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Brothers Behind Bars Newsletter... September 2015 Issue...



NCOM – National Coalition Of Motorcyclists / AIM - Aid for Injured Motorcyclists  
AIM / NCOM - Free Legal And Legislative Consultation

Free All Brothers Behind Bars...

Editor: Mike Davis...

Integrity is doing the right thing, even when no one is watching...

NCOM Sponsors this Newsletter with a donation of \$300.00 per month. NCOM; Richard And Joseph Lester; Attorneys At Law...

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Congratulations to Pharoah Chris on your release to a 1/2 way house...

Congratulations to Renegades Red Dawg on your release to a 1/2 way house...

Editor's Note: I am setting up a benefit for those arrested in Waco. If any of you can send (Donate) me something that you have made or you make, I'll set up a silent auction or something... NCOM Christian Unity will distributing amount is raised... More details later.

The First 2 Items donated by Satans Soldier Angelo – Painting 1 here. Painting 2 will be in the next issue. Thank You Angelo...



Editor's Note: For July there were 2 Issues, For August there were 2 Issues, For September this is the only Issue...

Editor's Note: Currently we are sending over 350 copies of this newsletter to members of 84 Motorcycle Clubs...

Editor's Note: I would like to Thank my Wife "Kari" for getting these Newsletters ready to be mail...

Disclaimer: The News Media does NOT always tell the Whole Truth.. It tends to sensationalize the News to Sell Newspapers.  
In Fact, Many Times the News Media gets the Facts Wrong!!!

**Editor's Note** : It is too hard to keep up with counts, But for your info here are the Clubs that are getting the Brothers Behind Bars Newsletter (**84 Clubs**) in Prison: Avengers, Bandidos, Banshees, Barons, Black Pistons, Boozefighters, BPM, Breed, Brother Speed, Brothers 8, Brotherhood Nomads, Brothers Of Wheels, Cloven Hoofs, Damned Deacon, D.C. Eagles, Death Squad, Derelicts, Devils Diciples, Diablos, El Forastero, Finks, Fly-In-Wheels, Forsaken Few, Free Souls, Estedes, Galloping Goose, Ghost Riders, Grim Reapers, Gypsy Joker, Hellions, Hells Angels, Hells Lovers, Hells Outcasts, Hermanos, Hessians, Hidalgo's, Highwaymen, In Country Vietnam, Iron Coffins, Iron Horsemen, Invaders, Iron Wings, Iron Mustangs, Legion Of Doom, Liberty Riders, Long Riders, Marauder's, Misfits, Mohawk Valley Riders, Moloch, Mongols, Motopsychoz, Nomads, Outlaws, Pagan's, Peckerwood, Phantom's, Pharoahs, Reapers, Red Devils, Renegades, Sadistic, Salty Dogs, Satans Soldiers, Scorpions, Set Free Soldiers, Sin City Deciples, Sons Of Silence, Sovereign, Sundowners, Thunderbirds, Thunderguards, Unforegiven, Unforgiven, Vagos, Vietnam Vets / Legacy Vets, Y-Rohirrin, Warlocks Pa, Warlocks, Winos Crew And Wheels Of Soul... With newsletters going to Australia, Canada, England, France, Finland, Germany, Norway, Scotland, Sweden, & Wales.

**Editor's Note (For BBB Only)**: Being a Patch holder in Good Standings does have it privileges... And this is one of them... If you are a Patch Holder in Good Standings & contact me, include your Chapter too... If you are Not a patch holder of a MC in Good Standings, Don't write me & request that I add you to the mailing list. You will only get rejected, as I only make very few special exceptions.

**Editor's Note**: I would like to Thank all of the contacts from all of the MCs that verify if requesting member is in Good Standing with their Club; & all of the other assistance that you give me, such as address changes, being released, & soliciting donations...

**Editor's Note**: I produce this National Coalition of Motorcyclists Brothers Behind Bars Newsletter which is a non-partisan newsletter for Bikers by Bikers. Information from the Newsletter contains News Articles & other information that may be of interest to a biker behind bars. Financial support for this Newsletter comes mainly from NCOM, Motorcycle Clubs, And Confederations Of Clubs...

**News Article Sources**: All News Articles contained in this NCOM Brothers Behind Bars Newsletter, unless source is specified, are obtained from the following 3 Web Sites: *Road Scholars*(Wolf From Atlanta), Outlaw Biker World, White Trash News & Becky Cakes...

**Editor's Note**: In the interest of Cost Savings, If you can share One copy of this Newsletter where I am sending multiple copies to the same institution, please let me know... *Thanks, Mike*

**The AIM/NCOM Motorcycle E-News Service** is brought to you by Aid to Injured Motorcyclists & the National Coalition of Motorcyclists, & is sponsored by the Law Offices of Richard M. Lester. If you've been involved in any kind of accident, call us at 1-(800) ON-A-BIKE or visit [www.ON-A-BIKE.com](http://www.ON-A-BIKE.com) ...

**Biker Newsbytes**: Compiled & Edited by Bill Bish, NCOM

**Mongols MC Patch Forfeiture Case Dismissed**: In a long-awaited decision with ramifications that could affect all patch-wearing clubs, on Sept 16, 2015 Fed District Judge David O. Carter issued a dismissal of the Govt's most recent attempt to seize the Mongols MC's name & patch. In the case titled United States of America versus Mongols Nation, Judge Carter saw the key legal question in the case as the "distinctness" between a "person" & "an 'enterprise' that is not simply the same 'person' referred to by a different name." In layman's terms, the good news is that the Govt's indictment is hereby dismissed pending appeal, which appears unlikely. "We won," said Richard Lester, a California-based attorney who has rallied support for defense of the patch forfeiture case through various Confederations of Clubs around the country & the National Coalition of Motorcyclists, organizations he helped to establish. "We didn't win the day on key legal points, & the court's decision didn't make the statement we wanted to make in defending the patch, but we won." The protracted litigation against the Mongols MC on racketeering charges began Oct 21, 2013 when the indictment against the club was unsealed. Although the club won its first trial, the judge's ruling was poorly written & welcomed the charges to be properly re-filed. While the constitutionality of seizing the Mongols insignia -- or the insignia of any MC -- remains unresolved under the dismissal, Judge Carter did rule that the Gov't cannot indict a club as an "enterprise" for racketeering without also indicting a group who can be actually punished; noting that the indictment makes "no meaningful distinction between the association Mongol Nation & the enterprise of the Mongols Gang," which is good news for all MCs. The prosecution, & subsequent persecution, of the club as a whole was designed to bankrupt the Mongols with mounting legal fees, but money has been raised by both the Mongols club & through the "Save the Patch" effort launched by the COCs & NCOM, & the Trademark Defense Fund I will continue to accept donations until the enormous debt is retired or if needed for a Gov'tal appeal.

**Congressional Measure Addresses Motorcyclist Safety**: A Congressional sub-committee has approved 2 motorcycle safety measures for inclusion in the Fed highway bill; one to de-fund motorcycle-only checkpoints, & another to prohibit the DOT from lobbying on any pending legislation. On Sept 10, the Subcommittee on Research & Technology of the U.S. House Science, Space & Technology Committee passed the 2 amendments to the "Surface Transportation Research & Development Act of 2015" to be incorporated in the House version of the surface transportation authorization bill.

**Amendment No. 036** directs a study to be conducted to determine the most effective methods of preventing motorcycle crashes, & further bars Fed funding to states to conduct motorcycle-only checkpoints until the research is completed.

**Amendment No. 037** prohibits the Dept of Transportation from lobbying on any pending Fed, state or local legislation. The current "NHTSA Lobby Ban" only prevents the Fed DOT from lobbying at the state level. The U.S. Senate's version of the highway funding bill already contains language to prohibit Fed funding of motorcycle-only checkpoints.

**NTSB Calls for Collision Avoidance Systems for All Vehicles**: In a report released June 8, the National Transportation Safety Board outlined the life-saving benefits of currently available collision avoidance systems, & recommends that the technology become standard on all new passenger & commercial vehicles. "You don't pay extra for your seatbelt," said Chairman

Christopher A. Hart. “And you shouldn’t have to pay extra for technology that can help prevent a collision altogether.” **NTSB’s** Special Investigation Report, “The Use of Forward Collision Avoidance Systems to Prevent & Mitigate Rear-End Crashes,” stresses that collision avoidance systems can prevent or lessen the severity of rear-end crashes, thus saving lives & reducing injuries. According to statistics from the **National Highway Traffic Safety Administration**, rear-end crashes kill about 1,700 people every year & injure half a million more. More than 80% of these deaths & injuries might have been mitigated had the vehicles been equipped with a collision avoidance system. Citing slow progress as a major safety issue, the report notes that a lack of incentives & limited public awareness has stunted the wide adoption of collision avoidance technology. Only 4 out of 684 passenger vehicle models in 2014 included a complete forward collision avoidance system as a standard feature. In the report, the **NTSB** recommends that manufacturers make collision avoidance systems standard equipment in newly manufactured vehicles.

**Missouri Mounted Plates:** In a measure signed into law on July 13 by Missouri Governor Jay Nixon, SB254 modifies provisions relating to motor vehicle license plates, allowing trailer & motorcycle license plates to be mounted horizontally or vertically on the left rear of the motor vehicle.

**New York Adventure License Plates:** The N.Y. State DMV has unveiled the 9 new “I Love NY Adventure Custom Plates” designed especially for motorcycles. There are 3 themes (hunting, fishing, & parks) for a total of 9 new designs that are available to anyone holding a valid Dept of Environmental Conservation sporting license or Parks Empire Passport. The **N.Y. DMV** also offers custom motorcycle plates for military & veterans, police organizations, medical doctors, the **AMA & HOG**. Historical & vintage motorcycle plates are also available.

**Painted Messages at Accident Scenes to Spark Awareness:** Coroners in 6 counties in North Carolina will soon use a stencil to spray paint on the road a cross & message that says; “Look Twice Save A Life” at the scene of all deadly motorcycle accidents. Anderson County Deputy Coroner Don McCown said he hopes this warning message prominently displayed at fatal accident sites will increase awareness & decrease the number of accidents involving motorcycles. “We’re hoping it will remind the public that someone died at this location, & more than likely they died of distracted driving or someone not being aware of their surroundings,” explained McCown, adding that the number one reason given for most deadly motorcycle accidents is that the driver never saw the rider. “There are a lot of motorcycle riders out this time of year & we have to share the road.”

**Allstate Donates Warning Signs at Dangerous Intersections:** Allstate insurance company & its engineering partners are working closely with local traffic authorities to review available crash data & to identify intersections with a high number of multi-vehicle crashes involving motorcycles. Allstate then donates warning signs to be installed at the site with the intent of elevating awareness of motorcycle incidents that would not be readily apparent to a driver. The warning signs used in the campaign are yellow diamond warning signs that read “Watch For Motorcycles.” Allstate worked in conjunction with the Fed Highway Administration to design the current sign to ensure compliance with section 2A.06 paragraph 13 of the M.U.T.C.D. The **National Highway Safety Administration**, in their Fatality

Analysis Reporting System, supports the Hurt Report’s findings, showing 46% of all multi-vehicle motorcycle crash fatalities (8,107 out of 17,470 fatalities from 2006-2012) occurred at intersections. This data shows that, on average, 3 motorcyclists are killed every day from multi-vehicle crashes at intersections in the US.

