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## ***Terry: A Tale of Two Cynics***

By **Mark and Tina Terry**

Libertarian columnist Vin Suprynowicz once responded to one of our e-mail pleas for action, in which we suggested that people contact their local congressperson regarding the newest (at the time) assault on the Bill of Rights. In his response, Vin suggested that participating in the congressional beg-a-thon, in which constituents implore Congress to slow the relentless destruction of the Constitution, was patently useless, and, in his usual logical manner, replete with substantial objective foundation, he pointed out that there were simply no good guys left in Congress to contact. Besides, he chided us, why should we have to plead with our congressional representatives to uphold their oaths to defend and protect the Constitution? Why should we even consider pleading with them at all, since they were our servants and we their masters?



Having lived through enough years of watching all three branches of the federal government aggressively dismantle the Constitution, we now believe that, with the possible exception of Congressman Ron Paul of Texas, Vin Suprynowicz's stance is indisputable. Not only that, but we believe that today's American citizens find themselves in a no-win position if and when they have complaints against government agents for violations of their constitutional and civil rights.

Does anyone remember the recent IRS hearings before the Senate, in which numerous victims of IRS abuse testified regarding the manner in which their lives had been ruined and their rights subjugated by IRS personnel? Even though the violations were blatantly unconstitutional and damaging, and in almost every case excruciatingly documented, there has been, to our knowledge, not a single instance of a prosecution of any of these rogue agents following the hearings.

Do you ever wonder why there are such rare and minuscule waivers of sovereign immunity by the government for civil and criminal abuses against private citizens? Or why prima facie evidence of crimes committed by federal agents, when presented to the Department of Justice, is almost never investigated, and the crimes almost never prosecuted? (The exceptions are, of course, the rare instance in which

the crime is so egregious and note-worthy that public outcry would occur as a result of the government's standard procedure of ignoring the crimes. Then the usual scenario is this: After millions of dollars have been spent on the government's investigation of itself, the government inevitably concludes that none of its agents has committed any unlawful activity whatsoever.

Meanwhile, it has often destroyed or disappeared evidence, and even indicted, prosecuted and imprisoned the very victims of government abuse - a la Ruby Ridge and Waco .)

Do you ever wonder why government-hired killers like Lon Horiuchi manage to escape prosecution for a crime such as shooting a woman armed only with an infant? Why the government agents who shot 14-year-old Sammy Weaver in the back have been awarded honors by the government instead of prison sentences? Or why criminal prosecutions of federal, state and local law enforcement personnel seem almost nonexistent, even after congressional inquiries such as the Senate's toothless, farcical hearings on IRS abuse?

The main reason for this, in our opinion, is that a gross conflict of interest has been built into the very system itself.

Citizens and residents of this country currently do not have reasonable access for the filing of criminal charges against government agents. Since the United States Attorney is the person in office who defends acts committed by United States Government agents, there is an obvious conflict of interest, as well as a reluctance to investigate and prosecute, when evidence is presented to the U.S. Attorney of crimes committed by such agents.

The same holds true for State Attorneys General, and County and District Attorneys. The result of this is that most complaints filed against government agents are promptly and summarily stonewalled and then round-filed, since it is the natural tendency of any entity, including government, to deny and defend itself against any charges of wrong-doing.

Since the Supreme Court has held that citizens do not have a cause of action under Title 18 - the Federal Criminal Code--and thus no one except the government itself can prosecute Title 18 crimes--citizens and residents essentially have no redress whatsoever against criminal actions of government personnel, except for limited civil causes of action.

