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## Gary Ingemunson

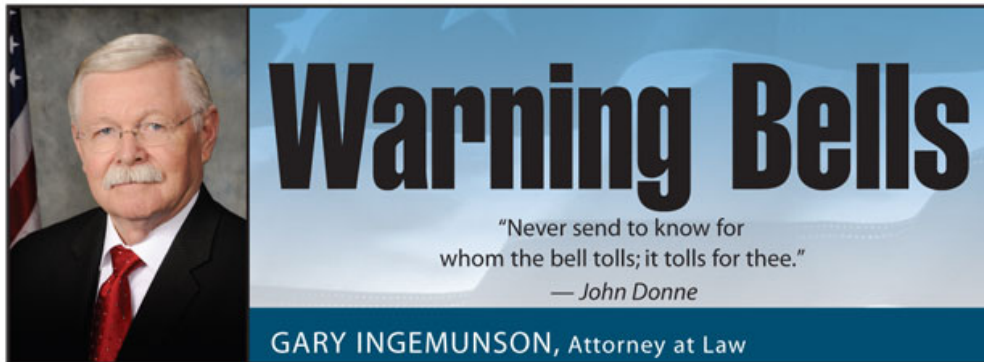
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March, 2010

The officers were lucky. Very lucky. It hadn't started out that way. The captain had called them in and told them Internal Affairs was en route. "You'd better get a rep," she advised. The Department had recently restricted Officer Representation Section reps from rolling on IA rollouts, so **that** was unlucky, but these officers were experienced and had cell phones. League attorney Robert Rico received notification and started making phone calls. IA was persuaded to stand down for the moment.

It had all started a few months before. It was a routine traffic stop. No license plates and tinted windows. The stop led to the recovery of a gun. Unfortunately for the driver, he was an ex-con who was allegedly a gang member. No guns allowed. An arrest was made and a hearing in court eventually followed. It happens hundreds of times in the city of Los Angeles each month.

The hearing in court was routine, too. The officers were called to the stand and testified to the probable cause of a vehicle being driven on the streets with no plates, then discovery of the gun and the subsequent arrest. Then things started to change. Suddenly, the defense attorney produced a videotape that, he said, would prove the officers had testified falsely. The deputy district attorney objected to this last-minute evidence and demanded to review it.

The assignment of this particular deputy district attorney to this case was the first stroke of luck for these officers. She was an aggressive prosecutor and brooked no nonsense from defense attorneys. She was also ex-LAPD. When it came to police work, she had been there and done that. To her, this surprise video stunk to high heaven.

The judge agreed that the deputy district attorney was entitled to review the tape and ordered the defense attorney to provide the deputy district attorney with access to the video. Of course, the defense attorney did not have a copy. After close of court, the defense attorney brought the video to the deputy district attorney, but he was in a huge hurry to leave. The video was copied and the reason for the defense attorney's haste was soon apparent — he had a date with Fox-11 news. His interview was televised that night.

"The cops lied. Clearly," he told Fox-11 news, as they played a supposedly "enhanced" copy of the video which clearly showed a license plate on the car. "I have been practicing 42 years, criminal law, and this is the first time in 42 years that I have a videotape that shows the police lied," the defense attorney told the camera and the nation. And he had more, the reporter stated. A cut back to the defense attorney, who said, "My client denies he had any knowledge of that gun in his car, and we think it could have been planted by the police." Then the reporter stated that the suspect had been so harassed by the LAPD that he was fed up and was going to move his business elsewhere.

The defense attorney jumped straight from trial by court to trial by media and the media was more than happy to play. So was the deputy district attorney. It was after-hours and she began calling all over the city, looking for an expert to examine the video before court resumed the next day. Many would have said it was an impossible task. Difficult maybe, but not impossible when you have dedicated people working for the Department. The officers' luck held when this dedicated deputy district attorney was put in touch with a dedicated employee assigned to LAPD's forensic video lab. The video analyst was called at home at night by the deputy district attorney, who explained the need for speed in analyzing the video. The analyst agreed to meet the deputy district attorney at the lab early in the morning before his watch to perform an analysis.

In the early hours of the morning, the deputy district attorney, video in hand, met with the analyst at his lab. For the next



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Mar 17, 2010

### State corrections panel, facing scrutiny, set to launch inquiry

San Diego Union-Tribune

Two San Diego County lawmakers are

questioning whether Gov. Arnold

Schwarzenegger has picked the right

vehicle for reform in asking for an

investigation into how parole agents

handled the 2000 molestation case of

John Albert Gardner III, now charged in

the death of Chabon King

several hours, the analyst did his work. The video had been falsified and he could prove it. They took the information to court, where a camera crew was waiting to record the hearing. The suspect took the stand and the prosecutor and the defense attorney argued. The judge continued the hearing to listen to the experts. Fox-11 reshaped the story that night and aired the prosecutor's allegation that the tape was false, but the story ended with the reporter stating the defense attorney had told them that "questions about the videotape would be cleared up soon, and when the dust settles he will prove that his client was the victim of LAPD misconduct."

