

Judge disqualifies all 250 prosecutors in Orange County, CA because of widespread corruption

May 29, 2015 11:26am PDT by Shaun King



Between San Diego and Los Angeles is Orange County, California. With more than 3 million residents, it's larger than 21 states. If Orange County were a separate country, its economy would be the 45th largest in the world. Now known for Disneyland, the county may soon be known for having one of the most corrupt justice systems in the world. The width and depth and duration of the corruption truly boggles the mind. A case that should've been open and shut has blown the lid off some deep secrets.

On October 12, 2011, Orange County experienced [the deadliest mass killing in its modern history](#). Scott Dekraai killed 8 people, including his ex-wife, in a Seal Beach beauty salon. He was arrested wearing full body armor just a few blocks away. Without a doubt, Dekraai was the perpetrator. A dozen surviving witnesses saw him. He admitted to the shooting early on. Yet, nearly four years later, the case against him has all but fallen apart.

It turns out that prosecutors and police officers committed an egregious violation of Dekraai's rights—so much so that Superior Court Judge Thomas Goethals shocked everyone and removed the Orange County District Attorney's Office, and all 250 prosecutors, [from having anything more to do with the case](#).

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The legal wrangling involved how Dekraai came to occupy a jail cell next to a prolific jailhouse informant. Prosecutors and jailers said it was a coincidence, but Dekraai's attorney insisted it was part of a widespread operation to elicit incriminating remarks from defendants who were represented by lawyers, a violation of their rights.

Dist. Atty. Tony Rackauckas' conflict of interest in the Dekraai case "is not imaginary," the judge wrote. "It apparently stems from his loyalty to his law enforcement partners at the expense of his other constitutional and statutory obligations."

It turns out that Orange County has a secret system of evidence manufacturing and storage that they have used in countless cases, and the collusion is unraveling dozens of cases and may soon unravel the careers of countless prosecutors and law enforcement officers who've maintained it for decades. [It's called TRED.](#)

In recent months, we've learned, over the objections of the Orange County Sheriff's Department (OCSD), that the agency created TRED, a computerized records system in which deputies store information about in-custody defendants, including informants. Some of the data is trivial; other pieces contain vital, exculpatory evidence. But for a quarter of a century, OCSD management deemed TRED beyond the reach of any outside authority. In Dekraai, deputies Ben Garcia and Seth Tunstall committed perjury to hide the mere existence of TRED. Those lies didn't originate from blind loyalty, however. The concealed records show how prosecution teams slyly trampled the constitutional rights of defendants by employing informants—and then keeping clueless judges, juries and defense lawyers.

These violations are beginning to [cause cases all over the county to crumble](#). Other cases involving informants who were eliciting illegal confessions have emerged, entire cases have collapsed, and more may follow. The story goes way back to the 1980s, as R. Scott Moxley explains at length in the OC Weekly, to a prosecutorial scandal that ended in the execution of one defendant and a lengthy sentence for his alleged co-conspirator. Their convictions were based on the testimony of various jailhouse informants even though they told conflicting stories. That scandal rocked the area then, and this new one shows eerie parallels.

Leonel Vega, a notorious gang member, was convicted of murdering a 17-year-old and was due to get life without possibility of parole. He may now be released in 2019 because of [violations of his rights](#).

Similarly, another case—one of the most egregious murders in the history of the county—[has been bungled](#). Jeanette Espeleta, eight months pregnant, was kidnapped and murdered, but the DA's office there has done the unthinkable.

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Similar to Dekraai, government actors took the easily solvable Espeleta murder and unnecessarily cheated. In some ways, the Espeleta case is worse than the lingering aforementioned death-penalty trial that has garnered national attention. During the past 17 years, prosecution teams hid exculpatory evidence, secured tainted testimony, won convictions, and then duped state appellate-court justices into believing they never swerved from their sworn oaths. It's an alarming situation that's not based on speculation. While most prosecutors and cops I see in court are honest, some even significantly underpaid for their work, the record alone in the Espeleta mess proves OC's criminal-justice system needs a cleansing.

