

FORUM 8

Volume 62, No. 4

Eighth Judicial Circuit Bar Association, Inc.

December 2002

President's Message



by Pan Zettler

TRADITIONS! What to keep and what to let go?

Greetings to All Attorneys of the Eighth Judicial Circuit!

In driving back from a visit to Cedar Key to assist the committee in arranging for the Justice Jimmy Adkins Annual Cedar Key Celebration, I began pondering what parts of the EJCBA's traditions should be retained and what we should let go. This question is viewed in many lights by many different factions of our bar association.

There is quite a long tradition in having the Cedar Key event, one that preceded my membership in this association. There are many, many stories of past events that I have heard. Because our attendance was down last year and EJCBA had to absorb a big loss, whether to continue it was a hotly debated issue in the first board meetings this year. The decision to go ahead and "do it at least once again and then see" was finally made, based on last year's event losses possibly being attributable to the event's following so closely behind the 9-11 tragedy.

Cedar Key is very important to some of our members - i.e. a few weeks ago I received a telephone call from one of our past presidents, Alan Crouch, who wanted us to agree that, although Cedar Key attendance is exclusive to EJCBA members, he be allowed to bring his caretaker. By "executive decision" I readily agreed to his request. Due to his death last week, I plan to raise a memorial toast to Alan Crouch, who will now attend in memory only. By the time this newsletter arrives, Cedar Key will have taken place, and the die cast for continuing this tradition depending on the attendance — which is our best reflection of the desires of the current members of EJCBA.

But what other things does EJCBA do because we have done so in the past, and what should be continued and what let go? What new projects do you want us to do? We sent out a survey in September to all of the attorneys in our circuit to elicit your opinions about our association and, out of about 800 mailed out, not even counting the inclusion of the survey on our website, we have only received 20 responses. The past

surveys brought useable results: 1993/94 - 115 responses; 1996-97 - 105 responses; and 1999 - 80 responses. Is this a lack of interest, or boredom with surveys? Who knows?

What about Law Week? This is a job that takes a ton of work in order to have a good program for the event. It also is something that is promoted heavily by the FL BAR. I remember participating in so many wonderful Law Week activities in the past: delivering Constitutions to 5th graders in the circuit's schools, mock trials in the various county courthouses for grade school students, going to the area schools to talk about law and lawyers, providing programs for high school assemblies, helping with seminars at the Oak Mall, attending plays at the Hippodrome. Which of these things should we continue doing and would you participate? WE ALL are the THEY, as in "They should do —!"

Luncheon meetings - I do hear from the few who want to complain, as well as a few who want to approve, and can only guess that the attendance indicates whether this is a reasonable service to continue to provide for our members. But your suggestions and your feedback help us to provide the best meetings we can have.

Newsletters, Website, Judicial Relations/Judicial Poll, Annual Banquet, Professionalism Award, Monthly "Pro Bone" award, Professionalism Seminar, local CLE, Bench/Bar Committee, Joint Receptions with Law School, Guardian Ad Litem St. Patrick's Day Luncheon, December Charity Auction, Holiday Gifts for the Elderly, Pro Bono opportunities - - Which matter to you????

Every attorney I know has a busy and complicated life. Those members of our current board work hard to provide the things we think you want us to continue, and we have strong discussions about which services/activities we should and should not provide. Which EJCBA activities are important enough to you to have us continue, and which do you not care about?

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Any and all opinions expressed by the Editor, the President, other officers and members of the Eighth Judicial Circuit Bar Association, and authors of articles are their own and do not necessarily represent the views of the Association.

News, articles, announcements, advertisements and Letters to the Editor should be submitted to the **Executive Director** by Email, or on 3.5" diskettes labeled with your name. Also, please submit a black and white photograph with your name written on the back. Diskettes and photographs will be returned. Files should be saved in any version of MS Word, WordPerfect, or ASCII text.

Deadline is the 5th of the preceding month.

Holiday Shopping for a Good Cause

Mark your calendars for the 4th Annual Holiday Auction to be held at the December 13, 2002 bar luncheon. Whether you are looking for an autographed basketball, a guitar or jewelry, we will have it there. All proceeds will benefit the Guardian Ad Litem program.

Have you seen the EJCBA web site?

Go to www.8jcba.org for helpful information, links, Forum 8 newsletter archives, and membership information. We're adding regularly to the site and hope you'll find it to be a useful resource.

We haven't heard from you...