**Motorcycle Helmet Cameras “Illegal” Down Under:** A motorcycle rider “down under” unsuccessfully challenged a citation for using a camera attached to his helmet, setting an important legal precedent for riders in the Australian state of Victoria. Victorian police cited a technicality within the rules to argue the camera was an “unauthorised alteration” to an otherwise Australian Standards-approved helmet. Items that protrude more than 5mm from the helmet surface are deemed illegal attachments, the police argue, & therefore render the helmet non-compliant with the Australian Standards. In other words, as far as Victoria Police were concerned, it’s as if the rider wasn’t wearing an Australian Standards-approved helmet at all. In all Australian states & territories, motorcycle riders must wear a helmet approved by Australian Standards while riding. As a landmark ruling by a Victorian court, the decision effectively bans motorcycle riders in that state from wearing helmets with cameras attached, but meanwhile police in other states enforce the laws much differently. So while riders in Victoria are now fair game & have even reportedly been fined for attaching tinted visors to their helmets, & New South Wales police have already been targeting riders for wearing cameras, police in Western Australia & QLD wear helmet cameras themselves -- the very act that has seen motorcyclists fined in NSW &, now, Victoria. “Riders tell us they wear helmet cameras to improve their safety while on the roads & that drivers & other road users show more care when there is a camera in use,” said the rider’s lawyer, who is considering an appeal. “Riders should not be penalized for trying to improve the safety of their riding,” he said, adding that cameras are also ideal for capturing evidence during a collision.

**Civil Forfeiture Laws Legalize Property Seizures:** The recent attempt by the Gov’t to seize the patches of MCs has focused attention in the motorcycle world on civil forfeiture laws. What started off as a measure to cripple drug kingpins & crush their criminal empires by confiscation of their property has morphed into an often abused L.E. tactic that harms blameless citizens. “Civil forfeiture” is the legal procedure which allows police to seize property suspected of being related to a crime, & in testimony given before a citizen commission, one police chief was surprisingly frank in referring to assets seized as “pennies from heaven,” & said the money acquired was sometimes used to buy “toys” that the Dept could not usually afford. Under state & Fed law, police Depts can seize & keep property that is suspected of involvement in criminal activity. Unlike criminal asset forfeiture, however, with civil forfeiture, a property owner need not be found guilty of a crime -- or even charged -- to permanently lose their cash, car, home, or other personal property merely on suspicion that a crime might have been committed. No hearing is held prior to seizure, which occurs abruptly without any notice or warning whatsoever. Although civil forfeiture doesn’t draw criminal charges against the owner, it does deprive him of his property without due process based solely on an officer’s “reasonable suspicion,” & a portion of the assets seized typically is retained by the police Depts who seized the property in the first place. In 2012, \$4.5 billion was acquired via civil forfeitures in tens of thousands of instances nationwide, & in most cases the value of

the assets seized was less than what it would cost to hire an Atty to go to court to win it back. Asset forfeitures have been abused by many police Depts, but like the Mongols MC & other MCs, citizens are starting to fight back. Americans from all sides of the political spectrum have started to expose the dangers of civil forfeiture, & members of Congress from both sides of the aisle have introduced legislation to reform the Fed civil forfeiture laws. Reforms of state laws have also been called for.

**Quotable Quote:** “If you do not take an interest in the affairs of your Gov’t, then you are doomed to live under the rule of fools.” - Plato (428-347 BC) Greek philosopher, student of Socrates & teacher of Aristotle

**Mongols Nation Conclusion Nears** - July 28, 2015 – *California* – By The Aging Rebel; [www.AgingRebel.com](http://www.AgingRebel.com) - Expect the Mongols Nation case to be dismissed by Judge David O. Carter next Mon afternoon. A hearing on the dismissal is scheduled for 2 p.m. in Carter’s courtroom in the Ronald Reagan Fed Building & Courthouse in Santa Ana, Calif. The case has attracted Nat’l attention. At issue is the question of whether the Gov’t, or a couple of rogue Fed prosecutors named Christopher Brunwin & Stephen R. Welk, can forbid members of the Mongols MC from wearing the club’s distinctive insignia. Brunwin & Welk have made careers of this. They attempted to seize the Mongols trademarks in a criminal case called U.S. versus Cavazos & others & again in a civil case named Ramon Rivera versus Kenneth E. Melson, Acting Dir, ATF & others. They lost both those cases. American Civil Liberties Union atty David Loy who represented Rivera called the attempted seizure of the Mongols patch “an outrageous violation of the 1st Amendment, & an absolute abuse of forfeiture & trademark laws.” But Brunwin & Welk continued with what Mongols’ Attys Joseph A. Yanny & Elliot H. Min call “a pointless prosecution.” Mon Judge Carter, will probably, finally put a stop to this, preclude the Gov’t from trying to seize the patch of any other MC & tell Brunwin & Welk, or at least the Dept of Justice, to pay Yanny & Min’s legal fees. Carter will rule on 3 key issues: The forfeitability of the Mongols patches; a legal principal rarely cited in criminal cases called Nonmutual Defensive Collateral Estoppel; & whether the Gov’t & the prosecutors acted “unreasonably, vexatiously & recklessly” in pursuing this case.

**Forfeitability:** If the Gov’t were to win this case the only consequence would be a subsequent attempt to seize the Mongols name & patch. No matter who wins or loses, nobody is going to jail. So the Mongols Attys have asked Judge Carter to rule on the legality of the inevitable attempted seizure now. For the last 6 years, Welk has argued before a succession of Fed judges that there must be a trial before there can be a consideration of the forfeitability of the Mongols patch. For a while he was fond of the slightly lewd phrase, “premature adjudication.” In this case he has argued that he doesn’t know whether the Gov’t will pursue forfeiture or not – which, since it is the only thing the Gov’t has to gain from a 3 month long trial, seems like a transparently mendacious thing to say. In their Reply filed yesterday, the Mongols argue that “no evidence can alter the reality that a collective membership mark as a matter of law is not subject to criminal forfeiture, because the owner of such a mark holds the mark in trust for the members. The Gov’ts insistence that this issue be determined only after conviction is an attempt to put form over substance.... This Court possesses the inherent & supervisory power to conduct its proceedings to avoid unnecessary

procedures.” “Lastly,” the Reply argues, “the law never requires a futile act.... Since the Mongol Nation is an entity & the only named defendant, no individual in this criminal case is subject to incarceration. A guilty conviction without forfeiture would be meaningless & equivalent to this Court rendering an advisory opinion in contravention of Article III of the United States Constitution....Therefore, waiting for conviction before adjudicating forfeiture is a futile act that this Court possesses the power to avoid at any stage of the proceeding.”

**Estoppel:** The Reply also cites a concept called “Nonmutual Defensive Collateral Estoppel.” Briefly stated, the clumsy phrase means that the Mongols, & potentially any other MC, can prevent Gov’t prosecutors from relitigating an issue the Gov’t has previously litigated unsuccessfully in another action against a different party. Yesterday’s Reply argues “the issue of whether the collective membership mark is forfeitable is the identical issue that was previously litigated adversely to the Gov’t in both Rivera & Cavazos.” Depending on what Judge Carter makes of the concept, he may rule that Rivera & Cavazos preclude similar attempts by the Gov’t to seize the insignia of the Vagos, Bandidos, Outlaws, Pagan’s, Warlocks, Sons of Silence or any other MC that has a similar organizational structure. The Hells Angels, because of that club’s unique organizational structure, may already be protected from Gov’t attempts to seize its name & insignia. The Mongols Reply argues defensive estoppel “precludes a plaintiff from relitigating identical issues by merely switching adversaries.... The Gov’ts attempt to obtain the same forfeiture in the instant case violates principles of judicial economy & thus mandates the Gov’t be estopped from relitigating the same issue....”

**Ethics:** The Reply also chastens Brunwin & Welk for their conduct in pursuing the Mongols for the last 7 years. “Gov’t prosecutors have a duty, under Berger v. U.S., to not casually treat the truth like a nose of wax to be twisted, turned, & shaped depending upon what they believe will most please the audience; they have an ethical obligation to the accused; it is not about winning or losing, it is about doing justice. More importantly, the duty of a Gov’t prosecutor is to avoid doing an injustice.” Berger v. U.S., is a 1935 decision in a case about prosecutorial misconduct. In that case Justice George Sutherland defined prosecutorial misconduct as, overstepping “the bounds of that propriety & fairness which should characterize the conduct of such an officer in the prosecution of a criminal offense.” “The USA Atty,” Sutherland wrote, “is the representative not of an ordinary party to a controversy, but of a sovereign whose obligation to govern impartially is as compelling as its obligation to govern at all; & whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done. As such, he is in a peculiar & very definite sense the servant of the law, the 2fold aim of which is that guilty shall not escape or innocence suffer. He may prosecute with earnestness & vigor—indeed, he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.”

**Sanctions:** Yesterday Yanny & Min wrote, “since the inception of this case when the Gov’t attempted in bad faith to judge shop, & in spite of the ethical standards set forth in Berger v. U.S. to which Fed prosecutors are held, the Gov’t has consistently attempted to gain improper & impermissible advantage over the accused in this case that warrants sanctions & dismissal of the

indictment.” “The sleight of hand pleading described in prior sections of this brief coupled with the clear attempt to improperly navigate the instant case into a forum of its choosing is more than enough evidence that the Gov’t has acted improperly & breached its ethical duties set forth in *Berger v. U.S.* to proceed with a pointless prosecution where no one is going to jail even if they win thus wasting everybody’s time & money. This clearly warrants the maximum sanctions permitted by law against the Gov’t & its prosecuting Attys in this case, & the dismissal of the indictment in its entirety.” The dollar amount of the sanctions that may be leveled against the Dept of Justice or Brunwin & Welk remains unknowable but it is possible to guess. In the Rivera case Carter sanctioned the Gov’t \$253,206.78. The money paid Rivera’s lawyers & their costs. “But that was a summary judgment,” Yanny said in a brief phone interview this morning. “We were ready to go to trial.” The dollar difference could be substantial.

**Preliminary hearing details chaotic killing of Pomona officer** - July 28, 2015 – *California* – By Jason Henry, San Gabriel Valley Tribune; [www.PasadenaStarNews.com](http://www.PasadenaStarNews.com) - A Pomona SWAT member in court Tue described an Oct raid on a suspect biker gang member’s San Gabriel home as chaotic following the killing of Pomona Officer Shaun Diamond. Corporal Richard Aguiar breached the front door of the home alongside Diamond, shortly before Diamond was allegedly shot in the back of his neck by one of the residents, David Martinez. “It was chaos, it was mayhem,” Aguiar testified during Martinez’s preliminary hearing. “People were screaming.” Aguiar said he saw Martinez standing inside the home, holding a shotgun, before Martinez tossed the weapon aside & dropped to the floor to surrender. “He was saying ‘I’m sorry, I’m sorry, I thought you were the Mongols,’ “ Aguiar testified. The declaration came at the close of the 1st day in what is expected to be a 2-day hearing, where a judge will decide if Martinez should go to trial for the death of Diamond, a 19-year police veteran. It contradicted statements by investigators who said they executed the raid because Martinez was part of the Mongols MC. His family & a previous atty denied Martinez had any involvement with gangs. During the court proceeding, Martinez’s Atty Edward Esqueda painted a different story from the account given during Aguiar’s testimony, one where his client was not near officers at the time of the gunshot. Martinez’s mother & father, Guadalupe & Arturo, testified they never saw their son in the living room before the shooting, nor did they see a gun on him at any point. According to the couple, they woke up to someone pounding on their front door & at least one officer calling out that they were the police & to “open up.” Arturo Martinez told the court his wife reached the front door first, but that he moved her aside before he opened the inner door. He said despite the porch light being on that he could not see past the family’s locked security door & that he did not hear officers call out “police” more than once. When he reached for the second door’s handle, he recalled a bright light & an “explosion” that tore into his right arm, he testified. The elder Martinez testified he screamed, “The police shot me, the police shot me.” Guadalupe Martinez said at the same time she saw an officer fall backwards off the porch. She believed the “explosion” came from outside the home. She testified she did not see her son until after officers entered the house & brought him out of a bedroom in restraints. Both the family & Aguiar’s accounts diverged on the timeline of the shooting, with Esqueda seemingly pointing his questions toward suggesting friendly fire, without ever directly making the accusation. All of the parties agreed that only one “shot” was heard at any point. Andrew Kim, of the Los

Angeles County District Atty’s Office, discredited claims that shrapnel from a door-breaching explosive may have killed Diamond & injured the Martinez patriarch by having Aguiar describe the sledgehammer-like device that removes the door’s lock. Medical Examiner Ogbonna Chinwah testified that he found several metal fragments during Diamond’s autopsy. Though his report suggested the fragments came from a shotgun, he told the court he was not an expert on ballistics & that he based that on info provided by investigators. According to Chinwah, the wound indicated a shot hit Diamond in the left rear-side of his neck, with the trajectory suggesting the shot came from behind & below Diamond. Chinwah’s autopsy report remains locked under a security hold placed by the Los Angeles County Sheriff’s Dept. It is not publicly available. Much of the testimony Tues tried to place Diamond’s position at the time of his injury, with Aguiar saying his partner on the door turned away from the home before he was shot, which Esqueda questioned as being at odds with Diamond’s tactical training. While Aguiar noted that an officer involved in the raid also carried a shotgun, similar to the one investigators believe Martinez fired, he said the SWAT shotgun only contained non-lethal beanbag rounds. Investigators previously said they confiscated a shotgun from the home registered to Martinez’s wife, Sandra. Martinez’s preliminary hearing continues at 9 a.m. Wed.

