in support of justice, for economy is not an objective of the system," he wrote. The court, in other words, should prioritize its profound responsibility to sort the guilty from the innocent over the efficient dispatch of criminal defendants. ("Miserly" may be how Church would describe the state's dealings with him in Missouri; he's involved in a class-action lawsuit that argues its understaffed public-defender system doesn't provide sufficient legal counsel.)

But there is also a central practical concern reformers want to mitigate: that spare oversight of the process invests prosecutors with broad, opaque powers. Judges are not regularly allowed to take part when a plea deal is made, and written records of a deal are almost never required. Though jury trials demand proof of guilt beyond a reasonable doubt, pleas follow no standards of evidence or proof; the prosecutor offers a break in exchange for a guilty plea, the defendant decides whether to take it without knowing the merits of his case.

Indeed, the only bargaining restriction placed on prosecutors is that they cannot use illegal threats to secure a plea. "So if a prosecutor says, 'I'll shoot you if you don't plead guilty,' then the plea is invalid," Alschuler explained. "But if he threatens to charge someone with a crime punishable by death at trial and the defendant pleads guilty, then the plea is lawful." Assuming they have probable cause, prosecutors can even threaten to bring charges against a defendant's family in order to extract a plea. For instance, if a defendant's spouse or sibling is complicit in drug trafficking—perhaps they took a call related to the case—a prosecutor can offer to reduce or dismiss charges against the family member if the defendant pleads guilty.

This dynamic, combined with national trends over the last 30 years favoring lengthy mandatory sentences, gives prosecutors inordinate leverage. If a defendant considers going to trial, a prosecutor might hang overhead some charge that carries a mandatory life sentence. A plea of guilty might instead get eight years, or 10 years, "or pick a number," said Matt Sotorosen, a senior trial attorney at the Office of the San Francisco Public Defender. "Even if you have an innocent client, most don't want to take that chance. They'll just take eight years. What if things go south at trial?" The results of this lopsided calculus are evident in data from the National Registry of Exonerations: Of 2,006 recorded exonerations since the project started keeping track in 1989, 362 of those, or 18 percent, were based on guilty pleas.

In theory, abolishing the use of plea bargains wouldn't take much: Prosecutors would simply stop offering deals. That would be that, though the massive influx of trials would jam courts. (Michelle Alexander, author of The New Jim Crow, discussed defendants' deliberately going to trial and "crashing the courts" as a form of resistance to mass incarceration.) But both sides of the debate agree the odds of this happening are infinitesimal. Even Alschuler, who throughout his career remained one of the staunchest critics of plea bargaining, admitted in 2013 that "the time for a crusade" had passed. Instead, he suggested people work to make the criminal-justice system "less awful."

Consistent with this, reformers are exploring two avenues to make plea bargaining either more accountable or less common: The process could be altered to afford defendants more protection, or the jury trial could be simplified to ensure more people take advantage of this right.

"Plea bargaining in the United States is less regulated than it is in other countries," said Jenia Turner, a law professor at Southern Methodist University who has written a book comparing plea processes in several U.S. and international jurisdictions. As a result, states are independently adopting measures to inject the process with more transparency here, more fairness there. In Connecticut, for example, judges often actively mediate plea negotiations, sometimes leaning in with personal opinion on an offer's merit. In Texas and North Carolina, along with a few other states, both sides share evidence prior to a plea.

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Plea Bargaining As A Way Of Life,

continued

Turner suggests that replicating some of these practices across state lines, or standardizing the plea process nationally, could go a long way to equalizing the power between defendants and prosecutors. She also argues that agreements should be recorded in writing, and that sentencing discounts for pleading guilty should be nonnegotiable. In the United Kingdom, for instance, sentence reductions in exchange for a guilty plea follow strict schedules based on when the plea is entered.

There is no obvious recipe for fomenting this kind of reform. The drivers vary "greatly from one jurisdiction to the next," Turner said. But she did concede one common thread that unites jurisdictions invested in changing the plea process: They must be motivated by some overarching values besides efficiency, "like seeking justice," she said, "however that's defined."

The alternative to improved pleas is more trials. A half-step in this direction has long been practiced in Philadelphia, where bench trials—before a judge but no jury—are common. By avoiding the jury-selection process, known as voir dire, bench trials dramatically shorten the length of the proceedings while a defendant's guilt must still be proven beyond a reasonable doubt. In 2015, excluding cases that were dismissed, only 72 percent of criminal defendants in Philadelphia pled guilty, as opposed to 97 percent federally; 15 percent pursued a bench trial.

"The solution in Philadelphia is a very good one given the alternatives," said Keir Bradford-Grey, the chief public defender for the city. "We firmly believe in putting evidence to the test and litigating cases. This program allows for far more trials than we see in other jurisdictions."

John Rappaport, a law professor at the University of Chicago, proposes a more radical idea: If pretrial bargaining with the prosecutor is going to take place, it should embrace more than the basic exchange of guilt for leniency. Defendants should be able to bargain across the trial process itself, offering simplicity in exchange for a lesser charge. What if a defendant agreed to a trial before six or three jurors, instead of 12? Or what if the standards of evidence were downgraded, from beyond a reasonable doubt to a preponderance of the evidence?

"It's all fairly straightforward, and wouldn't require any real administrative framework, but it's foreign," Rappaport said. "If a defense lawyer approached a prosecutor and said, 'Hey, let's do away with voir dire and take the first 12 jurors who walk in the room,' the prosecutor would be taken aback."

He suggests that reforming the plea system to incorporate more trials would expose other problem areas. "Trials are an important window into how the system is functioning—they're a form of audit," Rappaport said. "They shine light on investigatory and prosecutorial behavior and air them publicly." If the police behave badly, this remains buried when defendants take a plea. In this regard, even a heavily pruned trial is favorable to no trial at all. And such a bargaining process would not exist without limits. "The outcome of the trial still has to stem from the application of general legal principles to facts of individual cases," he said. A defendant could not agree to a coin flip, for example, as the determinant of guilt.

Though plea-bargaining started in shadow—fixers, cops twisting inmates' arms—it has since risen to become judicial custom. It is the daily bread of every criminal court in every jurisdiction in the country, and virtually all in service to economics. "We put together the most cumbersome and expensive trial system that the world has ever seen, and then we decided we can't do it for all but a tiny, tiny portion of people," Alschuler said. He reached for a metaphor that he first used almost a quarter-century ago, in an article that sought alternatives to plea deals. His frustration seemed undiminished with time: "It's like trying to solve the transportation problem by giving Cadillacs to 2 percent of the population and making everybody else walk."

The Law Sucks, They're Just Making Criminals Out Of Patients

Last December, the New Zealand government introduced legislation that allows patients with terminal illnesses to legally grow and use their own cannabis. But that doesn't go far enough for cannabis activist Maki Herbert, who wants the law expanded to cover chronic pain so that people like herself don't have to turn to the black market anymore to get marijuana.

"The law sucks," she recently told NewsHub. "They're just making criminals out of us."

People suffering from chronic pain in New Zealand do have some access to medical cannabis, but Herbert says the legal option is hard to get and simply unaffordable for many patients: "A lot of our people can't afford the $1200, $1400 for a spray. We need to be thinking about affordability for our people—it can't be only for the rich because that's what it is at the moment."

Herbert has been producing her own homegrown medications for some time now. She uses her products both to manage her own symptoms of chronic pain and to help treat others in her community with similar problems. This is all illegal under current New Zealand law, but Herbert holds strong saying, "I believe in what I'm doing and there's a whole lot of other people who are like me, believe in what we're doing."

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