The EJCBA annual survey was published in the September 2002 newsletter and we haven't gotten many responses. In order to best serve our members, your input is very important. Please take a few moments to answer the survey questions and return it. If you have misplaced or thrown out your newsletter, please visit the EJCBA web site at www.8jcba.org and view the September issue in our online newsletter archive. You can print the page with the survey from there and return it via fax or snail mail to the EJCBA office or to Pan Zettler.

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Have you heard from us?

The EJCBA board members have spent a great deal of time and effort the past two months working to contact every attorney in the circuit to verify that we have correct information in our database prior to publication of the 2002-2003 Directory. If you haven't heard from us, please contact the EJCBA as soon as possible to ensure that all of the information we have is accurate. We need your full name, physical address and PO Box (if applicable), the name of the firm or organization where you work (or if you are in solo practice), your e-mail address (if you would like it published), web site address and specific areas of practice. You may fax your information to : (352) 380-9112 or send it via e-mail to execdir@8jcba.org. Thank you!

The 2002 C-GAWL Dessert Contest Prizewinner

This dessert entry was submitted by Kathleen Fox, who was generous enough to share the recipe for her divine cheesecake. The contest judges unanimously agreed that this fluffy concoction was the hands down winner (although there were nothing but crumbs remaining of all of the delicious entries, so those who didn't take the trophy can rest assured that their creations were not unappreciated!).

The Winning Recipe:

What you'll need:

A spring form pan (It's a very thick, pretty deep cheesecake, and it won't work in another pan, nor will you be able to remove it without severe mutilation if it's not in a spring form).

Graham cracker crumbs for crust, crushed and squished into bottom of pan

- 2 large packets of cream cheese
- 1 tsp milk
- 2 eggs
- 1 cup sugar
- vanilla extract
- 1 pint sour cream
- 2 tbsp confectioner's sugar

What you'll have to do:

Combine two large packages of cream cheese, 1 tsp. of milk, 2 eggs, 1 cup of sugar and a tsp. of vanilla. Beat this for ten minutes, then pour into the graham cracker crust and bake it for 25 minutes at 350. Ten minutes before it's finished baking, combine 1 pint of sour cream, 2 tbsp. of confectioner's sugar and 1 tsp. of vanilla, and beat that for five minutes. When the 25 minutes on the bottom layer is up, pour the sour cream mixture on top, and bake for 10 more minutes. Remove and let cool, then chill for 24 hours (it gets better the longer it chills).



Kathleen Fox, winner of the 2002 C-GAWL dessert contest, celebrates her victory with friends Beverly Graper and Harvey Baxter

Cedar Key Event Survives

by *Zelda Hawk*

If the attendance on November 14th of over 90 members of the EJCBA is any indication, it appears that the annual tradition of gathering for dinner in Cedar Key will be ongoing.

Although stone crab claws were not available as expected this year, due to unforeseen weather conditions, The Captain's Table provided us with additional food items on the menu, including crab cakes and oysters.

As usual, Attorney's Title Insurance Fund generously provided free drinks for all attendees, which was greatly appreciated.

C-GAWL (formerly known as 8-FAWL) sponsored its 12th annual dessert contest at a spacious and beautiful condo at Old Fennimore Mill. Kathleen Fox took home the trophy this year with her fantastic cheesecake entry.

We enjoyed seeing everyone in Cedar Key and look forward to next year's event!



The C-GAWL cake walk - literally



.....Standing on the dock of the bay



Harvey Baxter stares down Brenda Chambliss, unaware of the danger looming above....



Mary Day Coker waits for that Tabasco sauce she's swilling to kick in



Judge Sanders shakes Marilyn Peterson's maracas



John Jopling's failed Santa Claus audition.

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"I've been naughty, but mommy works for Legal Aid, so she's nice enough for both of us."



Why are James Colaw & Denise Ferrero smiling? Because a newsletter full of pictures is no work at all!

Why We Celebrate Law-Week

by Aubroncee Martin

Greetings, fellow legal professionals. The Eighth Judicial Circuit Bar Association Board of Directors and the Eighth Judicial Circuit Court Administration staff are in the process of planning Law-Week 2003. Each year, in conjunction with the American Bar Association's Law Day program, the Eighth Judicial Circuit sponsors a week-long series of activities based on the national Law Day theme. The theme for this year's national Law Day Celebration is "Celebrate Your Freedom: Independent Courts Protect our Liberties." Although the bar association board of directors and the court administration staff are already hard at work laying the foundation for a terrific law-week, we certainly welcome and need the support of all attorneys who practice law in our community. Therefore, we ask all members of the local bar to actively partake in the law-week festivities by assisting in the planning of law-week functions and by participating in the various events as well. We challenge all members of the bar to look upon their involvement with Law -Week as more of a professional obligation as opposed to a trivial chore. So, in that spirit, we will be sending out invitations in the very near future to area attorneys to join us in preparing for Law-Week. It should be remembered that the rationale behind the observance of Law-Day and Law-Week rest primarily in the fundamental understanding that symbolism is a powerful tool for achieving tangible results.