**David Martinez Is Still Innocent** - July 29, 2015 – *California* – By The Aging Rebel; [www.AgingRebel.com](http://www.AgingRebel.com) - David Martinez, a Mongols MC member who is accused of fatally shooting Pomona Swat officer Shaun Diamond in the early morning hours of Oct 28, 2014 is innocent. He has always been innocent. He didn’t do it. But he has been the victim of 9 months of pro-police propaganda so it is now questionable whether he can prove his innocence beyond any shadow of a doubt, which is the burden of proof a Mongol accused of killing a cop must meet. Martinez’ family home was one of 7 Mongols homes in Los Angeles County that were simultaneously raided at 4 in the morning – literally in the darkest hour of the night, a little more than 3 hours before dawn – last fall. The raids were supposed to be in search of a gun. No gun was found. The warrants were issued 5 days before on the basis of an affidavit that was sealed because the underlying intelligence was supplied by a confidential informant. The extensive operation was planned by agents in the Glendale, California office of the ATF. The Bureau is at war with MCs in general & the Mongols in particular. It is a secret war which is never mentioned in mass news media. The point of the raids was not so much to find a gun as to punish the 7 Mongols with a violent, destructive, terrifying home invasion by heavily armed, militarized police.

**Hero Etc.:** Diamond was shot just outside Martinez’ front door & he died the next day after he was removed from life support. Since his death he has been almost universally eulogized. For days after his death Los Angeles was festooned with blue ribbons in his honor. His memorial service was held in a sports arena. The Governor & Atty General of California attended. His casket was draped with an American flag. Dozens of doves were released to symbolize his soaring spirit. The service was more about cop glorifying rhetoric than it was about the grief of those who had actually known the man. He was a “top notch guy,” a “wonderful human being,” a “hero” & he was “a rock.” Calif Atty General Kamala D. Harris said, “Pomona Police Officer Shaun Diamond bravely gave his life in the line of duty, & we are enormously grateful for his courage & sacrifice.” There is now a plaza in downtown Pomona, Calif named in his honor. He died, radio talk

show hosts in the nation's second largest media market explained, while "he was only trying to serve a search warrant." Martinez was routinely described as a gang member.

**War On The Mongols:** Diamond's death became a standard around which local police could rally in the ongoing domestic war against MCs. In the last 9 months multi-agency police task forces have been regularly assembled to ruin virtually any gathering of Mongols. Last Jan, such a task force stopped & harassed everyone who came too close to a Mongols party in an industrial section of Los Angeles called Maywood. Tickets were issued & cars & motorcycles were seized for what were obviously manufactured reasons. Members of other clubs were harassed. Men who belonged to no club were harassed. Women were harassed. Afterward, one Mongol said, "They made it clear to certain brothers that this was a direct result of what happened to the cop in the Martinez case." Last April, another multi-agency task force criminally harassed attendees at a Mongols' legal defense fundraiser. Within the last month, Assistant United States Atty Christopher Brunwin has categorized that fundraiser as a racketeering act. A school teacher named Beatriz Paez, who happened to be out taking a walk & who was aware of recent episodes in the Nat'l epidemic of police violence, stopped to video record the harassment on her smart phone. Police told her to stop & when she persisted she was attacked by a United States Deputy Marshal named Steven Kays. She was assaulted & her phone was stolen & smashed. YouTube video briefly made the assault seem sensational rather than routine.

**Friendly Fire:** The arch irony in all this self-righteous police outrage is that it is almost certain that Shaun Diamond died as a result of friendly fire. Police have always been vague about how Diamond, who was wearing body armor & a Fritz helmet, came to be shot in the back of the head. Martinez was inside the home. Diamond, depending on which of the disparate police versions you are inclined to believe, was either on the porch or in the doorway. Usual Swat practice in such raids overwhelmingly suggests that Diamond was facing where Martinez should have been & yet he was shot either in the back of the head or the side of his neck. Police have suggested that Diamond must have turned around at the last, fatal moment. The Los Angeles Times reported, "As Diamond tried to get through an exterior door, an interior door opened & the suspect fired a shotgun at the officer.... Diamond was struck above a tactical vest but – despite wearing a Kevlar helmet – was likely hit in the back of his head.... The suspect's father was also struck in the arm by the blast." Fox News reported that "Diamond was helping to open the outer door of a home in the 100 block of San Marino Avenue when an interior door of the home was opened & a single shotgun blast rang out. Diamond was struck in the back of the head. Police did not return fire." The Los Angeles News Group quoted a police source that, "Diamond was on the porch when the suspect shot him."

**So Sorry:** Last Oct, in a story titled "Framing David Martinez," The Aging Rebel reported that the fatal shot was apparently fired by "a Swat officer standing behind Diamond with his finger on the trigger of a shotgun (who) was jostled as the team broke into the Martinez home." In the same story this page also reported, "Immediately after Diamond was shot the Swat officer standing directly behind the fatally wounded man was heard to exclaim, 'I'm so sorry man! I'm so sorry man! I'm so sorry man!'" The quote was deliberately unattributed in order to protect its source. Yesterday, in a preliminary hearing on the case, a police corporal

named Richard Aguiar, who was the nearest Swat officer to Diamond when he was shot, testified that when Diamond was wounded he saw Martinez inside his home holding a shotgun. "He was saying 'I'm sorry, I'm sorry, I thought you were the Mongols,'" Aguiar testified under oath. David Martinez' father Arturo, who was standing just inside his front door as the police broke in was wounded by a flash bang grenade. He testified yesterday that when he was wounded he screamed "The police shot me! The police shot me!" David Martinez' mother Guadalupe, who was standing next to Arturo Martinez, said that as she heard her husband scream she saw a Swat officer fall backwards on her front porch. She also testified that she did not see her son until after Swat officers entered their house & took him out of a bedroom in chains.

**Bikie gangs face toughest crackdown yet under South Australia's proposals** - July 29, 2015 – *Australia* - By Joshua Robertson, The Guardian; [www.TheGuardian.com](http://www.TheGuardian.com) - Cross-party support secured for bill that could see gang 'participants' jailed for up to 3 years for gathering in public... South Australia is poised to pass the country's most restrictive anti-association laws after political opposition dissolved amid ongoing incidents of bikie violence. The state Labor Gov't has secured Liberal party support for a bill that from next week could see motorcycle gang "participants" jailed for up to 3 years for gathering in public. It did so by agreeing to declare only 10 active gangs in the state as criminal organizations, after an earlier list of 27 gangs copied from 2009 New South Wales laws implicated an innocent social MC. Legal experts say the laws, which will permanently apply even to those who quit gangs, go further than their blueprint in Qld, where bikies have been encouraged to "dissociate". The Qld Labor Gov't is considering repealing its anti-association laws, which are under review & are yet to result in a single conviction. The Pres of the Law Society of South Australia, Rocky Perrotta, said calls by the Liberal opposition for the courts, instead of the Gov't, to rule if gangs were criminal organisations had all but evaporated after a stabbing & a prison bashing involving bikies in recent days. SA's Atty general, John Rau, said the 10 gangs to be declared – which include the Hells Angels, the Rebels & Bandidos – were a "clear & present danger" to the community. The laws are likely to pass parliament this week & take effect by Thursday next week, despite the misgivings of a handful of Liberal MPs. Any gang "participants" who publicly meet in groups of more than 2 face a mandatory 6 months to 3 years in jail. Perrotta said they would allow a repeat of the Qld case of Sally Kuether, a librarian with no criminal record who was charged for going to a pub with her bikie boyfriend & his clubmate. The case was later dropped. The high court has struck down SA's previous criminal organization laws targeting bikies. However, a Qld Univ of technology criminologist, Mark Lauchs, said a challenge of Qld laws by Hells Angel Stefan Kuczborski in 2014 showed the high court was unlikely to strike down anti-association laws. This "wouldn't fly in America" due to its bill of rights but the Australian high court seemed to indicate there was a guarantee only of "freedom of political association, not freedom of criminal association", Lauchs said. Lauchs said it was impossible to tell whether the anti-association laws in Queensland had been instrumental in enabling police to combat organized crime in bikie gangs. "The best I can determine, the thing that's working is better police powers & resources because that's how they catch this massive rate of arrests & charges," he said. "It's coming from the fact they finally got cooperation from the feds & proper resources & dedicated staff. That's really what's making it all work. "In practice, all the [anti-

association laws] have led to is stopping physical association. There are lots of ways to associate. Is anyone checking their Facebook pages, tapping their phones? “One question is, what’s a good policy – is it to stop organized crime or is it to remove the fear of organized crime from the public? If it’s the second one, the anti-association process was absolutely necessary because that’s what the people of the Gold Coast really loved, these guys are gone, they don’t see them any more. “The problem with the anti-association law is it’s unfair to the guys that aren’t doing anything wrong. But at the same time, they’re kicking their own goals by not getting the guys out of the club. There’s a lot of ways they could take action to solve their own problem where they go back to the 80s & everyone just left them alone. They didn’t even appear in the press.”

**Waco Won’t Play Fair** - July 30, 2015 – *Texas* – By The Aging Rebel; [www.AgingRebel.com](http://www.AgingRebel.com) - At the end of June McLennan County, the ethical cesspool that surrounds Waco, hired a good old local boy Atty named David Deaconson to represent Justice of the Peace W.H. “Pete” Peterson. Peterson is the mooncalf who decided to charge 177, or 182, people he knew nothing about with engaging in organized criminal activity in order “to send a message.” No. No rational person knew what he was talking about. In an interview with the Waco Tribune-Herald, he sort of explained, “We had 9 people killed in our community. These people just came in, & most of them were from out of town. Very few of them were from in town.” There is no need to speculate why Peterson might need a lawyer. Waco will explain that very soon, right after it releases the video & ballistics evidence & the autopsy reports.

**Deaconson:** At the time the County hired Deaconson, he claimed defense lawyers were “harassing” Peterson. He announced he was giving the county a break on price by charging only \$250 an hour instead of his usual \$280. Deaconson is also the City Atty for the grim Waco suburb of Lacy Lakeview & an adjunct professor for Baylor Univ School of Law where he teaches the art of the “mock trial.” According to the Tribune-Herald, Deaconson is serving as a “liaison” between “biker defense Attys” & “the courts.” Whatever that turns out to mean, it may come as a surprise to most of the defense Attys. Apparently, one of his several official roles is to be a sort of general spokesman on the Twin Peaks case. You know, what is true & not. What is good law & what is poppycock. Who is naughty & who is nice. That sort of thing. Tue he told the local paper about a retired judge “from Travis County” who may preside over the “examining trials” of a score of the bikers arrested May 17. One of them is Matt Clendennen, who is also threatening to sue most of official Waco in Fed court. Clendennen & his lawyer, Clint Broden, are forbidden by court order to talk about Clendennen’s case but “Pete” Peterson’s lawyer is not. Tues the Tribune reported Deaconson told the judge who will appoint Peterson’s successor “that an out-of-town judge might quell more criticism about what the bikers & their supporters are calling the unfair McLennan County justice system.” Deaconson said, “If the administrative judge has graciously offered to give us assistance as far as a judge on all of this, I just think if we bring in one who can devote his time, we can get the process on the examining trial side done much more efficiently & there isn’t any concern, be it from the media, or the public or whomever, (sic) that the county is totally trying to scheme against these people.” He also said examining trials are “not needed.”

