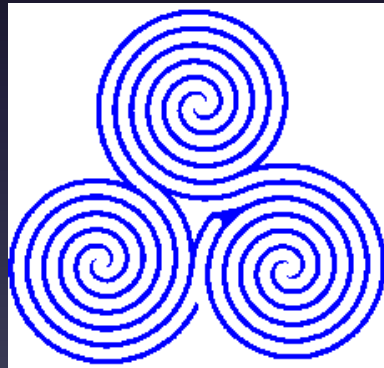


POLICY SOLUTIONS: FRAUD, CORRUPTION IN THE COURTS



Anne Stevenson, Journalist and Policy Consultant

Most court industry
professionals are honest and
do not engage in corruption.

Organized Crime Operating Within
The Justice System Itself Is Not Just
Unethical or Unfair, It's a Serious
Threat To Public Safety.

Chief Complaints of Parents

- Judges, court admins misused court appointment process to force parents into business relationships with unvetted and inappropriate court affiliated vendors
- Judges ignored evidence, law on their cases.
- Court admins, Judges with conflicts of interest acted as business promoter's, collection agency for affiliated professionals.
- BILLING FRAUD: GAL's, attorneys, custody evaluators, visitation supervisors failed to spend time with children, accused of double billing, charged hundreds of thousands in fees for unnecessary services. Consequences for nonpayment:
 - Loss of parental rights
 - Loss of employment
 - Bankruptcy/permanent financial ruin
 - Bogus criminal charges
 - Jail/loss of freedom
 - Children placed with violent offenders, murdered

What Is Fraud?

FRAUD

The intentional perversion of truth in order to induce another to part with something of value or to surrender a legal right.

-Merriam-Webster Dictionary

Two Broward County Sheriff's Office Deputies Charged With Conspiracy, Rigging Custody Case

Charges- Conspiracy, influence peddling, tax fraud,

Up until October 2009, Ft. Lauderdale attorney Scott W. Rothstein was operating a \$1.9 BILLION ponzi scheme via Rosenfeldt and Adler, P.A. (RRA). Broward Sheriff's Office (BSO) Lieutenant **David Benjamin** and **BSO Detective Jeffrey Alan Poole** are corrupt officers who set up a fake company for the purpose of accepting \$185,000 bribes from Rothstein to provide Rothstein and his associates with extra-ordinary access to law enforcement and illegal corporate "benefits."

Attorney Douglas Bates helped Rothstein carry out his ponzi scam. At some point, Bates approaches Rothstein and asks Rothstein to help him rig his child custody case. Bates tells Rothstein that he suspects his ex-wife is an addict who abuses prescription drugs. During a subsequent custody exchange, Bates provided his ex-wife with their disabled son's medication in bottles that were unmarked so that it would appear that she did not have a prescription for the pills.

Rothstein, having this information, arranged to have Poole and Benjamin conduct surveillance on Bates' ex-wife's home. On June 29, 2009, Poole arrested Bates' ex-wife during a traffic stop on bogus charges for illegal possession of narcotics. Bates was given a copy of the arrest report, which he then used to fraudulently persuade the family court to give him sole custody of his children and abate his support obligations.

Anatomy of Kickback Scam



Rothstein

- Employs Bates
- Pays bribes



BSO Sheriffs

- Take bribes via fake company from Rothstein
- Falsely arrest Bates' ex-wife



Family Court

- Sees arrest report, grants Bates' motion for sole custody of victim's children

Conflict of Interest

A real or seeming incompatibility between one's private interests and one's public or fiduciary duties.

-Black's Law Dictionary

NJ Family Court Judge Melanie Appleby

- November 2014: New Jersey Supreme Court suspended Appleby from the bench for one month, without pay because she created, concealed conflict of interest.
- Appleby conspired to promote the business interests of a lawyer who helped her with her own child-support issue even though he had cases before her.
- Appleby met with attorney in chambers to help him with his cases. Attorney used another attorney's stationary, forged signature of another attorney to conceal communications between himself and Appleby, with Appleby's knowledge and implicit consent.



Why Does the Rothstein Case Matter?

- Poole and Benjamin were also charged with arranging to use force and threats of force against the boyfriend of an escort who was threatening to expose the illicit relationship which existed between the escort and one of Rothstein's other partners.
- On October 27, 2009, BSO Sheriffs assisted Rothstein in loading cash and jewelry onto a private airplane which was used by Rothstein to flee to Morocco as the Ponzi scheme being conducted through RRA began to unravel.