Charles S. Rhyne, the former President of the American Bar Association, who is credited as the originator of the concept of an annual national celebration of the law, understood the power of symbolism, and how through a creative use of a symbolic gesture, the interest of justice could be promoted in a very real way. Mr. Rhyne's proposal to create a national celebration of the law was a direct reaction to the former Soviet Union's Cold War propaganda, manifested during their May Day parade of new war weapons, which garnered world wide attention.

It was Mr. Rhyne's plan to "contrast the United States' reliance on the rule of law with the Soviet Union's rule by force," by paying homage to the constitutional system of justice envisioned by the founders of this nation. To that end, Mr. Rhyne drafted a presidential proclamation calling for a national day recognizing the critical role that law plays in our society. That proclamation was adopted in 1958 by President Dwight D. Eisenhower. This original Law- Day proclamation stated that Law-Day was created for the express purposed of celebrating and adding vitality to the American legacy of liberty, justice and equality under the law.

It was important for the legal community, during the uncertain days of the Cold War, to embrace the opportunity to educate the public as to how the law serves to protect all of our freedoms. It is now even more significant in these uncertain times, when citizens are besieged by threats to liberty and justice from sources both domestic and abroad, that the Bar project the image that the legal profession is unified by the principle that law is more than a means by which lawyers fatten their bank accounts. The legal profession must

demonstrate to the public that the law is an instrument for good which serves all people, regardless of race, gender, religion, socioeconomic status, age, disability or sexual orientation. Taking part in a Law-Week program is one of the best opportunities to fulfill this professional responsibility. So when you are contacted to participate in a Law-Week program, please accept the invitation eagerly and graciously, fully understanding why lawyers celebrate Law-Week.

Clara Gehan Association For Women Lawyers

Is Sponsoring the 2002 Meals on Wheels Holiday Gift Project

Please join us in meeting the needs of our local elderly, indigent population who have little holiday cheer to look forward to. C-GAWL will receive a list of Meals on Wheels clients, along with each of their personalized "Wish Lists" for the holidays. Each Volunteer will be assigned one person and his or her wish list and then it will be up to the volunteer to purchase and deliver item(s) from the list to their assigned recipient. The Meals on Wheels Director said that her clients were greatly appreciative of our efforts when we sponsored this project two years ago and are **still** talking about the special presents they received. If you would like to volunteer, please call Robin Davis, Project Coordinator, at 491-4417 as soon as possible, and she will "match you up." Thank you.

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Criminal Law

by *Bill Cervone*

Thank you to those of you who have called or left messages about my undertaking this column. Realizing that the generally positive nature of the feedback I've gotten may have been influenced by the fact that, as State Attorney, I have the ability to call the Grand Jury into session in order to investigate anyone or anything I choose, with the resulting indictments or scathing presentments being just a formality, I nonetheless appreciate all of your comments and assume them to have been completely sincere.

Seriously, and with thanks to Peg O'Connor for suggesting this, the role of the Grand Jury in our court system and how the State Attorney's Office interacts with the Grand Jury, is a good topic for discussion. Dealing with Grand Juries is second nature to me and to those of my senior lawyers who handle the kinds of cases that Grand Juries might review. To other practitioners, even many members of the criminal defense Bar, however, the Grand Jury process is probably still shrouded with the medieval fog from which it was born centuries ago. So this month I thought I'd provide a primer of sorts on Grand Juries.