**Broden:** Broden read Deaconson’s interview in the paper along with everybody else. Yesterday he filed a supplement to his motion to lift his gag order that complained: “Mr. Clendennen & his counsel are subject to the gag order entered by the Judge of the 54th District Court, Matt Johnson, & cannot publicly speak to this matter of grave public concern to our justice system. Nevertheless, the agent for Judge Peterson is permitted to give statements to the press at will.” “Moreover, Mr. Clendennen strongly disagrees with the public comments by Judge Peterson’s agent that implies that a belief that ‘the county is totally trying to scheme against these people’ is unfounded & that ‘examining trials are not needed unless defendants are in jail & seeking another way out.’ ... this is yet another example of why the gag order in this case is unworkable.... Mr. Clendennen is unable to respond to any of these comments. For example, in this instance, Mr. Clendennen is denied free speech rights to address why he is seeking an examining trial despite the fact that he is not ‘in jail & seeking another way out.’”

**MC fire under investigation** – July 30, 2015 – *Alabama* – By [www.abc3340.com](http://www.abc3340.com) - Birmingham Fire & Rescue is investigating a fire at a MC on 27th St N. at 35th Ave N. Police tell ABC 33/40, firefighters were called out to the scene around 1:00 a.m. to put out a fire in a trash can. They were called back out to the scene about 30 minutes later, when someone called to report the door of the building was on fire. Right now, police are not releasing any other info.

**Official Harley-Davidson Indicia** - July 30, 2015 – *Nebraska* - Three men in Lincoln, Nebraska were charged yesterday with stealing another man’s “MC jacket.” At precisely 11:38 Tue night, according to the Lincoln Journal Star, they demanded he give them his “jacket” & “when he refused, they punched him in the head, kicked him in the groin, choked him & took his jacket.” It is probably an incomprehensible crime to some readers. It is certainly incomprehensible to the management of the H-D Motor Company. It might be reasonable to speculate that the victim was wearing what seemed to be MC insignia & members of MC who thought that the display of that insignia was insulting took it away from him. It is a not unheard of crime. In a story published here in Sept 2008 a Royal Canadian Mounted Police Constable named Stephen MacQueen warned novice bikers that club members often “discourage the use of any patch that resembles theirs.” He also warned that the letters “MC” stand for MC & should not be used by people who do not actually belong to a MC. Of course that was before Sons Of Anarchy taught millions of Walter Mittys to nurture & grow their outlaws within.

**Heavy Distressing:** Still some readers were surprised to see this in their local dealerships – a cutoff denim vest with what seems to be a club patch featuring a crude skull & an MC cube. Harley calls it a “Men’s Vintage Denim Vest.” Harley says, “Frayed armholes & heavy distressing give our Vintage Denim Vest an authentic aged look. Embroidered graphics & a distressed back appliqué give more of a throwback vibe. If you’re looking for the classic men’s denim vest that captures our style & spirit, you found it.” And you can get one either by going into a Harley dealer with 6 twenty dollar bills, plus tax where applicable, or by waiting outside to punch someone wearing one in the head & then kicking him in the groin. Your call. Harley further explains that this “100% cotton denim” item of clothing “is heavily distressed, torn, & tinted for a lived-in look.” It also features a “button front, snap-down collar, & button waist tabs, 2 button flap chest pockets & 2

snap hand-warmer pockets, hex rivets on the shoulders & chest pockets, embroidered graphics on the front right hem & right chest, a metal badge on the left chest & printed, embroidered, & distressed raw-edge appliqué graphics on back.” The Aging Rebel emailed H-D’s media relations Dept Tues & asked, among other things, “if someone at the Motor Company would explain the thinking, if any, behind this consumer product. Do you understand why some people might find it offensive? Do you understand why it might be dangerous for some of your customers to wear this ersatz insignia?” Harley ignored the email.

**Hells Angels arrested on weapons charges** - July 31, 2015 – *California* – By [www.FresnoBee.com](http://www.FresnoBee.com) - Three members of the Hells Angels motorcycle gang were arrested Thu evening on weapons charges after a traffic stop in central Fresno, police reported. Sgt. Brian Valles said officers from the Violent Crime Impact Team pulled over a car driven by Charles Dilks, 26, of Fresno for a traffic violation at Fresno & McKinley avenues. Dilks did not have a driver’s license & dropped a knife when he was asked to step out of the car. Valles said the other occupants of the car were Masan Baran, 26, & Arthur Carasis, 60, both of Fresno. Police spotted a handgun on the floor of the car, which prompted a further search that yielded 4 loaded handguns & a shotgun. Another shotgun was discovered after police obtained a warrant to search Baran’s residence. The 3 were booked on weapons violations.

**Being Stephen Stubbs** - July 31, 2015 – *Nevada* – By The Aging Rebel; [www.AgingRebel.com](http://www.AgingRebel.com) - Las Vegas Atty Stephen P. “Bowtie” Stubbs won one & lost one yesterday. Stubbs has been virtually at war with Nevada police, generally on behalf of various biker causes, for the last 4 years. Without getting lost in the details: In Jan 2012, a lecture Stubbs was giving on Constitutional law to a group of bikers in North Las Vegas was interrupted by police. When Stubbs tried to advise the attendees a cop told him, “there is no right to counsel on the streets of North Las Vegas, only in a court room.” Stubbs represented the Mongols MC when they held their Nat’l run in Boulder City, Nevada in June 2012 & that same month he filed Fed civil rights lawsuits on behalf of members of the Mongols, the Stray Cats MC & the Southern Nevada Confederation of Clubs. The suits complained that the bikers “were willfully, maliciously, & intentionally prevented from associating and/or assembling without justification or compelling state interest as a result of their status as a MC or MC member.” He accused former Boulder City Police Chief Thomas Finn of attempting to destroy evidence. Finn sued Stubbs for defamation. Stubbs sought & won the dismissal of Finn’s defamation suit under Nevada’s anti-Strategic Lawsuit Against Public Participation, or anti-SLAPP, statute. SLAPPs are lawsuits that are filed by public officials & agencies to intimidate or censor their critics by forcing those critics to defend themselves against the lawsuit until they abandon their criticism. Stubbs won his dismissal & was awarded \$15,760. At least partly as a result of his ongoing battle with Stubbs, Finn was fired in April 2013.

**Finn Fights Back:** Stubbs was arrested & charged with Obstructing a Public Officer in November 2013, after he refused to walk away from a Bikers for Christ MC patch holder who was being detained by police. After the arrest, Stubbs was the subject of an investigation by the Las Vegas Metro Gang Task Force. Meanwhile, former Chief Finn seems to have become obsessed with Stubbs. He obtained one of Stubbs laptop computers & in November 2014 he sent the computer to an FBI agent along with

an allegation that it contained “evidence of tax evasion, tax fraud & money laundering.” Finn also sent the IRS’ Criminal Investigations Unit a document titled “Stephen P. Stubbs/Donald F. Gilbert, Jr. Fraud Timeline” that began: “I believe Las Vegas Atty Stephen P. Stubbs engaged in a calculated scheme with his client Donald Gilbert, to launder money through Stubbs’ Atty trust account. . . .” Last Nov, the Metro Gang Task Force leaked a story to the Las Vegas Review-Journal that Stubbs was being investigated for forging a “plea agreement in court without his client’s knowledge.” Last February Stubbs was charged with 2 felony counts of “offering a false instrument for filing or record “and 2 gross misdemeanor counts of “unlawful notarization of signature by a notary public.”

**Bad Notary:** Stubbs seems to have been set up. He had defended a man named James L. Green on charges of drunk driving & Green later “cooperated with police.” Green said a notarized signature on a plea agreement negotiated by Stubbs was not his. Stubbs later admitted that he had notarized Green’s signature even though Green was not present, after Green’s girlfriend delivered the signed plea deal to him. Yesterday, Stubbs agreed to plead guilty to “unlawful notarization of signature by a notary public.” He is expected to formally enter his plea on August 10. This morning Stubbs said, “the Gang Task Force, which investigates MCs, did a 6 month long investigation with grand jury subpoenas & warrants. The only thing they found was that I wrongfully notarized one document. I’m pleading guilty to one count of wrongly notarizing one document. That was the only legitimate charge against me.” Also yesterday, a Nevada Judge ordered Finn to pay Stubbs \$10,000 in punitive damages plus legal fees.

**Fed Highway Bill Progress** – July 31, 2015 – *Washington, D.C.* – By Jeff Hennie; MRF - This week saw the most movement on the Highway bill in years. The good news is that the Senate passed a 6-year bill with a solid bipartisan majority. The bad news is that, while Congress has been working for 6 years to get a long-term bill, they opted to instead pass another short-term extension. This is the 34th extension over the past 6 years, with funding remaining flat or decreasing for some programs. The problem with short-term extensions is that they give no confidence for State & Local Gov’ts to plan on the long-term Fed money that they have been promised for construction projects such as roads or bridges – that’s why so many of them are in such poor condition & are labeled structurally deficient. More good news: the Senate bill has language to end the Fed funding of roadside motorcycle-only checkpoints, includes some language to define autocycles, & includes Fed funding for motorcycle safety. We also had an amendment in the Senate, filed by Senator Ron Johnson (R-WI), which would have reinstated a Fed motorcyclist’s advisory council to the Secretary of Transportation. Due to timing constraints, no amendments from the Senate were able to be offered; instead any amendments will have to happen in the House. In a perfect world, the House of Representatives would take up the Senate bill, amend it, then form a conference committee to iron out the differences between the House & Senate, pass that bill through both chambers & send it to Pres Obama for signature, all before the latest short-term patch expires on Oct 29th. So, will we have either a treat for Halloween or a trick. I’m betting on the latter, but lets hope I am wrong. I hope everyone that is at Sturgis is having a great summer vacation!

**Smile** for the Day...!!!

**Biker Authority Arrested** - Aug 1, 2015 – *Texas* – By The Aging Rebel; [www.AgingRebel.com](http://www.AgingRebel.com) - Widely quoted “outlaw biker authority” James F. Quinn has been charged with 9 felony counts of possession of child pornography. Quinn is a former professor of criminology at the Univ of North Texas in Denton & the author of numerous works about bikers including: “Outlaw Motorcycle Gangs: Aspects of the One-Percenter Culture for Emergency Dept Personnel to Consider;” “The Tools, Tactics, & Mentality of Outlaw Biker Wars;” “Leathers & Rolexes: The Symbolism & Values of the MC;” “The Nature of Criminality Within One-Percent MCs;” “Angels, Bandidos, Outlaws, & Pagan’s: The Evolution of Organized Crime Among the Big Four 1% MCs;” “Sex & Hedonism Amongst One-Percenter Bikers;” “The Organization of 1% Outlaw MCs;” “One Percenter Women: An Evolving Typology;” & “Motorcycle Gangs.” Quinn was frequently & widely quoted in Reg’l & Nat’l publications including *The Washington Post* & the *Wall Street Journal* in the days following the Twin Peaks Massacre in Waco on May 17. Quinn gave interviews & his opinions were quoted from May 18 until May 24 when he contributed to a story in *USA Today*. He gave an extended interview to Texas Public Radio on May 20. Bill Whitaker, the opinion editor for the *Waco Tribune-Herald*, quoted Quinn on May 31 in an editorial titled “Complicated biker culture blurs lines on good guys, bad guys, outlaws & wannabes.” During all of this period of his recent celebrity, Quinn knew he had been caught red-handed with child pornography. Two pedophilic videos & 7 pedophilic photographs were discovered on one of Quinn’s computers on May 13. He was arrested & booked into the Denton County jail on May 29. He resigned his tenured position at North Texas on June 4. He was indicted by a grand jury on July 24. He is currently free on \$10,000 bail. He faces 2 to ten years in prison & a maximum \$10,000 fine if he is convicted. He is scheduled to be arraigned Aug 20.

