

Posted 2/28/22

IN TWO FELL SWOOPS

Ideological struggles buffet California traffic cops and Austin police



For Police Issues by Julius (Jay) Wachtel. Thursday, February 17 was a very bad day for fifty-four traffic officers from the California Highway Patrol's East Los Angeles station. And thirteen-hundred miles to the East, for nineteen police officers in Austin, Texas' capital city. For on that day a new breed of prosecutors levied felony charges that may cost these officers a lot more than their careers.

Even during the “bad old days” of the nineties, when New York City's [Mollen Commission](#) and L.A.'s [Rampart Independent Review Panel](#) issued voluminous, mind-numbing reports about systemic police corruption in America's two largest cities, arresting four-and-one-half dozen cops in one fell swoop would have raised eyebrows.

Yet the recent booking of *fifty-four* current and former officers of the California Highway Patrol on felony criminal charges passed by literally unnoticed. Other than generating a handful of news pieces (click [here](#) for the *L.A. Times* article), California Attorney General Rob Bonta's [press release](#) provoked little more than a shrug.

Actually, his announcement didn't come as a total surprise. In 2019 [the CHP had revealed](#) that it was looking into fudged claims of overtime. One of its executives [was quoted bemoaning](#) “a culture of corruption by a group of greedy officers who had developed a system involving supervisors that created a firewall between themselves and managers like myself.” Yet then-California Attorney General Xavier Becerra left office in March 2021 without taking any visible action about the matter.

Perhaps the officers were innocent. Or maybe what they supposedly did wasn't considered sufficiently serious. Instead of busting citizen heads or arresting innocents, their alleged misconduct consisted of filing exaggerated claims of overtime while providing security on road construction projects during 2016-2018. Their total “take”

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was a measly \$226,556. Means and ends-wise that doesn't hold a candle to classic episodes of police corruption. Such as NYPD's "[Buddy Boys](#)" of the eighties, who were "robbing drug dealers in broad daylight" then "selling the drugs and goods themselves." Or LAPD Rampart Division's [anti-gang "CRASH" cops](#) of the nineties, who robbed a bank, stole cocaine from evidence lockers, framed and beat suspects into falsely confessing and committed needless shootings.

On the other hand, some claim that the Democratic lawyer's inaction was [a political calculation](#), part and parcel of a cop-friendly approach [that helped him gain](#) over \$300,000 in contributions from police unions for his 2018 campaign.



In 2021 Mr. Becerra was called away to run the U.S. Department of Health and Human Services. His mantle as California A.G. was assumed by Rob Bonta. And *this* Democrat's inclinations were substantially different. As a California assemblyman [Mr. Bonta co-authored bills](#) to eliminate cash bail, ease punishment, and require that the State investigate all officer shootings. During confirmation hearings the progressively-minded San Franciscan [emphasized that holding police accountable](#) was crucial. So other than for the sheer number of accused, [his filing of criminal charges](#) alleging that *four-and-one-half dozen* CHP officers committed [Grand Theft](#) and presented a [Fraudulent Claim](#) shouldn't have come as a surprise.

But the identity of one of the lawyers defending the Chippies (no slam, it's what we call 'em) *did*. It's Steve Cooley, L.A. County's former District Attorney (2000-2012). Co-author of "[Blue Lives in Jeopardy](#)," the life-long Republican recently affirmed his pro-cop inclinations by slamming current D.A. George Gascon [for creating a panel](#) to review past police use of deadly force. That, according to Cooley, supposedly proves (beyond a reasonable doubt?) that the progressive Democrat is "hell-bent on putting some law enforcement filing notches on his belt."

Cooley's pro-cop stance is evident [in his stinging rebuke](#) of A.G. Bonta's persecution – oops, we mean *prosecution* – of the CHP officers:

When it comes to the alleged overtime scheme, Attorney General Bonta is flat wrong. Almost all of them are totally innocent...CHP wanted to show them a lesson. Guess who's in charge boys? Do not file a grievance against management because we will [expletive] with you.

In his view, the charges are no more than payback over a grievance filed by officers upset that their overtime hours had been slashed. Cooley contends that his clients are

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totally innocent: they understood that they would be paid for all the time they spent on call, awaiting deployment, whether they were at home or doing personal business, and that an agreement to that effect was in writing.

Well, that “writing” hasn’t been released. So we reviewed CHP’s [current labor contract](#). Its coverage of overtime pay (p. 26) seems quite detailed, and we didn’t find anything that offers something for nothing. But there is some “wiggle-room.” A separate provision, “Call-Back time” (p. 28) guarantees at least four hours’ pay should an off-duty officer be required to report to work. Anyways, we’re [Joe Fridays](#) at heart. Since “all the facts” haven’t been made public, whether several dozen (former?) Chippies purposely misconstrued things so as to line their pockets is impossible for us to say.

“Is there any other employer in the county to whom we would give a heads-up call if their employee was indicted?” That’s how Travis County (Austin, TX) [District Attorney Jose Garza replied](#) when, less than three weeks into his term, one of his prosecutors asked whether Austin’s police chief should get a “heads up” that two of his officers had been indicted for assault.

No advance notice was given. Officers Chance Bretches and Gregory Gentry (they were still on the job) [allegedly beat up an arrestee](#) during a narcotics investigation two years earlier. Both were cleared during an internal police inquiry. But soon after taking office Mr. Garza sent the case to the Grand Jury, which promptly indicted both officers on aggravated assault. (Gentry was ultimately cleared.)

When the Democratic civil-rights crusader and former public defender ran for D.A. he promised to right the ship of criminal justice so that minorities and the poor stopped being thrown overboard. And while the police union called his approach a “delusional game of political chess,” it wasn’t just talk. As one might expect, many cops were dismayed and Chief Brian Manley quickly retired. More than a few prosecutors were also bewildered, and in short time nineteen out of about one-hundred left.