Starting with basics, each county in the state selects a Grand Jury twice a year, once for the Spring Term of court and once for the Fall Term. The dates of selection for each county are statutorily set, although the Chief Judge can and does on occasion change those dates to accommodate other court activities. Under current law, a Grand Jury consists of 21 members, of which 15 constitute a quorum and from which 12 must agree for any action (by way of Indictment or otherwise) to be taken. Grand Jurors are selected from the same regular venire that petit juries come from. The selection process, however, is far different. For the most part, there is no voir dire. Veniremen who meet the statutory qualifications for jury duty are selected at random from the entire pool present on selection day and constituted as the Grand Jury. The only inquiry beyond statutory qualifications that is made concerns the ability of the prospective juror to be available for the ensuing six months that the Grand Jury will be considered in session. Persons who know they will be moving from the county or whose work or other personal responsibilities would take them out of town so frequently as to make six months of being on call to return to the courthouse a hardship are usually excused by the Court. Once selected and sworn, the Grand Jury is dismissed, subject to recall at such time as there may be a case requiring its attention. It is impossible to predict when or how often that might happen over a particular Grand Jury's six month term. Usually, the Alachua County Grand Jury will be called into session two or three times during its term. In the five rural counties of our Circuit, it is not uncommon for the Grand Jury to hear no cases during its term. In Gilchrist County, for example, it has been several years since the Grand Jury has actually heard a case. Because there may be short time frames requiring the Grand Jury to act, however, there is always a Grand Jury in place and ready to go in each of our counties.

But enough of legal technicalities. The real questions I most often hear center around what Grand Juries do and how they function. The statutory secrecy that protects Grand Jury proceedings from being conducted in the same open courtroom where everything else in our criminal justice system happens prevents me from sharing specific examples but I can still outline in general what takes place.

The most common function of the Grand Jury is to consider potential 1st Degree Murder cases. By law, the State Attorney's Office can charge any crime other than 1st Degree Murder by directly filing that charge. Only the Grand Jury, however, can file a 1st Degree Murder case. Whether that is an anachronism that modern society no longer needs is a matter of debate. Reality is that when a capital murder has occurred, the Grand Jury will be presented with the evidence, given instructions such as a trial jury would have, and then will deliberate as to whether to return an indictment. The Grand Jury can choose to do so, can decline to file any charge, or can indict for some lesser offense. Although not required to consider other crimes, the Grand Jury may legally do so. Usually, however, there is no real purpose to be accomplished by having the Grand Jury convene for other kinds of cases. That's the biggest difference between Florida's Grand Jury system and the federal Grand Jury system, under which the United States Attorney, for the most part, must present all cases to the Grand Jury for indictment.

The Grand Jury also has an investigative function. Under certain circumstances, Grand Juries can and do undertake true investigations into a variety of matters, even sometimes civil affairs of government. For example, many of you will recall that the Alachua County Grand Jury has, on several occasions over the past few years, looked into and reported to the public about jail management issues, even when no criminal conduct was ultimately charged. This function of the Grand Jury is, in my opinion, a vital part of our community and public involvement based democracy. I can't think of a better method of citizen review than to have 21 ordinary people, all from different walks of life and all with different perspectives and experiences, joining together to discuss and express a community consensus on a particular issue. In essence, the Grand Jury can serve as a citizen oversight board in order to reflect and express the feelings of the community as a whole.

In terms of their actual functioning, Grand Juries are sometimes thought of as being merely the mouthpiece of the State Attorney. As that theory (which, by the way, is not remotely true) goes, since the Grand Jury process is in secret and since the State Attorney is the legal advisor to the Grand Jury, of course the Grand Jury will simply rubber stamp what the State Attorney puts before it. Here's how it really works. The State Attorney, of course, presents the case, whatever it might be, to the Grand Jury and arranges the presence of witnesses and so forth. Grand Jurors, however, are much

Continued on page 9

Board of Governors Report



by Robert A. Rush

As many of you may know, every two years proposals for updating the various rules of procedure are submitted to those rules committees for revision, deletion or addition. This year these include the Probate Rules with nine proposed changes, Small Claims Rules with two proposed changes, Family Law Rules

with seventeen proposed changes, six proposed changes for the Rules of Judicial Administration, and nineteen proposed changes to the Rules of Civil Procedure. One proposal is to limit requests for admissions in civil cases to a total of thirty. I have filed an objection to that rule change because civil litigators have told me that the requests for admissions is a great tool for getting documents authenticated and limiting unnecessary discovery of matters that are not in dispute.

If anyone has any suggestions or proposals regarding any of the rules, please let me know and I will make sure that your suggestion is passed on to the appropriate committee. In addition, any member of the Bar is entitled to make an appearance at any Bar committee to make a live presentation of their proposal.

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President's Message

Continued from page 1

If you have not completed the 2002 Membership Survey and returned it to us, please do so, either by going to the website at www.8jcb.org, printing out the survey, completing it, and mailing or faxing it to us, or just sending us a letter or email.

We would surely like to have some feedback!!! Thanks.