**Training Officers to Shoot First, & He Will Answer Questions Later** – Aug 1, 2015 – *Washington* – By Matt Apuzzo; [www.nytimes.com](http://www.nytimes.com) - The shooting looked bad. But that is when the professor is at his best. A black motorist, pulled to the side of the road for a turn-signal violation, had stuffed his hand into his pocket. The white officer yelled for him to take it out. When the driver started to comply, the officer shot him dead. The driver was unarmed. Taking the stand at a public inquest, William J. Lewinski, the psychology professor, explained that the officer had no choice but to act. “In simple terms,” the district Atty in Portland, Ore., asked, “if I see the gun, I’m dead?” “In simple terms, that’s it,” Dr. Lewinski replied. When police officers shoot people under questionable circumstances, Dr. Lewinski is often there to defend their actions. Among the most influential voices on the subject, he has testified in or consulted in nearly 200 cases over the last decade or so & has helped justify countless shootings around the country. His conclusions are consistent: The officer acted appropriately, even when shooting an unarmed person. Even when shooting someone in the back. Even when witness testimony, forensic evidence or video footage contradicts the officer’s story. He has appeared as an expert witness in criminal trials, civil cases & disciplinary hearings, & before grand juries, where such testimony is given in secret & goes unchallenged. In addition, his company, the Force Science Institute, has trained tens of thousands of police officers on how to think differently about police shootings that might appear excessive. A string of deadly police encounters in Ferguson, Mo.; North Charleston, S.C.; & most recently in Cincinnati, have

prompted a national reconsideration of how officers use force & provoked calls for them to slow down & defuse conflicts. But the debate has also left many police officers feeling unfairly maligned & suspicious of new policies that they say could put them at risk. Dr. Lewinski says his research clearly shows that officers often cannot wait to act. “We’re telling officers, ‘Look for cover & then read the threat,’ ” he told a class of Los Angeles County deputy sheriffs recently. “Sorry, too damn late.” A former Minnesota State professor, he says his testimony & training are based on hard science, but his research has been roundly criticized by experts. An editor for *The American Journal of Psychology* called his work “pseudoscience.” The Justice Department denounced his findings as “lacking in both foundation & reliability.” Civil rights lawyers say he is selling dangerous ideas. “People die because of this stuff,” said John Burton, a California lawyer who specializes in police misconduct cases. “When they give these cops a pass, it just ripples through the system.” Many policing experts are for hire, but Dr. Lewinski is unique in that he conducts his own research, trains officers & internal investigators, & testifies at trial. In the protests that have followed police shootings, demonstrators have often asked why officers are so rarely punished for shootings that seem unwarranted. Dr. Lewinski is part of the answer.

*An Expert on the Stand:* While his testimony at times has proved insufficient to persuade a jury, his record includes many high-profile wins. “He won’t give an inch on cross-examination,” said Elden Rosenthal, a lawyer who represented the family of James Jahar Perez, the man killed in the 2004 Portland shooting. In that case, Dr. Lewinski also testified before the grand jury, which brought no charges. Defense lawyers like Dr. Lewinski, Mr. Rosenthal said. “They know that he’s battle-hardened in the courtroom, so you know exactly what you’re getting.” Dr. Lewinski, 70, is affable & confident in his research, but not so polished as to sound like a salesman. In testimony on the stand, for which he charges nearly \$1,000 an hour, he offers winding answers to questions & seldom appears flustered. He sprinkles scientific explanations with sports analogies. “A batter can’t wait for a ball to cross home plate before deciding whether that’s something to swing at,” he told the Los Angeles deputy sheriffs. “Make sense? Officers have to make a prediction based on cues.” Of course, it follows that batters will sometimes swing at bad pitches, & that officers will sometimes shoot unarmed people. Much of the criticism of his work, Dr. Lewinski said, amounts to politics. In 2012, for example, just seven months after the Justice Department excoriated him & his methods, department officials paid him \$55,000 to help defend a Fed drug agent who shot & killed an unarmed 18-year-old in California. Then last year, as part of a settlement over excessive force in the Seattle Police Department, the Justice Dept endorsed sending officers to Mr. Lewinski for training. & in Jan, he was paid \$15,000 to train Fed marshals. If the science is there, Dr. Lewinski said, he does not shy away from offering opinions in controversial cases. He said he was working on behalf of one of two Albuquerque officers who face murder charges in last year’s shooting death of a mentally ill homeless man. He has testified in many racially charged cases involving white officers who shot black suspects, such as the 2009 case in which a Bay Area transit officer shot & killed Oscar Grant, an unarmed black man, at close range. Dr. Lewinski said he was not trying to explain away every shooting. But when he testifies, it is almost always in defense of police shootings. Officers are his target audience — he publishes a newsletter on police use of force that he says has nearly one million subscribers — & his research

was devised for them. “The science is based on trying to keep officers safe,” he said. Dr. Lewinski, who grew up in Canada, got his doctorate in 1988 from the Union for Experimenting Colleges & Universities, an accredited but alternative Cincinnati school offering accelerated programs & flexible schedules. He designed his curriculum & named his program police psychology, a specialty not available elsewhere.

**‘Invalid & Unreliable’:** In 1990, a police shooting in Minneapolis changed the course of his career. Dan May, a white police officer, shot & killed Tyce Nelson, a black 17-year-old. Officer May said he fired after the teenager turned toward him & raised a handgun. But an autopsy showed he was shot in the back. Dr. Lewinski was intrigued by the apparent contradiction. “We really need to get into the dynamics of how this unfolds,” he remembers thinking. “We need a lot better research.” He began by videotaping students as they raised handguns & then quickly turned their backs. On average, that move took about half a second. By the time an officer returned fire, Dr. Lewinski concluded, a suspect could have turned his back. He summarized his findings in 1999 in *The Police Marksman*, a popular magazine for officers. The next year, it published an expanded study, in which Dr. Lewinski timed students as they fired while turning, running or sitting with a gun at their side, as if stashed in a car’s console. Suspects, he concluded, could reach, fire & move remarkably fast. But faster than an officer could react? In 2002, a third study concluded that it takes the average officer about a second & a half to draw from a holster, aim & fire. Together, the studies appeared to support the idea that officers were at a serious disadvantage. The studies are the foundation for much of his work over the past decade. Because he published in a police magazine & not a scientific journal, Dr. Lewinski was not subjected to the peer-review process. But in separate cases in 2011 & 2012, the Justice Dept & a private lawyer asked Lisa Fournier, a Washington State Univ professor & an *American Journal of Psychology* editor, to review Dr. Lewinski’s studies. She said they lacked basic elements of legitimate research, such as control groups, & drew conclusions that were unsupported by the data. “In summary, this study is invalid & unreliable,” she wrote in court documents in 2012. “In my opinion, this study questions the ability of Mr. Lewinski to apply relevant & reliable data to answer a question or support an argument.” Dr. Lewinski said he chose to publish his findings in the magazine because it reached so many officers who would never read a scientific journal. If he were doing it over, he said in an interview, he would have published his early studies in academic journals & summarized them elsewhere for officers. But he said it was unfair for Dr. Fournier to criticize his research based on summaries written for a general audience. While opposing lawyers & experts found his research controversial, they were particularly frustrated by Dr. Lewinski’s tendency to get inside people’s heads. Time & again, his reports to defense lawyers seem to make conclusive statements about what officers saw, what they did not, & what they cannot remember. Often, these details are hotly disputed. For example, in a 2009 case that revolved around whether a Texas sheriff’s deputy felt threatened by a car coming at him, Dr. Lewinski said that the officer was so focused on firing to stop the threat, he did not immediately recognize that the car had passed him.

**Inattentional Blindness:** Such gaps in observation & memory, he says, can be explained by a phenomenon called inattentional blindness, in which the brain is so focused on one task that it blocks out everything else. When an officer’s version of events is

disproved by video or forensic evidence, Dr. Lewinski says, inattentional blindness may be to blame. It is human nature, he says, to try to fill in the blanks. “Whenever the cop says something that’s helpful, it’s as good as gold,” said Mr. Burton, the Calif lawyer. “But when a cop says something that’s inconvenient, it’s a result of this memory loss.” Experts say Dr. Lewinski is too sure of himself on the subject. “I hate the fact that it’s being used in this way,” said Arien Mack, one of two psychologists who coined the term inattentional blindness. “When we work in a lab, we ask them if they saw something. They have no motivation to lie. A police officer involved in a shooting certainly has a reason to lie.” Dr. Lewinski acknowledged that there was no clear way to distinguish inattentional blindness from lying. He said he had tried to present it as a possibility, not a conclusion. Almost as soon as his research was published, lawyers took notice & asked him to explain his work to juries. In Los Angeles, he helped authorities explain the still-controversial fatal shooting of Anthony Dwain Lee, a Hollywood actor who was shot through a window by a police officer at a Halloween party in 2000. The actor carried a fake gun as part of his costume. Mr. Lee was shot several times in the back. The officer was not charged. The city settled a lawsuit over the shooting for \$225,000, but Mr. Lewinski still teaches the case as an example of a justified shooting that unfairly tarnished a good officer who “was shooting to save his own life.” In Sept 2001, a Cincinnati judge acquitted a police officer, Stephen Roach, in the shooting death of an unarmed black man after a chase. The officer said he believed the man, Timothy Thomas, 19, was reaching for a gun. Dr. Lewinski testified, & the judge said he found his analysis credible. The prosecutor, Stephen McIntosh, however, told *The Columbus Dispatch* that Dr. Lewinski’s “radical” views could be used to justify nearly any police shooting. “If that’s the sort of direction we, as a society, are going,” the prosecutor said, “I have a lot of disappointment.” Since then, Dr. Lewinski has testified in many dozens of cases in state & Fed court, becoming a hero to many officers who feel that politics, not science or safety, drives police policy. For example, departments often require officers to consider less-lethal options such as pepper spray, stun guns & beanbag guns before drawing their firearms. “These have come about because of political pressure,” said Les Robbins, the executive director of the Association for Los Angeles Deputy Sheriffs. In an interview, Robbins recalled how he used to keep his gun drawn & hidden behind his leg during most traffic stops. “We used to be able to use the baton & hit people where we felt necessary to get them to comply. Those days are gone.”

**Positions of Authority:** Dr. Lewinski & his company have provided training for dozens of departments, including in Cincinnati, Las Vegas, Milwaukee & Seattle. His messages often conflict, in both substance & tone, with the training now recommended by the Justice Department & police organizations. The Police Executive Research Forum, a group that counts most major city police chiefs as members, has called for greater restraint from officers & slower, better decision making. Chuck Wexler, its director, said he is troubled by Dr. Lewinski’s teachings. He added that even as chiefs changed their use-of-force policies, many did not know what their officers were taught in academies & private sessions. “It’s not that chiefs don’t care,” he said. “It’s rare that a chief has time to sit at the academy & see what’s being taught.” Regardless of what, if any, policy changes emerge from the current national debate, civil right lawyers say one thing will not change: Jurors want to believe police officers, & Dr. Lewinski’s research tells them that they can. On a cold night in early 2003, for

instance, Robert Murtha, an officer in Hartford, Conn., shot three times at the driver of a car. He said the vehicle had sped directly at him, knocking him to the ground as he fired. Video from a nearby police cruiser told another story. The officer had not been struck. He had fired through the driver's-side window as the car passed him. Officer Murtha's story was so obviously incorrect that he was arrested on charges of assault & fabricating evidence. If officers can get away with shooting people & lying about it, the prosecutor declared, "the system is doomed." "There was no way around it — Murtha was dead wrong," his lawyer, Hugh F. Keefe, recalled recently. But the officer was "bright, articulate & truthful," Mr. Keefe said. Jurors needed an explanation for how the officer could be so wrong & still be innocent. Dr. Lewinski testified at trial. The jury deliberated less than one full day. The officer was acquitted of all charges.