As long as government followed the constitutional rule of law, this was not a serious problem, because everyone agreed on what was the rule of law, and what

constituted violations of the law. Citizens and government officials alike - everyone was held to the same standard of constitutional behavior under the law. But as soon as government stopped being “of the people, by the people and for the people,” and took on a life of its own, unfettered by, and utterly contemptuous of, constitutional restrictions, granting itself sovereign immunity in all but rare cases, the result was that government agents became, in essence, exempt from the same laws which governed ordinary citizens, and, worse than that, able to commit crimes against ordinary citizens with impunity and virtually without fear of punishment. The excuse repeatedly used in these cases: They were only “doing their job” and “following orders.” (Shades of Nuremburg!) In the process of this shift, “crimes against the state” have become much more serious than crimes committed against citizens - especially crimes committed against citizens by the agents of the increasingly inviolable state.

A perfect example of this is that it is a federal felony for a citizen to lie to a federal employee - but it is not a felony - or even a misdemeanor - for a federal employee to lie to a citizen.

Thus has the servant become the master, and the master the servant.

The result of this sinister shift in the balance of power is this: Citizens and residents do not enjoy equal protection under the law. Civil redress is not an adequate remedy for criminal actions of agents of the state, i.e. government personnel.

Clearly, civil redress does not constitute equal protection for parties criminally injured by government agents. And few people can afford the attorney’s fees to prosecute a case defended by the largest law firm in the world--the U.S. Department of Justice - even in the rare cases in which a statutory waiver of sovereign immunity is available.

However, imagine what would happen if regular citizens had access to grand juries - real grand juries, not the ones stacked with government agents and, in essence, directed by the U.S. Attorney, who is there for the sole purpose of “protecting the interests of the state.” Present-day grand juries have become virtual rubber-stampers of indictments against citizens for crimes against the state such as "conspiracy," while even getting a complaint against a government agent for committing a criminal act against a citizen in front of such a grand jury is virtually impossible.

If the facts regarding some of the criminal abuses against citizens by government agents could actually be presented to a bona fide grand jury, and these agents could be criminally indicted for their actions, the balance of power could be restored to

the citizens themselves, and not held hostage by agents of the state who increasingly protect only the interests of the employees of the state, and not the citizens at large.

Here's our proposal for how this could work: The person against whom the crime has been committed gathers the facts regarding the incident, and then reviews the facts and the law with his or her personal attorney. (Of course, this premise is based upon the "Government in the Sunshine Act," in which the facts of a case should not be held secret from the public.)

If, after reviewing the facts of the case, the attorney then believes that the person against whom the crime has been committed has grounds for an indictment, the attorney and the person then schedule an appearance with a special grand jury--one to which the U.S. Attorney has no access. If the grand jury requires more information, it would, of course, have the power to subpoena any documentation or person required for justice to be served. To this end, if the government denied the grand jury access to the information requested, contempt charges could then be filed against the custodian of the subpoenaed documents, or against government personnel who failed to appear.

This independent grand jury would then review the case, and if the evidence were proven to be valid, it would return a true bill. The government would then be required to pay the person's own attorney as an independent prosecutor in the same amount that government prosecutors make per hour to prosecute a case. The U.S. Attorney, naturally, would defend the criminal act by the government agent (something he or she is already doing anyway).

The above proposed scenario completely eliminates the conflict of interest of the government's both prosecuting and defending its own--the government itself and its agent.

It is a sure bet that, under the above-proposed system, government agents would speedily return to a policy of politely knocking on doors, rather than the current tactic of alphabet soup agencies' "Special Weapons and Tactics" (SWAT) teams blowing doors off their hinges. Such a system could also be effectively used to curtail unlawful seizures and forfeitures, and, indeed, any criminal violation of a citizen's constitutional rights.

It is also a safe bet that the free market would step in to satisfy the needs of any victims of government abuse, as certain law firms would undoubtedly specialize in this sort of litigation if the demand were there.

At one time - when we still naïvely believed that there was any hope in petitioning our Congresscritters -we would have requested that you share this article with your local congressional “representative,” and that you ask him or her to sponsor legislation implementing such an independent citizens’ grand jury system.

Of course, after you received the response, you too would then have to agree with us that Vin Suprynowicz’s dismissal of the congressional beg-a-thon as completely hopeless was right all along.

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**About the Authors**

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