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December 2002 Calendar

- 3 EJCBA Board of Directors Meeting, Dell Graham, 5:30 PM
- 13 EJCBA Luncheon, The Sovereign Restaurant, 11:45 AM, Annual Holiday Charity Auction
- 24 County Courthouse closed
- 25 County and Federal Courthouse closed

Reflections

by Jennifer Zedalis

I was asked recently to offer some of my thoughts about teaching trial practice to law students, and also what it may be like to teach full time after eighteen years of practicing law. My connection to law students has brought with it a sense of reflection on my own time at law school almost twenty years ago. I wonder if these students have an image of their future profession that remotely resembles the one I had when I was there.

I grew up in the South during the Civil Rights Movement and the Watergate era. Many of the cases we studied in law school were decided during my lifetime – particularly important decisions regarding freedoms of speech, assembly, equal protection, privacy and the rights of the criminally accused. Unlike many of my schoolmates, I was raised in a home where injustice and bigotry were equated with “states rights”. My mother, a teacher, was very sensitive to discrimination in the schools, and quite vocal about ending it. Her influence in my life has been immeasurable. This early awareness of injustice is what eventually led me to law school and, ultimately, into criminal law. Many of my clients have been indigent persons charged with serious crimes. On a bad day, I would say it’s been stressful, frustrating, a poor return on an investment of much time and energy.

Bad days are fewer and fewer, however.

Law is engaging. Lawyering forces one to learn, and to continually test that knowledge against different sets of facts and circumstances. In the practice of criminal law, I have learned a great deal about rights and privileges, poverty, mental illness, mental retardation, violence, courage, strength and compassion. I have learned to listen and, I hope, how to be better understood. I evaluate my own experience critically now in trying to figure out how to help young lawyers mature and progress. I think that perhaps a few of them wonder what they will sacrifice when they hit the pavement with a bar card and a briefcase.

I imagine I’m not the only working person who feels as if they have several little jobs rolled into one big title. The challenges vary depending on the needs of the individual client. Sometimes the difficulty lies in figuring out the best thing to do for the client; other times it is how to do it that poses the problem. There is a delicate relationship between respecting the wishes of the client and actually acting in the client’s best interest. Anyone who has practiced criminal law knows about this and likely struggles with it from time to time.

Law has become highly specialized and young lawyers need an entire arsenal of effective strategies in order to resolve a client’s case in some satisfactory way. Trial practice is only the outermost layer of good advocacy. It is the one which subjects us to the most scrutiny by the public as well as our peers. Some lawyers are more gifted at persuasion than others – it is, after all, an art. Perhaps the best way to teach this aspect is to let it alone and give students a forum to discover their own style and tempo. Those who are suited for trial work are the ones who also tend to enjoy it. Ego is

another motivating factor, although it is sometimes difficult to accept even the most thoughtful critique. Trial lawyers cannot be boring.

There are other, less subjective, factors which also contribute much to the confidence of the student and the skill of the lawyer. A working knowledge of evidence and procedure is elemental. Procedural law facilitates the rights of the litigants, and lawyers who do not understand procedure are vulnerable. Strong investigative and discovery skills are very important. I like to tell students to be resourceful and exhaustive in their efforts to learn what their case is about. This requires patience. It is risky to attach importance to certain facts without knowing all the rest of them.

As the law student gets closer and closer to having their own clients, they need to develop an awareness of the attorney/client relationship. This relationship has its own unique dynamic, involving more than ethics, more than communication skills and more than nice manners. Clients are empowered to make many demands on an attorney, and lawyers are often ill-prepared for the stress this may bring. This is an aspect of practice which deserves attention in legal skills courses and clinics in spite of the fact that it can only be learned imperfectly at school.

Lawyering is, by nature, a personal thing. Immature people make immature lawyers; angry people make angry lawyers, and so on. I have been fortunate in my practice here in Gainesville to have dealt with so many good lawyers who are also (not surprisingly) good people. Many of these have been on the opposite side of the courtroom. The older I get, the more I appreciate the integrity of opponents. Much of a lawyer’s day to day contact is with opponents rather than colleagues on the same side of a case or issue.

Although I often take them for granted, these are things which define our profession. In the year I have chosen to change my own job, we have new Supreme Court decisions impacting the areas of capital punishment, involuntary commitment, the rights of mentally retarded persons, voters’ rights, states rights, immigration and medical ethics. I hope to offer my students a sense of the complexity of our profession at its best and of the opportunities they have to do something honorable and good.