**Solitary Confinement: Punished for Life** – Aug 3, 2015 – *U.S.A.*  
– By Erica Goode, New York Times; [www.MSN.com](http://www.MSN.com) - In 1993, Craig Haney, a social psychologist, interviewed a group of inmates in solitary confinement at Pelican Bay State Prison, California's toughest penal institution. He was studying the psychological effects of isolation on prisoners, & Pelican Bay was among the first of a new breed of super-maximum-security prisons that states around the country were beginning to build. Twenty years later, he returned to the prison for another set of interviews. He was startled to find himself facing some of the same prisoners he had met before, inmates who now had spent more than 2 decades alone in windowless cells. "It was shocking, frankly," Dr. Haney said. Few social scientists question that isolation can have harmful effects. Research over the last half-century has demonstrated that it can worsen mental illness & produce symptoms even in prisoners who start out psychologically robust. But most studies have focused on laboratory volunteers or prison inmates who have been isolated for relatively short periods. Dr. Haney's interviews offer the first systematic look at inmates isolated from normal human contact for much of their adult lives & the profound losses that such confinement appears to produce. The interviews, conducted over the last 2 years as part of a lawsuit over prolonged solitary confinement at Pelican Bay, have not yet been written up as a formal study or reviewed by other researchers. But Dr. Haney's work provides a vivid portrait of men so severely isolated that, to use Dr. Haney's term, they have undergone a "social death." Sealed for years in a hermetic environment — one inmate likened the prison's solitary confinement unit to "a weapons lab or a place for human experiments" — prisoners recounted struggling daily to maintain their sanity. They spoke of longing to catch sight of a tree or a bird. Many responded to their isolation by shutting down their emotions & withdrawing even further, shunning even the meager human conversation & company they were afforded. "If you put a parakeet in a cage for years & you take it out, it will die," one older prisoner said. "So I stay in my cage." In recent weeks, the use of prolonged solitary confinement, a practice that has been widespread in the United States, has received unprecedented levels of attention.

*Pres Obama, who last month* became the 1st Pres to visit a Fed prison, questioned whether "we really think it makes sense to lock so many people alone in tiny cells for 23 hours a day, sometimes for months or even years at a time." And in a Supreme Court ruling in June, Justice Anthony Kennedy, writing about solitary confinement, noted that "near-total isolation exacts a terrible price." In 2012, the Center for Constitutional Rights filed suit in Fed court against state officials on behalf of Pelican Bay inmates

who had spent more than 10 years in solitary confinement, claiming that their prolonged isolation violated their 8th Amendment rights. The parties are now in settlement negotiations, said Jules Lobel, the Pres of the center & a constitutional law professor at the Univ of Pittsburgh who is the lead lawyer for the case. Dr. Haney & several other expert witnesses retained by the plaintiffs' lawyers prepared reports in the case, copies of which were obtained by The NY Times. Dr. Haney, a professor of psychology at the Univ of Calif, Santa Cruz, interviewed 56 prisoners who had spent 10 to 28 years in solitary confinement in Pelican Bay's security housing unit, or S.H.U., including 7 men he had interviewed in 1993, 8 plaintiffs in the lawsuit & 41 randomly selected inmates. For comparison, he also interviewed 25 maximum-security inmates who were not in solitary. The inmates landed in prison following convictions for serious, often violent crimes. Paul Redd, 58, murdered a competing drug dealer; Gabriel Reyes, 49, was found guilty of burglary & sentenced under Calif's 3-strikes law. The lead plaintiff in the lawsuit, Todd Ashker, 52, was convicted of second-degree murder, burglary, assault with a deadly weapon & possession of a deadly weapon. But most were placed in the isolation unit not because of their original crimes but because they were deemed to be gang members or gang associates, under Calif's policy at the time. The state corrections Dept said that such long-term confinement was necessary because of gang killings in the prisons & attacks on staff members & other inmates.

*Prison administrators* say there are some inmates so violent or unmanageable they must be kept apart from other people. But consigning inmates to solitary for years - or even decades, as Calif has done - is viewed by an increasing number of top corrections officials around the country as unnecessary & ineffective, & some human rights groups have called it torture. Many of the inmates Dr. Haney interviewed talked wistfully about mothers, wives & children they had neither touched nor spoken to for years - prisoners in the isolation unit were not allowed personal phone calls & were prohibited from physical contact during visits. Some had not had a single visitor during their years in solitary. "I got a 15-minute phone call when my father died," said one inmate who had been isolated for 24 years. "I realized I have family I don't really know anymore, or even their voices." Another prisoner described placing photographs of his family facing the TV in his cell & talking to them while he watched. "Maybe I'm crazy, but it makes me feel like I'm with them," he told Dr. Haney. "Maybe someday I'll get to hug them." Some prisoners became so disoriented they began to question their own existence. Another inmate said that the hour or so he had spent in the interview was "the most I've talked in years." The Calif Dept of Corrections & Rehabilitation, citing the continuing litigation, declined to comment on the lawsuit or on the reports of Dr. Haney or other expert witnesses for the plaintiffs. But since the lawsuit was filed, the Dept has moved many inmates who had been in isolation at Pelican Bay for more than a decade to other settings. All but 2 of the 10 inmates originally named as plaintiffs in the lawsuit are now in other facilities, according to Jeff Callison, a Dept spokesman. In an interview, Dr. Haney said that he was especially struck by the profound sadness that many of the inmates he interviewed seemed to carry with them. "The weight of what they had been through was apparent on them & in them," he said. "They were grieving for their lost lives, for their loss of connectedness to the social world & their families outside, & also for their lost selves," he said. "Most of them really did understand that they had lost who they were, & weren't sure of who they had become."

***'There Is No Other Reality'***: An estimated 75,000 state & Fed prisoners in the United States are held in solitary confinement, according to prison experts. Most spend 23 or more hours a day in their cells, allowed out only for showers, brief exercise or activities like medical visits. Prison experts say the use of long-term isolation escalated in the 1980s & 1990s, when many states, dealing with gang violence & overcrowding caused by stiffer sentences, built super-maximum-security facilities intended to house "the worst of the worst." In recent years, however, a growing number of states — driven by lawsuits, budgetary constraints & public opinion — have begun to reduce the number of prisoners in isolation. Prison consultants called in by state systems to assess the risks posed by the prisoners in solitary have often found that only a small minority require such restricted confinement. Pelican Bay, when it opened in 1989 in a remote area near the Oregon border, quickly gained a reputation as one of the most severe penal institutions in the nation. The sprawling complex houses more than 2,700 prisoners, more than 1,000 of them in solitary confinement. Other California prisons also have isolation units. But Pelican Bay's S.H.U. was designed to minimize human interaction. The windowless, 7.6-foot-by-11.6-foot cells were built to face concrete walls. Doors opened & closed electronically. Corrections officers spoke to the inmates through intercoms. Although prisoners could communicate with other inmates by shouting through steel doors perforated with little holes, or the ventilation shafts, they otherwise had little interaction. "If you go to Corcoran, there's a window; if you go to Tehachapi, there's a window," said Joseph Harmon, 51, a former gang leader who spent 8 years in isolation at Pelican Bay after 5 years in solitary confinement at other prisons. "At Pelican Bay, there is no other reality," said Mr. Harmon, who said he was sent there after a violent attack on another inmate but eventually renounced gang activity & became a pastor in Stockton, Calif. "It was a tomb. It is concrete tomb." Gang members make up a significant portion of the inmates in solitary confinement around the country, in most cases placed there for acts of violence or disruption. But until recently in California, any prisoner deemed to be a gang member or an associate of gang members, regardless of the prisoner's behavior, was sent to Pelican Bay or one of the state's 3 other security housing units for an indefinite period. The state's gang policy shifted after several hunger strikes by inmates at Pelican Bay & other prisons & criticism by civil rights groups. The corrections Dept now uses different criteria to place inmates in isolation, & it has created a program that allows them to eventually work their way out. Mr. Callison, the Dept spokesman, said that 1,081 inmates were currently housed in the security housing unit at Pelican Bay for indefinite terms. Of those, 34 have been there for more than 10 years & 28 for more than 20 years; in 2012, there were 308 inmates in the security unit who had been there for more than a decade. Most of those longtime inmates have entered the step-down program, Mr. Callison said. Civil rights lawyers, however, have criticized the Dept's program, saying that it takes too long to complete & that inmates are still held in isolation unnecessarily. In a report prepared for the plaintiffs' lawyers in the suit, James F. Austin, a corrections consultant, called the Dept's revised procedures for assigning inmates to isolation "grossly inadequate." The step-down program, Dr. Austin added, was "flawed in its basic structure & needs to be significantly revised."

***'Just Give Me the Death Penalty'***: In 1993, the prisoners Dr. Haney interviewed reported high rates of psychiatric complaints

like depression, irrational anger & confused thinking, & stress symptoms like dizziness & sweating hands. When he returned to Pelican Bay, he expected that over 2 decades, those men would have adjusted to their circumstances. But the inmates, Dr. Haney found, still had many of the same symptoms. "The passage of time had not significantly ameliorated their pain," he wrote. For comparison, Dr. Haney also interviewed 25 randomly selected maximum-security inmates at Pelican Bay who were not in solitary confinement. While 63% of the men in solitary for more than 10 years said they felt close to an "impending breakdown," only 4% of the maximum-security inmates reported feeling that way. Similarly, among the prisoners in isolation, 73% reported chronic depression & 78% said they felt emotionally flat, compared with 48% & 36% among the maximum-security inmates. In depositions prepared for the Pelican Bay lawsuit, the inmates in long-term solitary also described having anxiety, paranoia, perceptual disturbances & deep depression. One plaintiff, Mr. Reyes, said he had severe insomnia & that in the silence of the isolation unit, he sometimes heard a voice calling his name & cell number. Other times, he said, "I just see spots, just little things move." Mr. Redd, said that his dreams were often violent but that they became that way only after coming to Pelican Bay. "I didn't even have dreams," he said. "I didn't even have thoughts of looking up at the top of my bunk & you see cracks on the bunk & say, 'Hey, man, if they got a little earthquake, this wall, this top bunk is going to fall down on you.' You know, you start getting a little nervous thing." Locked in his cell, Mr. Redd said, he often plunged into despair. "It's not to the point where you want to commit suicide," he said, "but sometimes, I'm at the point that I'd be wanting to write the judge & say, 'Just give me the death penalty. Just give me the death penalty, man.'" Studies have found that suicides among prisoners in solitary confinement, who make up 3 to 8% of the nation's prison population, account for about 50% of prison suicides. Cutting & other forms of self-harm are also more common in isolation units than in less restrictive settings. Mr. Redd, who spent more than 11 years in Pelican Bay, has now been moved to a treatment facility at the State Prison at Corcoran. But other inmates' experiences suggest the effects of his incarceration at Pelican Bay are likely to linger. Dr. Terry Kupers, a psychiatrist & an expert on prison mental health issues, found in interviews of former Pelican Bay inmates conducted for the lawsuit that even years after their release, many still carried the psychological legacy of their confinement. They startled easily, avoided crowds, sought out confined spaces & were overwhelmed by sensory stimulation. "They become very impaired in terms of relating to other people," Dr. Kupers said. Lonnie Rose, 64, was convicted of drug possession & sentenced under Calif's 3-strikes law. He was released in 2013 after 8 years in isolation. At Pelican Bay, he said, he had worked hard to stay healthy. "I was pretty much resigned to spend the rest of my life in that cell," he said. "But what we do is make the best of a bad situation. I studied, I exercised; one day turns into another." Still, he said, he has difficulty in crowds, & his obsessive-compulsive tendencies, which worsened in solitary, have persisted. "Everything has to be just so," he said. "Being in a concrete box for a long time makes you even more O.C.D." Harmon, the former gang leader who was released from Pelican Bay in 2010, said that even 5 years later, he does not like people touching him. "As a pastor, it's hard," he said. "People come up & want to touch you, they want to hug you." Harmon is married now & said he had put his past life behind him. But a few times a month, he is seized with the urge be alone in a small, silent space. He tells his wife, "Don't talk to me," & retreats

to the bedroom. “It’s just something that takes over my being,” he said. Harmon said he thought he deserved to be in solitary confinement for a time. “There are violent men in prison, & I was one of them,” he said. But, he added, “I’m against long-term mental torture.” He compared an inmate in long-term isolation at Pelican Bay to a dog kept in a kennel for 10 years. “Let that dog out of that cage & see how many people it bites,” he said. “I don’t understand why people can’t understand that concept. It’s simple.”