Two weeks later, the hearing resumed. The cameras were in court. The defense attorney called his expert witness. The expert had no training in forensic video examination. He testified that he had not "enhanced" the video, but had located another file on the security system that had been shot by another camera. So the enhanced video was not enhanced, but a different camera shooting at the same time. The defendant then took the stand and said that he received the video from the expert, but did not have time to talk to him. Therefore, he had assumed the video had been enhanced. Regardless, enhanced or different camera shooting at the same time, it "proved" that he had a license plate on the car.

The next day it was the LAPD analyst's turn. His expertise in forensic video training was impressive and he was the author of a textbook used by analysts worldwide in video forensics. In laymen's terms, he clearly laid out all of the reasons that the video was not authentic — and he had a lot of them. The defense attorney tried to effectively cross-examine the analyst, but the answer to every question only made things look worse for the defendant. In the analyst's opinion, the so-called enhanced video was a re-enactment after the fact with a clumsily changed file date.

The defense attorney demanded the court provide a transcript of the analyst's testimony so he could have another expert (who presumably this time would have a forensics background) examine the analyst's opinion and provide rebuttal evidence. The court granted his request. The hearing was continued for six weeks.

The big day arrived. The defense attorney and his expert met with the deputy district attorney in the hallway. No cameras were there. Too bad, because the defense attorney advised that he would stipulate that the video had been fabricated. Apparently, this time, he had retained a real expert.

The hearing began and the defense attorney admitted to the court that the video showing the license plate had been fabricated, but it was unknown who had done the fabrication. Others had access to the security system and **certainly** it hadn't been his client who had done this dastardly deed. Also, just because the video had been fabricated didn't mean that the car didn't have license plates on it, he said; the officers were still lying. The judge disagreed and the defendant's motion to exclude the gun was denied.

I said the officers were lucky. It might seem to be a strange thing to say since the officers had been publicly accused of committing perjury on television and had to live under that allegation for over two months. But they are lucky. What if there had been no aggressive deputy district attorney willing to work overtime, diligently demanding the system listen to her? What if there had been no analyst willing to answer his phone after-hours and willing to come in early for an unscheduled examination of evidence just because it was the right thing to do? What if IA had not listened to reason, allowing the evidence to develop, and instead had engaged in the all-too-often management overreaction of assuming the worst and sending the officers home without badge and gun until the political smoke settled? What if the judge had not carefully listened to the evidence and arrived at the correct decision? What if everyone had jumped on the "LAPD is always guilty" bandwagon, as has happened so many times in the past instead of examining the evidence? What then? No one would believe the officers. Their careers would be in ruins. It has happened before. So, I say again, they were lucky.

And the sad thing is that something like this should not have to rely on luck.

We owe thanks to Deputy District Attorney and former-LAPD officer Deann McCarthy. Thank you for having faith in our officers and the gumption to fight the good fight. We also owe thanks to SID Forensic Video Analyst Jim Hoerricks, both for his dedication and for his skill, not to mention his ability to communicate difficult concepts in layman's language. His book, *Forensic Photoshop*, highlights this ability. Everything you need to know about imaging analysis is on his website at <http://www.forensicphotoshopbook.com>.

And the media? Fox-11 was used by the defense attorney, yes, but submitted to him almost gleefully. They did give the prosecutor some airtime in their follow-up story, airing a segment relating that the video was an admitted fabrication, but there were no cameras in court to film the admission — so there wasn't the same photogenic drama as when the accusations were made. The newspapers covered the story in a fair manner, aided by the League's active participation in pushing out the information. See the League's press release from January 25: [http://lapd.com/news/pr/officers\\_cleared\\_after\\_attorney\\_admits\\_video\\_fabricated/](http://lapd.com/news/pr/officers_cleared_after_attorney_admits_video_fabricated/).

The moral of the story is that not only can you not believe everything you hear; you also cannot believe everything you see. As Attorney Mike Stone, defender of officers in the Rodney King case, is fond of saying, "You can see anything you want to see in a video." Unfortunately, in this town too many people want to see the police in the wrong.

Be legally careful out there.

the death of Chelsea King.

Mar 17, 2010  
**California's prison population falls for the third straight year**  
LA Times

California's prison population declined in 2009 for the third straight year as the number of state prisoners fell nationally for the first time in nearly four decades, according to a new survey from the Pew Center on the States.

Mar 17, 2010  
**Calif prison receiver seeks release of ill inmates**  
Sacramento Bee

The federal receiver who runs California's prison health care system said Tuesday he will ask state lawmakers to approve four bills to control spiraling costs - including proposals to restrict prisons' use of prescription drugs and outside medical specialists and to parole the sickest and costliest inmates.

Mar 17, 2010  
**LAPD's Kristina Ripatti-Pearce goes the extra 3,000 miles for kids**  
LA Daily News

Every mile Kristina Ripatti-Pearce leaves behind keeps a gun out of a child's hands. Every city and town she passes gives another good kid a chance to earn a diploma.

Mar 15, 2010  
**State unable to gauge effectiveness of prison rehab**  
California Watch Blog

Last January, the California Department of Corrections and Rehabilitation unveiled an overhaul of parole and rehabilitation programs to satisfy a court order to drastically reduce the inmate population.