So egregious are the violations that the Public Defenders Office [filed this 500+ page motion](#) detailing instance after instance of cases where men and women have had their essential rights violated.

[Speaking to Dahlia Lithwick, of Slate,](#)

Laura Fernandez of Yale Law School, who studies prosecutorial misconduct, says it's amazing that both the sheriff's office and the DA's office worked together to cover up the misconduct: "From my perspective," she says, "what really sets Orange County apart is the massive cover-up by both law enforcement and prosecutors—a cover-up that appears to have risen to the level of perjury and obstruction of justice.

Law enforcement officers and prosecutors in Orange County have gone to such lengths to conceal their wide-ranging misconduct that they have effectively turned the criminal justice system on its head: dismissing charges and reducing sentences in extraordinarily serious cases, utterly failing to investigate unsolved crimes and many murders (by informants—in order to prevent that evidence from ever getting to defense lawyers), while simultaneously pushing forward where it would seem to make no sense (except that it conceals more bad acts by the state), as in the case of an innocent 14-year old boy who was wrongfully detained for two years."

Now, [Al Jazeera has launched a full investigation](#) and has uncovered never-before-heard audio files of conversations between illegal informants.

The U.S. government is prohibited from using informants to gather information on defendants who have retained counsel; doing so violates their right to remain silent and the right to an attorney. But in court filings, Sanders claims the jailhouse informants in Orange County were acting as government agents, taking direction from law enforcement.

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Faced with a possible life sentence, Oscar Moriel, a jailhouse informant spoke to Orange County law enforcement about how his memory "might be able to fall back into place" if they could help him out somehow.

Now, prosecutors in Orange County [are unethically steering cases away from Judge Thomas Goethals](#), who kicked them off the case in the Seal Beach murders and has been persistent about their violations in other cases.

For years, Thomas Goethals has weighed the fates of some of Orange County's most violent criminals. But since the judge began presiding over heated hearings probing the misuse of jailhouse informants, dozens of prosecutors have steered criminal cases away from his courtroom.

Since February 2014, the district attorney's office has asked to disqualify Goethals—a former homicide prosecutor and defense attorney—in 57 cases, according to court records.

In 2011, records show, prosecutors made disqualification requests against Goethals just three times. In 2012, zero times. In 2013, only twice.

The surge of disqualifications began around the time the Superior Court judge agreed to allow wide-ranging hearings that brought prosecutors' mishandling of informant-related evidence under harsh scrutiny.

In essence, the District Attorney's Office is abusing a very particular law to protect themselves from the scrutiny of Judge Goethals.

In a tactic informally called "papering a judge," prosecutors have repeatedly invoked Section 170.6 of the state's code of civil procedure, which allows lawyers a peremptory challenge to disqualify a judge they deem "prejudiced" against their interests. They do not have to prove prejudice or explain their reasons.

Speaking to R. Scott Moxley of the OC Weekly, Scott Sanders, a public defender, [stated](#),

"Not a single prosecutor or officer has been held accountable for the illegal and unethical conduct that has taken place," he said. "This shows that there are far too many members of the OCDA and OCSD who either endorse cheating or lack the courage to stand up to their colleagues who cheat."

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Rackauckas believes Sanders is overdramatizing the mess. The DA claims errors by his staff and police agencies can be solved by training sessions and increasing his annual budget. Part of that training is apparently nefarious. His deputies have spent the past six months demanding judges seal records so reporters cannot monitor questionable maneuverings.

Now, the Dean of the Law School at UC Irvine in Orange County [is calling for a federal probe into the misconduct](#). If prosecutors and law enforcement officers in Orange County are so willing to lie, cheat, and break the law in the name of justice in the ways that we have discovered, what else have they been willing to do? Who might've been wrongfully convicted? Who else has had their rights trampled - no matter the seriousness of their crimes?

How deep will this rabbit hole go and who will fight against the truth coming out to protect their careers?

Read more and find follow up stories [here](#)