**NSA Spying Relies on AT&T’s “Extreme Willingness to Help”**  
– Aug 17, 2015 – U.S.A. – By Julia Angwin, Jeff Larson, ProPublica & New York Times; [www.ScientificAmerican.com](http://www.ScientificAmerican.com) - The National Security Agency’s ability to spy on vast quantities of Internet traffic passing through the United States has relied on its extraordinary, decades-long partnership with a single company: the telecom giant AT&T. While it has been long known that American telecommunications companies worked closely with the spy agency, newly disclosed NSA documents show that the relationship with AT&T has been considered unique & especially productive. One document described it as “highly collaborative,” while another lauded the company’s “extreme willingness to help.” AT&T’s cooperation has involved a broad range of classified activities, according to the documents, which date from 2003 to 2013. AT&T has given the NSA access, through several methods covered under different legal rules, to billions of emails as they have flowed across its domestic networks. It provided technical assistance in carrying out a secret court order permitting the wiretapping of all Internet communications at the United Nations headquarters, a customer of AT&T. The NSA’s top-secret budget in 2013 for the AT&T partnership was more than twice that of the next-largest such program, according to the documents. The company installed surveillance equipment in at least 17 of its Internet hubs on American soil, far more than its similarly sized competitor, Verizon. & its engineers were the first to try out new surveillance technologies invented by the eavesdropping agency.

*One document reminds NSA officials* to be polite when visiting AT&T facilities, noting: “This is a partnership, not a contractual relationship.” The documents, provided by the former agency contractor Edward Snowden, were jointly reviewed by The New York Times & ProPublica. The NSA, AT&T & Verizon declined to discuss the findings from the files. “We don’t comment on matters of national security,” an AT&T spokesman said. It is not clear if the programs still operate in the same way today. Since the Snowden revelations set off a global debate over surveillance 2 years ago, some Silicon Valley technology companies have expressed anger at what they characterize as NSA intrusions & have rolled out new encryption to thwart them. The telecommunications companies have been quieter, though Verizon unsuccessfully challenged a court order for bulk phone records in 2014. At the same time, the Gov’t has been fighting in court to keep the identities of its telecom partners hidden. In a recent case, a group of AT&T customers claimed that the NSA’s tapping of the Internet violated the Fourth Amendment protection against unreasonable searches. This year, a Fed judge dismissed key portions of the lawsuit after the Obama administration argued that public discussion of its telecom surveillance efforts would reveal state secrets, damaging national security.

*The NSA documents do not identify AT&T* or other companies by name. Instead, they refer to corporate partnerships run by the

agency’s Special Source Operations division using code names. The division is responsible for more than 80 percent of the information the NSA collects, one document states. Fairview is one of its oldest programs. It began in 1985, the year after antitrust regulators broke up the Ma Bell telephone monopoly & its long-distance division became AT&T Communications. An analysis of the Fairview documents by The Times & ProPublica reveals a constellation of evidence that points to AT&T as that program’s partner. Several former intelligence officials confirmed that finding. A Fairview fiber-optic cable, damaged in the 2011 earthquake in Japan, was repaired on the same date as a Japanese-American cable operated by AT&T. Fairview documents use technical jargon specific to AT&T. & in 2012, the Fairview program carried out the court order for surveillance on the Internet line, which AT&T provides, serving the United Nations headquarters. (NSA spying on United Nations diplomats has previously been reported, but not the court order or AT&T’s involvement. In October 2013, the United States told the United Nations that it would not monitor its communications.) The documents also show that another program, code-named Stormbrew, has included Verizon & the former MCI, which Verizon purchased in 2006. One describes a Stormbrew cable landing that is identifiable as one that Verizon operates. Another names a contact person whose LinkedIn profile says he is a longtime Verizon employee with a top-secret clearance.

*After the terrorist attacks of Sept. 11, 2001*, AT&T & MCI were instrumental in the Bush administration’s warrantless wiretapping programs, according to a draft report by the NSA’s inspector general. The report, disclosed by Snowden & previously published by The Guardian, does not identify the companies by name but describes their market share in numbers that correspond to those 2 businesses, according to Fed Communications Commission reports. AT&T began turning over emails & phone calls “within days” after the warrantless surveillance began in October 2001, the report indicated. By contrast, the other company did not start until February 2002, the draft report said. In Sept 2003, according to the previously undisclosed NSA documents, AT&T was the first partner to turn on a new collection capability that the NSA said amounted to a “‘live’ presence on the global net.” In one of its first months of operation, the Fairview program forwarded to the agency 400 billion Internet metadata records—which include who contacted whom & other details, but not what they said—and was “forwarding more than one million emails a day to the keyword selection system” at the agency headquarters in Fort Meade, Maryland. Stormbrew was still gearing up to use the new technology, which appeared to process foreign-to-foreign traffic separate from the post-9/11 program.. In 2011, AT&T began handing over 1.1 billion domestic cellphone calling records a day to the NSA after “a push to get this flow operational prior to the tenth anniversary of 9/11,” according to an internal agency newsletter. This revelation is striking because after Snowden disclosed the program of collecting the records of Americans’ phone calls, intelligence officials told reporters that, for technical reasons, it consisted mostly of landline phone records. That year, one slide presentation shows, the NSA spent \$188.9 million on the Fairview program, twice the amount spent on Stormbrew, its second-largest corporate program.

*After The Times disclosed* the Bush administration’s warrantless wiretapping program in December 2005, plaintiffs began trying to sue AT&T & the NSA In a 2006 lawsuit, a retired AT&T technician named Mark Klein claimed that 3 years earlier

he had seen a secret room in a company building in San Francisco where the NSA had installed equipment. Klein claimed that AT&T was providing the NSA with access to Internet traffic that AT&T transmits for other telecom companies. Such cooperative arrangements, known in the industry as “peering,” mean that communications from customers of other companies could end up on AT&T’s network. After Congress passed a 2008 law legalizing the Bush program & immunizing the telecom companies for their cooperation with it, that lawsuit was thrown out. But the newly disclosed documents show that AT&T has provided access to peering traffic from other companies’ networks. AT&T’s “corporate relationships provide unique accesses to other telecoms & I.S.P.s,” or Internet service providers, one 2013 NSA document states. Because of the way the Internet works, intercepting a targeted person’s email requires copying pieces of many other people’s emails, too, & sifting through those pieces. Plaintiffs have been trying without success to get courts to address whether copying & sifting pieces of all those emails violates the 4th Amendment.

*Many privacy advocates* have suspected that AT&T was giving the NSA a copy of all Internet data to sift for itself. But one 2012 presentation says the spy agency does not “typically” have “direct access” to telecoms’ hubs. Instead, the telecoms have done the sifting & forwarded messages the Gov’t believes it may legally collect. “Corporate sites are often controlled by the partner, who filters the communications before sending to NSA,” according to the presentation. This system sometimes leads to “delays” when the Gov’t sends new instructions, it added. The companies’ sorting of data has allowed the NSA to bring different surveillance powers to bear. Targeting someone on American soil requires a court order under the Foreign Intelligence Surveillance Act. When a foreigner abroad is communicating with an American, that law permits the Gov’t to target that foreigner without a warrant. & when foreigners are messaging other foreigners, that law does not apply & the Gov’t can collect such emails in bulk without targeting anyone. AT&T’s provision of foreign-to-foreign traffic has been particularly important to the NSA because large amounts of the world’s Internet communications travel across American cables. AT&T provided access to the contents of transiting email traffic for years before Verizon began doing so in March 2013, the documents show. They say AT&T gave the NSA access to “massive amounts of data,” & by 2013 the program was processing 60 million foreign-to-foreign emails a day. Because domestic wiretapping laws do not cover foreign-to-foreign emails, the companies have provided them voluntarily, not in response to court orders, intelligence officials said. But it is not clear whether that remains the case after the post-Snowden upheavals. “We do not voluntarily provide information to any investigating authorities other than if a person’s life is in danger & time is of the essence,” Brad Burns, an AT&T spokesman, said. He declined to elaborate.

**Timeline: NSA & AT&T’s Close Relationship Thru the Years:** 1984: The “Ma Bell” phone monopoly breaks up into regional “Baby Bells” & a long-distance company that retains the AT&T name & enters the computer business.

**1985:** NSA launches Fairview program partnership with a single partner, AT&T, according to internal documents.

**1985:** AT&T’s first big contract as a standalone company is a nearly \$1 billion agreement to provide computers & services to the National Security Agency, according to news reports at the time.

**2001:** In the days after the 9/11 terrorist attacks, Congress passes the Patriot Act. President George W. Bush also secretly authorizes a warrantless wiretapping program known as Stellar Wind. AT&T is the first company to start turning over records under both programs, according to internal documents.

**2003:** AT&T is forwarding more than 1 million emails per day & 400 million Internet metadata records a month to the NSA, according to internal documents.

**2003–2006:** For 3 years, AT&T provides the FBI with illegal ‘sneak peeks’ at the calling records for communities of hundreds of people without legally valid requests for the information, according to congressional testimony by FBI General Counsel Valerie Caproni. Verizon told Congress it did not provide similar community information.

**2005:** The New York Times reveals President Bush’s warrantless wiretapping program.

**2006:** Former AT&T engineer Mark Klein publicly reveals in a lawsuit a secret room in AT&T’s San Francisco office that he says siphons traffic to the NSA.

**2008:** Congress passes the FISA Amendments Act, legalizing portions of warrantless wiretapping & granting legal immunity to AT&T & other telecommunications companies for their participation in it.

**2009:** 9th Circuit Court of Appeals dismisses the case based on Klein’s allegations, citing the immunity granted to telecommunications companies by Congress.

**2011:** AT&T starts delivering 1.1 billion of its customers’ cellphone calling records per day to the NSA, under the Patriot Act business records provision, according to internal documents.

**2013:** Edward Snowden passes journalists a trove of NSA documents that reveal the vast scope of NSA spying.

**2015:** U.S. District Court for the Northern District of California dismisses key portions of another constitutional challenge to AT&T’s fiber taps, after the Gov’t argued that any discussion of its collaborations with telecom companies was a state secret.

**Once upon a time** there was a king who wanted to go fishing. He called the royal weather forecaster & asked about the upcoming weather conditions. The weatherman assured him that there was no chance of rain in the days ahead. So the king went fishing with his wife, the queen. On the way he met a farmer on his donkey. Upon seeing the king the farmer said, “Your Majesty, you should return to the palace at once because in just a short time I expect a huge amount of rain to fall in this area”. The king was polite & considerate, he replied: “I hold the palace meteorologist in high regard. He is an extensively educated & experienced professional. And besides, I pay him very high wages. He gave me a very different forecast. I trust him & I will continue on my way.” A short time later a torrential rain fell from the sky. The king & queen were totally soaked. Their entourage chuckled upon seeing them in such a drenched condition. Furious, the king returned to the palace & fired the weatherman at once! Then he summoned the farmer & offered him the prestigious & high paying role of Royal Forecaster. The farmer said, “Your Majesty, I do not know anything about forecasting. I obtain my information from my donkey. If I see my donkey’s ears drooping, it means with certainty that it will rain.” So the king hired the donkey. And thus began the practice of hiring asses to work in the Gov’t & occupy its highest & most influential advisory positions.

