

# Above the Law

by Steve McCain

One must acknowledge having done wrong before repentance can be made, before one can muster the resolve necessary to commit to doing right. This is true for addicts of all assortments; and it is as applicable to a nation's rulers as it is for the nation's ruled. So before the United States can progress toward the end of racism, bigotry, and a plethora of other prejudicial and discriminatory behaviors, the federal, state and municipal governments must acknowledge that is they, through policies and practice who have continually sown the seeds of these poisonous plants. These seeds took root long ago, before this nation was a nation of its own. Well watered, they have continued to grow, and have produced an environment that is miasmatic to harmony.

Here, we discuss police misconduct, because it has come to be identified as a major issue in the United States. It is important that we understand, however, that misconduct is not a problem exclusive to the police. The public hears about police misconduct because incidents involving the police are easy for the Press to see and report on; others, that will be identified later, act in either virtual or utter opacity, and are beyond the power of the Press. These actors, because they are invisible to the Press, are both more dangerous and harmful. For now, we will limit the discussion to police officers, and, specifically those who tend to be:

hostile,  
aggressive,  
violent,  
racist,  
generally hateful, or worse – indifferent;  
and so the list goes on.

It would be both unfair and untruthful to apply this discription to all police officers, and perhaps applying it to most, or even many, would be as unjust, but it does apply to enough of them to attract serious public attention. Not all dogs are vicious, but enough are to make the prudent person weary of approaching a stray. But is a dog to be blamed for acting according to its nature, or for its poor training? This is the perfect analogical template from which to consider law enforcement professionals: For who is it that is attracted to a acareer in law enforcement but the one who is naturally propensed toward hostility, aggression and violence? What have we, then, if this same individual was raised in an environment characterized by racism, bigotry and other hateful or indifferent behaviors? Such environments are bountiful in the U.S. As with all vicious dogs, prudence demands they be maintained on short leashes.

This is where our governments are failing in their responsibility to protect the people. In a vicious dog attack both the dog and owner alike are held responsible. Not so in vicious police attacks; in these, seldom is it that anyone at all is held accountable. Not only are these individuals (violent criminals in their own right) protected by their departments and their

unions, but also by the courts, through a construct of the courts known as 'qualified immunity'. This is a glaring example of the government protecting its own. Never do we hear about the enablers (i.e. the police chiefs, union presidents, or the judges who are granting immunity) being held accountable for creating the policies that enable such rogue behavior. Never do we hear of these individuals being taken to task for their contributory and enabling roles.

Police aggression and violence, along with other forms of official misconduct, and the tolerance and fostering of such behavior is paid for with the pain, suffering and lives of its victims. This costs American taxpayers tens of billions of dollars annually; perhaps more. The sun of accountability may be rising, however. There are positive signs appearing on the horizon. No longer can we allow public servants to be shielded from accountability, nor can we afford that benefit to their protectors (who are indirectly responsible). To shield government actors from the legal consequences of their misbehaviors is to pave the road to despotism. If these individuals are acting within the confines of the law, they have no need of a shield; they have no need of any protection beyond the protection of the law; the same protection that every other citizen enjoys, if these government actors are obeying the laws which they have been charged to enforce, they have nothing to fear.

If, on the other hand, these individuals are using their public positions to terrorize or harm the citizenry whom they have been charged to protect, they should be made to suffer double consequences for their willful abuse of public position. If those exercising authority over the citizenry are allowed to escape the consequences of their misbehaviors – this includes the policymakers, lawmakers, and judges, among others – in so allowing, we have given license to tyranny and surrendered our freedom to it. U.S. Supreme Court Associate Justice Louis Brandeis declared:

*“Crime is contagious. If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become law unto himself; it invites anarchy.”*

*Olmstead v. United States, 277 U.S. 438 (1928)*

As mentioned earlier, the police are not alone on this road. Also traveling this path are jail and prison employees, but these groups do not share the police's position under the spotlight of the Press. This is a fact that makes them more dangerous, not less. Prosecutors and trial judges are also here, and, like jail and prison employees, they occupy a position out of the limelight. The misconduct of this group is likely the most harmful of all, because it affects the greatest number of people, and because the effects of their misconduct can be felt by the victims of it for years, decades, or... lifetimes.

Henry Wade, Dallas County, Texas' former District Attorney for 28 years is quoted as saying:

*“Guilty ones are easy to convict. It takes real effort to convict the innocent.”*

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In a free and just society, no one can be “above the law”.