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Nightmares of Colliding Tubas

by Stephen N. Bernstein

The War on Drugs reached a fevered pitch recently in Tecumseh, Oklahoma when the Board of Education of Pottawatomie County adopted a policy requiring “all students to consent to drug testing in order to participate in any extra curricular activity.” The Board of Education of Independent School District 92 of Pottawatomie County v. Earls, 122 S.Ct. 559 (2002). Public school students were required to take a drug test before they could participate in extra curricular activities. The Respondent Earls simply wanted to try out for choir, marching band, and the National Honor Society and was upset that this would require him to undergo urine testing for drug use.

Amazingly, the case rose from the District Court to the Tenth Circuit Court of Appeals, which ruled in favor of the school boy, stating “any school district seeking to impose a random, suspicionless drug testing policy as a condition to participate in a school activity must demonstrate that there is some identifiable drug abuse problem among a sufficient number of those subject to the testing, such that testing that group of students will actually redress its drug problem.” It seems like a pretty reasonable approach to me. However, the bare majority, as opposed to the naked majority of the United States Supreme Court, upheld the school policy, with Justice Thomas writing about the “special needs doctrine”, a bastard step-child of Fourth Amendment jurisprudence which dispenses with concerns such as probable cause and individual suspicion when the context of investigation is conducted in the discharge of the school’s “custodial and tutelary responsibility” for their students. This sounds more like the *in loco parentis* (applying the Spanish loco, not the Latin). Justice Thomas concluded that a student’s privacy interest is diminished by the very act of the attending school, and there is an even greater devaluation if that student elects to participate in extra curricular activities.

The evidence of drug problems in Tecumseh was scant and the record indicated that police officers once found drugs or drug paraphernalia in a car driven by a Future Farmers of America member. This case will force young students like Earls to consider that electing to sing in the choir will subject him to the indignity of urine testing and staying at home to play Grand Theft Auto on his computer will involve no such humiliation.

The majority, through Justice Thomas, made a lot of hay about the dangers to which members of Future Homemakers of America (who handle kitchen knives), member of Future Farmers Of America (who handle large farm animals) and members of the marching band (who handle large, metallic instruments while marching) are exposed. Forcing students to make these choices seems an unlikely way to win the war on drugs whether it’s Tecumseh, New York, or Gainesville, Florida. I have to applaud Justice Ginsburg’s comments in her dissent: “Interscholastic athletics may require close safety and health the regulations; but school’s choir, band, and academic team

did not.... Notwithstanding the nightmarish images of out of control flat ware, livestock run amok and colliding tubas disturbing the peace and quiet of Tecumseh, the great majority of students the School District seeks to test are, in truth, engaged in activities that are not safety sensitive to any unusual degree.”

Our present Supreme Court might do well to hearken back to the words of Justice Brandeis when he wrote in Olmstead: “Experience should teach us to be most on our guard to protect liberty and when the Governments purposes are beneficent, men born to freedom are naturally alert to repel invasion of their liberty by evil minded rulers. The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well meaning, but without understanding.”

Let’s encourage the kids to get off the couch and into whichever extracurricular activities capture their minds. When the tubas collide, then we can search them.

Criminal Law

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more involved in the examination of witnesses than petit jurors could ever be. Grand Jurors not only can, but I can assure you, do involve themselves in questioning witnesses, asking for additional information, and all other aspects of a case. The procedure is very much an interactive one, rather than the totally passive process a trial jury endures. Once the evidence has been presented, the Grand Jurors are instructed on the applicable law. My practice is to simply do this by using the same standard court approved jury instructions that a trial jury would receive. Like a trial jury, after instructions the Grand Jury deliberates in private until a decision is reached. The only real difference is that a judge is almost never involved until the Grand Jury has completed its work and is prepared to advise the Court as to its actions, which is done in open court.

Is that process subject to the possibility of abuse? Of course, but so is any other vehicle or system created by human beings. Since the Grand Jury serves an accusatory role rather than a deciding role, all of the checks and balances of our court system remain in place after an indictment has been returned, if that is what happens. For this Circuit, I can assure everyone that I recognize the tremendous impact even being charged has, whether by Grand Jury indictment or otherwise. I strive to see that the ability of my office or a Grand Jury to bring charges is used justly. It would serve no one to allow a Grand Jury to be used improperly, and you have my pledge that whenever a Grand Jury acts in this Circuit that action will truly be the result of the will of that Grand Jury as citizens representing all of us.

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