COURT CORPORATIONS





Former Family Court Attorney Pleads Guilty

Charges: Tax Evasion, Fraud/False Billing

Sentence: 12 Months in Federal Prison, \$63,000 restitution

Danielle Ross was an attorney who also served as a guardian ad litem in Lackawanna County, Pennsylvania.

For almost five years, Ross was paid to represent the will and best interests of children in family and juvenile court cases, then make custody recommendations to the court in those cases.



The court would appoint Ross onto custody cases, then order parents to pay Ross hundreds of dollars per hour out of pocket for her services. Ross also received a \$38,000 per year salary under a no-bid contract she obtained from Lackawanna County. If parents could not afford Ross's services, the County would pay Ross an additional \$50 per hour to work on their cases.

Ross made over \$400,000 per year acting as a GAL in Family Court, however, Federal prosecutors said Ross failed to report more than \$200,000 of income on her federal income taxes. In some cases, Ross billed both the families and the county for services that were never provided or should not have been double billed.

Normal GAL Payment

GAL APPOINTED

- Agreement of the parties
- Court order

GAL PAID

- Parents pay out of pocket OR
- State or County pays with tax dollars

INCOME TAXES

- Court, GAL fill out IRS form 1099, W-4, etc.
- GAL pays state, federal taxes on income

ROSS Tax Fraud



Why Is Billing Fraud A Threat To Public Safety?

- Corrupt providers sometimes make life or death recommendations in a case without spending adequate time with the children and families whose will and interests they purport to represent.
- Family court industry professionals are often paid more money if the kids are placed in situations in which conflict is maximized. Therefore, corrupt service providers are always going to try and cause the court to find in favor of their own billable hours.
- Corrupt GAL's have no incentive to close cases. They may create problems for the purpose of getting paid to solve them. This can be fraud because the services would not be needed but for the deliberate misconduct of the unethical service providers.
- Law enforcement rarely intervenes in scams which occur within the context of family court cases.
- In order to falsely discredit scam victims, parents and children may be diagnosed with mental illnesses they do not have, bankrupted, and thrown in jail on false charges for nonpayment and other bogus offenses while violent and dangerous offenders engaged in criminal activity retain custody of the child victims (bear with me for further examples of this.)

Accountability: What did these parents do right?

- Focused on integrity of professional billing, not spouses
- COUNTY PAY: Used open records requests to the State, County to obtain copies of the vendor invoices documenting payments made to Ross.
- PRIVATE PAY: Collected copies of the invoices, billing statements, receipts Ross gave them

Public Records Requests

- Open records requests to Judicial Branch, Public Defender's office, State Controller, etc. seeking copies of communications, invoices, contracts, bids, etc.
- IRS filings available via Guidestar
- Secretary of State's Office-Business filings, some on-line

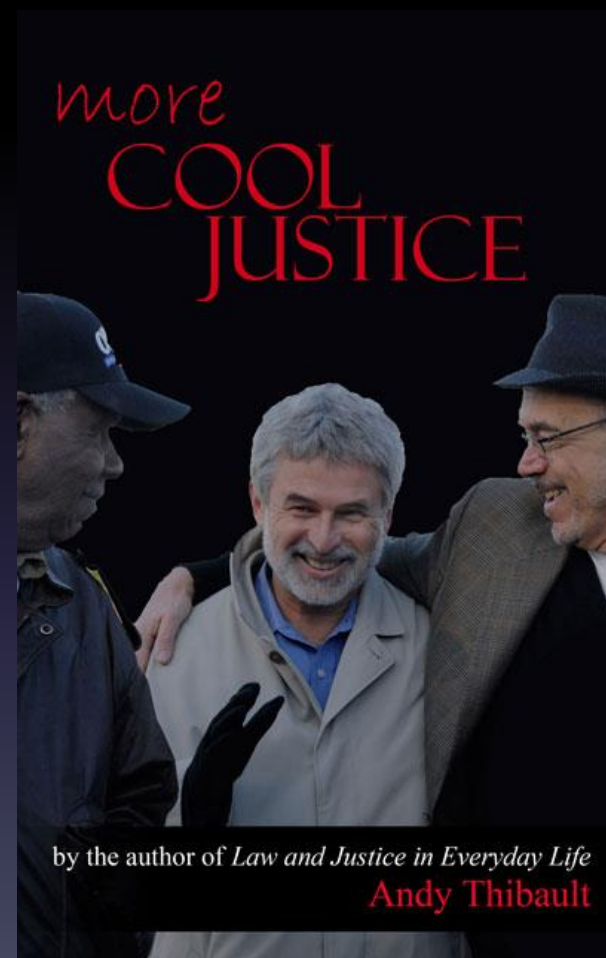
Resources

- Reporter's Committee for Freedom of the Press

FOIA Letter Generator:

<http://www.rcfp.org/foia>

- Info on how to draft motions, administrative appeals, complaints, etc.