**Quote/Poem for the day:** When you do something from your soul, You feel a river in you, A joy... - Rumi

**Bandidos Biker Member Busted In Bizarre Hold Up** – Aug 17, 2015 - *Florida* - By Jana Eschbach; [www.m.CBS12.com](http://www.m.CBS12.com) - A self-proclaimed fugitive from a dangerous biker gang is busted after he's linked to a bizarre armed robbery. Martin County Detectives, working with the US Marshals Fugitive Task Force arrested 36 year-old Michael Lawson in Miami. Back on July 23rd, Lawson was recorded shopping at the Mi Pueblo Thrift Store in Stuart's Port Salerno. "He just got here from another city. He came for work. He said he was a fisherman," said Fanyonda Chiobaola, who was working alone that day last month. "I was surprised because he spent so much time here & was a gentleman." Lawson told Fanyonda he was waiting for his wife to pick him up & spent 2 hours inside the store pretending he wanted to buy baby clothes & items for his pregnant wife. 2 hours & many conversations later-- he pulled a gun on her. "He said go to the bathroom. I went there & it put me in shock because I thought why?" Fanyonda said, "I was afraid to come out & then call for help." Lawson got away with \$250 & Fanyonda's checkbook. But he was heading south. He was recorded writing checks in Lake Worth & then Miami. "We did think originally it was a local person, that actually the suspect is a self-admitted member of the Bandidos Motorcycle gang," said Martin County Sheriff's Office's Sheriff William Snyder, "they are not normally found in our state. He's wanted in Texas & also Idaho I believe." Learn more about the Bandidos Motorcycle Gang now active in 25 countries: [www.bandidosmc.com](http://www.bandidosmc.com). The FBI has Lawson listed as a wanted man. But he made a critical error. He was nabbed after the second check flagged Martin County Sheriff's Detectives to his location. Lawson is charged with armed robbery with a deadly weapon. As a fugitive from justice, he has no bond.

**Making a case – Fed Style** – Aug 19, 2015 – *U.S.A.* – By W. T. "Outlaw RoadBlock" Harrell; <http://FreeRoadBlock.us> - How long could your family survive if you were locked up on bogus charges in a concocted Fed case? A recent Outlaws MC case in Gainesville Georgia caught my attention. The Gov't claims that 2 years into a Fed investigation, this MC discovered there was a Gov't informant in their chapter.

**What happened to the informant in this case?** *Nothing!* The chapter Pres simply disbanded the chapter. For this reasonable decision, he was indicted & charged with interfering with an ongoing Fed investigation. Interfering how? No threats were made nor any punitive actions taken against the alleged informant or agents. Yet the Gov't tried to force a chapter president to help them make a case against himself & his chapter. Unbelievable?

**The biggest problem is there was no probable cause for an investigation.** To open an investigation, the Gov't would need probable cause supported by evidence that the chapter's members were already involved in criminal activity. Having no such evidence, the Gov't had to devise & create the criminal activity themselves, something they have excelled at since my era. It's no surprise that the criminal acts charged in this case were created & initiated by the agents themselves. What is most alarming is their use of a jailed convicted felon to initiate the criminal activity. In this case, the Fed agents promised him monetary rewards & Immunity for helping to fabricate cases against these club members. Bear in mind—When Fed agents hire a convicted felon to work for the Gov't, he is not just an informant & instigator — he is in fact a Fed employee.

**Just think, in this case Fed agents conspired** with each other, including their convicted felon employee. They all agreed to knowingly & willfully violate both criminal & constitutional laws in a premeditated effort to make a criminal case against a MC. Conspiracy to initiate a criminal enterprise is a crime & no one is above the law. This conduct by Fed agents is a direct violation of the law & the constitutional rights of all citizens. L.E. has sworn an oath to protect the rights of everyone, not intentionally trample those rights with premeditated entrapment. The bottom line here is the criminal conduct charged in this case was initiated by the Gov't agents themselves. What is more alarming is this case relies on the truthfulness of an incarcerated felon who made a deal with feds. This felon was promised money & immunity, & released from prison. In exchange, all he had to do was entrap the club members to salvage an otherwise wasted 2-year Fed investigation.

**If The Agents' Conduct Wasn't Slimy Enough...** Here is what District Judge Richard Story said in the case of defendant Phillip Honeycutt: "The public out there wants me to do something, 'Lock them up as long as you can.' That's what the public thinks. This is not one of those things where we can just turn our heads." Judge Story continued: "While the case may have been less palatable because of the Gov't involvement, Honeycutt had been the one willing to do it." What Story refers to is the convicted felon's claim that he gave Honeycutt \$200.00 to sit in his vehicle outside a business to let the felon know if he saw any cops. No evidence or recording was produced that Honeycutt knew what transpired inside, acted as look-out, or even had a conversation with the convicted felon/Gov't employee. The duty of a Judge is to rule on the law, & hold the Gov't responsible for its illegal conduct in cases like this. "...what the public thinks" should have no bearing on the guilt or innocence of defendants. The law is the law.

**Conclusion:** For 2 years, the Gov't kept everyone on home confinement wearing a leg monitor. Why? To give the prosecutor time to try desperately to extort them into entering a guilty plea, thus saving the bungled Fed case. Five defendants refused & went to trial. In one case, 3 defendants were released on a directed verdict of Not Guilty by the Court (meaning the Gov't failed to prove their case.) In another trial, 2 defendants were found Not Guilty by a jury. Imagine the hell these men & their families went through during the long months they were locked up or on home confinement on false charges. Imagine waiting for justice, after seeing how far the feds would go to destroy your life to make their case. I have personally been there. So have our brother bikers in Waco, & many others across the U.S. You can be proven innocent, & still lose everything you have.

**These petty LE tactics** are immoral & criminal, destroying lives without conscience. You can't afford to wait until you are the one locked up on phony charges while your family struggles to survive. These bullshit cases will continue to increase if our biker community doesn't stand together & fight for our rights.

**Life:** This morning I sat on a bench in the park next to a homeless man. I asked him how he ended up this way. He said: "Up until last week, I still had it all! A cook prepared my meals; my room was cleaned; my clothes were washed & pressed; I had a roof over my head; I had excellent health care. I had TV, the Internet; I went to the gym, the pool, the library. And I could still go to school." I then asked him: "So, what happened? Drugs? Alcohol? Divorce?" "Oh no, nothing like that at all," he said. "I got out of prison..."

**Jenkins found guilty in Kingsmen murder case** - Aug 21, 2015 – *New York* – By Rick Pfeiffer; [www.Niagara-Gazette.com](http://www.Niagara-Gazette.com) - Andre Jenkins stared coldly at the 6 men & 6 women on the Niagara County Court jury that would decide his fate Thu afternoon. As the jury foreman repeated the word guilty 4 times, Jenkins' only reaction was to stroke his goatee. The jury had taken just a little less than 6 hours to decide that the Florida biker was the gunman who shot & killed 2 fellow members of the Kingsmen MC. In the spectator seats, immediately behind Jenkins, the mother of Daniel "DJ" Szymanski & the wife of Paul Maue cried softly. Jenkins, 36, of Deland, Florida, was convicted of first-degree murder, 2 counts of second-degree murder & second-degree criminal possession of a weapon in what police & prosecutors called the "execution style" slayings of Szymanski, 31, & Maue, 38, as they sat in a parked car behind the Kingsmen MC North Tonawanda Chapter clubhouse on Oliver Street in the early morning hours of Sept. 6. Szymanski & Maue were members of the outlaw motorcycle gang's North Tonawanda chapter. Jenkins is a member of a Florida chapter of the gang. "We're very happy with the verdict," Deputy Niagara County District Atty Doreen Hoffmann said. "We want to commend the work of the North Tonawanda police, the Niagara Falls police & the FBI Safe Streets Task Force in this case." Jenkins now faces the possibility of a life prison sentence when he returns to court on Oct. 21. As he was shackled & taken from the courtroom, Jenkins scowled at the victims' families & shook his head. "We will ask for (the life sentence), absolutely," Hoffmann said. Jenkins said nothing as he left the courtroom. Defense Atty Janelle Messer expressed disappointment with the verdict. "We're just really, really disappointed," Messer said. "I thought we raised a lot of reasonable doubt." Outside the courtroom, Szymanski's father, accompanied by Maue's wife, said the victims' families would have nothing to say until after Jenkins is sentenced. Throughout the almost 2 week long trial, Hoffmann painted Jenkins as a "cold-blooded killer" & "assassin." The defense had argued that police rushed to judgement in charging Jenkins & that there was no physical evidence to link him to the crime. Lead defense Atty Dominic Saraceno attacked the credibility of key prosecution witnesses & questioned why some of them were not considered suspects in the case.

**Rest in Peace - Kevin B. Todd** – Sept 2015 – *Minnesota* – By Mack Backman; [www.ABATEMN.org](http://www.ABATEMN.org) - It is my sad duty to inform you that we have lost a great friend, ABATE of MN Assist State Coordinator Kevin Todd. Kevin passed away unexpectedly in his sleep recently. Kevin led a life of service to his faith, country, family, friends, & freedom fighters everywhere. He will be missed by many, many people in Minn & across the nation. His personality was infectious. Sometimes he would tell you what you needed to hear, not what you wanted to hear & for that we are grateful. He has left a hole in many hearts that no one but him could fill. He has left a legacy in A.B.A.T.E. of MN that will be known for years to come. His wife Janet is going through a lot right now. Please keep her & the family in your thoughts & prayers during this difficult time. Many people have asked how they can pay their respects to this wonderful man who gave so much of himself to everyone he came in contact with. A memorial service for Kevin will be held Oct 10th at the Madelia, MN Legion from noon to 2pm with the service starting at 2pm. Cards & condolences are being accepted by the American Legion. In care of Janet Todd on your envelope. "Go rest high on that mountain. Son, your work on earth is done."

**Less than 20 of the 177 Waco bikers arrested after shootout still face charges** – Aug 29, 2015 – *Texas* - By Jennifer Cruz; [www.Guns.com](http://www.Guns.com) - The Texas Court of Appeals has determined over the last week that officials had probable cause in only 5 of the 177 arrests following a shootout between 2 rival biker gangs & local, state & Fed authorities outside of a Waco restaurant in May, with just over a dozen more cases set to be reviewed over the next 2 weeks. Among those still facing charges are a Bandidos chaplain & a husband & wife. Officials also found probable cause against Bandidos members Marcus Pilkington, 36, & Reginald Weathers, 43, who ascertain they are "being illegally confined" & authorities lack sufficient evidence to prove they engaged in organized criminal activity the day of the shootout, the Waco Tribune-Herald reported. Nine men were killed during the exchange of gunfire that day & another 20 were injured. Authorities confiscated more than 475 weapons, including 151 firearms. No other innocent civilians or L.E. were injured during the shootout. The incident remains under investigation, but a great deal of questions still remain, including who fired the fatal shots, which authorities have yet to disclose. However, Waco Police Chief Brent Stroman confirmed in June that a total of 12 rounds were fired by three Waco officers that day, leaving the remaining rounds at the hands of either the bikers or state & Fed authorities. At last count, 44 shell casings were recovered from the scene, including multiple .223 rounds, but ballistics evidence has not been made public at this time, despite the fact that autopsy reports were already released earlier this month, including vague descriptions of the injury-causing projectiles. Weathers said the whole incident unfolded over a dispute about a parking space & a perceived act of disrespect, but while the melee initially involved the bikers, it's unknown when authorities engaged. Weathers said he & more than a dozen other members were outside of the Twin Peaks restaurant, while numerous members of the Cossacks, a rival biker gang, were near the patio area. A member of the Cossacks allegedly yelled at Bandidos club Pres David Martinez, saying he could not park in a particular space, but Weathers said he had not even pulled into the space at that point. Weathers, feeling his club president had been disrespected, then told the Cossacks member not to talk to his president that way, to which that member responded by punching Weathers in the face, he alleges. Weathers said he covered his face in a defensive stance, but was soon pushed to the ground. Moments later, he heard gunshots, what he described as a "double tap." Weathers was shot in the arm, but admitted that he did not know where the first shots came from because he was engaged in a fight with other bikers at the time. Weathers said altogether the entire incident only lasted about four or five minutes. **Correction:** We reported the Bureau of Alcohol, Tobacco, Firearms & Explosives was heading the investigation. That is incorrect. The agency has assisted the investigation at the request of the Waco PD.

#### U.S. Defenders:

- We don't accept applications. We accept commitments...
- If we all do a little bit, Then no one has to do a lot...
- There can be no "I", there has to be "We"...
- One heart, One Voice...

National Coalition of Motorcyclists...  
An Idea Whose Time Has Come...