Mr. Garza’s initial efforts focused on police uses of force that his predecessor, Margaret Moore, had seemingly brushed aside. There were more than a few. One year earlier Austin police officer Christopher Taylor [shot and killed an unarmed 42-year old man](#) who tried to drive away as officers investigated a complaint that he held a gun to a woman’s head. In March 2021, two months after taking office, Mr. Garza obtained the officer’s indictment for first-degree murder.

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Five months later it was “déjà vu all over again” as that same cop, Christopher Taylor, and a colleague, officer Karl Krycia, [were indicted for first-degree murder](#) over an earlier episode, the 2019 shooting death of a mentally-ill man who reportedly held a knife to his own throat.



There were a handful of other cases. But the stage for Mr. Garza’s “really big show” was set seven months before he took office. Soon after the killing of George Floyd Austin was besieged by the protests against police brutality that were rocking the nation. Alas, some of the city’s cops apparently responded heavy-handedly. In December 2020 then-chief Manley [announced that eleven had been disciplined](#) over use-of-force violations during the disorder.

Elected one month earlier, Jose Garza had not yet assumed office. But he clearly placed the chief’s announcement in his to-do basket.

It took a while, but fourteen months later the effects of his handiwork came into view. On February 17, 2022 [the City of Austin revealed](#) that it had settled lawsuits filed by two seriously injured protesters for a combined \$10 million, not exactly pocket change for the financially stressed city. And during a special press conference, D.A. Jose Garza announced that a Grand Jury had returned indictments charging a stunning *nineteen* Austin police officers for using excessive force on demonstrators:

We believe many protesters injured by law enforcement officers during the protest were innocent bystanders. We also believe that the overwhelming majority of victims in the incidents that were investigated suffered significant injuries. Some will never fully recover.

As one might expect, Garza was promptly blasted by the police union. His actions also put him in a lonely place within government circles. Police Chief Joseph Chacon and City Manager Spencer Cronk strongly objected to the indictment and lamented its effects on officer morale and the city’s ability to retain cops. In their view, Austin’s finest had done the best they reasonably could in the face of riotous crowds. “We are disappointed to be in this position,” Mr. Cronk said, “and we do not believe that criminal indictments of the officers working under very difficult circumstances is the correct outcome.”

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Today's pronounced Red/Blue divide has deeply affected the practice of policing, for better *and* worse. Let's self-plagiarize from "[Backing Off](#)":

Law enforcement is replete with ambiguity and uncertainty, and in the real world of the streets, crude responses are sometimes unavoidable. Over the last several years, though, the permissible margin of error has substantially narrowed...Fine-tuning the police response so that our emerging notions of justice and equity aren't breached and everyone is pleased has human and practical limits. And they've likely been reached.



For an example of these “limits” let's turn to (where else?) [George Floyd](#). His killing led to ex-Minneapolis cop [Derek Chauvin's conviction](#) on State murder charges and, just the other day, to the [conviction of his three colleagues](#) on Federal civil rights charges. *Police Issues* never considered Chauvin's behavior even marginally acceptable – our essay, posted nine days after the officers' encounter with Mr. Floyd, was entitled “Punishment Isn't a Cop's Job.”

On the other hand, our assessment of officer Thomas Lane's behavior is far more forgiving. Here's an outtake from our recent essay, "[Backing Off](#)”:

Pulling a gun isn't pretty, but that's what rookie MPD officer Thomas Lane did when Mr. Floyd seemed reluctant to step out of the car. As depicted in [bodycam video](#), officer Lane soon had the drugged man out of the driver's seat and in physical custody, avoiding further risks to citizens and police....

Grimace if you wish, but in the everyday world of law enforcement, where cops face citizens who are often obstinate and all-too-frequently armed, that scores as a “success.” But Lane, who was only on his fourth shift as a full-fledged cop, [displayed compassion](#). Once Mr. Floyd was pinned down and unresisting, the rookie voiced concern about the arrestee's well-being and (twice) suggested he be rolled over. But Chauvin said “no.” As Lane's flustered lawyer [contended during closing arguments](#), Chauvin treated his colleagues, including Lane and his rookie partner Kueng, like peons. “Tom Lane can't argue with him,” said Earl Gray. “That's common sense...Chauvin was going to be the leader of the pack with these two kids.” Lane's good intentions, he added, were evident when EMT's arrived. (He jumped in to help, then rode in the ambulance and participated in doing CPR.)

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Indeed, the lawyer expressed outrage that his client was charged. He called the decision a product of “mob politics”:

Why did the government indict them? We all know why. Politics, ladies and gentlemen. He was indicted – an innocent man.

That promptly drew an objection, which was (perhaps surprisingly) overruled. No matter. Thomas Lane, his rookie partner J. Alexander Kueng, and Chauvin’s partner Tou Thao [were convicted as charged](#).

Back to the present. [As fierce battles continue](#) over how far to go in regulating and, yes, *constraining* the police, the tenor of *these* times – what Lane’s attorney referred to as “politics” – is undeniably different. We’ve often warned in our “[Wrongful Conviction](#)” essays that “confirmation bias,” the tendency to accept what’s consistent with one’s beliefs and reject what’s not, can play havoc with the truth (see, for example, “[Guilty Until Proven Innocent](#)”). In our fraught atmosphere, the possibility that judgments might be warped by ideology gives cause for alarm. Let’s hope that Lane’s sentence and the cases against fifty-four California Highway Patrol officers and nineteen Austin police officers will reflect the truth – and nothing but.