Racketeering

- A system of organized crime traditionally involving the extortion of money from businesses by intimidation, violence, or other illegal methods.
- A pattern of illegal activity (such as bribery, extortion, fraud, and murder) carried out as part of an enterprise (such as a crime syndicate) that is owned or controlled by those engaged in illegal activity. See Racketeer Influenced and Corrupt Organizations Act (RICO) USCA § § 1951-1960

-Black's Law Dictionary

John O'Brien, Convicted Probation Dept. Chief, Sentenced to 18 Months in Prison

- O'Brien accused of running Massachusetts Dept of Probation like a criminal enterprise, trading favors with legislators in order to gain political clout.
- Legislators gave O'Brien list of "preferred" hires. Some hires had made campaign contributions.
- Instead of hiring and promoting most qualified candidates, O'Brien hired from legislator's lists, which sometimes recommended candidates who were unqualified and possibly dangerous in such positions.
- Witnesses including family court judges, legislators given immunity in exchange for testimony.
- O'Brien found guilty of mail fraud, conspiracy, racketeering, sentenced to 18 months in prison, fined \$25,000, sentenced to one year of supervised release.
- Co-conspirator top aide Elizabeth Tavares guilty of mail fraud, racketeering, and conspiracy, 3 months in prison. William Burke III found guilty of conspiracy, sentenced to probation. Both fined \$10,000.



Former Massachusetts state probation commissioner John O'Brien was convicted of mail fraud, racketeering, and conspiracy in July.

Elise Amendola/AP

Source: "John O'Brien, Convicted Probation Dept. Chief, Sentenced to 18 Months in Prison," Boston Globe, Eric Levenson, 11/13/2014

CT Court Employees Face Tough Questions Over Conflicts of Interest

-*Washington Times*, Anne Stevenson, 5/20/2013

- 2012:** Family court judges, administrators started a corporation with the professionals who appear before them on cases (attorneys, custody evaluator, psychologist, GAL.)
- Operated business without registration for 30 years.

2013:

- Business not registered with IRS, Secretary of State, AG's Charity Registry, etc.
- Court admins who are corporate directors use court resources to hire company as a contractless vendor, promote business via court offices.
- Court administrator who oversees grants uses court email to solicit fees, donations, membership dues from 500 family court professionals.
- What accounts were they using?

Association of Family and Conciliation Courts (AFCC)

- AFCC is a trade association founded by family court judges, court admins, professionals who appear before them.
- Can be a court vendor hired to run vital services, conduct studies (ex. Mediation, domestic violence screening, court services, employee training, etc.)
- PROBLEM: Inbred, funded with tax \$, private donations



Why is this a problem?

- Quality Control: Affiliation provides disincentive to protect consumers instead of business partners/affiliates.
- Judges may make decisions based on business interests, not evidence/law
- Conflicted professionals may provide clients with sub-standard services to promote business with affiliated professionals.



Marv Bryer v. LA Family Court Corruption

Early 1990's: LA father Marv Bryer's daughter is embroiled in child custody case in LA Superior Court. Family spends \$100,000 on attorneys, litigation fees.

- 1994: Bryer does open records request to family court internal finance auditor Gregory Pentoney seeking records pertaining to donations made by judges to LA County Bar Assn.
- Finds two "donation" checks totaling \$6,750 deposited into LA Superior Court Judge's Association, requisitioned through the bar association by the mother of the man Bryer's daughter was resisting in her custody case. Case moved to Orange County.
- LASCJA originally belonged to AFCC, uses LA family court as business address, uses FEIN# of LA County on accounts, paying out to judges, but not paying taxes. Shut down by IRS, state multiple times.
- Bryer sues Pentoney, County of LA
- 1999: Pentoney, several County employees convicted in related kickback scheme for accepting bribes, stealing millions in LA County Condemnation funds (e.g. abandoned property).

SOURCE: "Is Justice for Sale in LA?" *InSight Magazine*, Kelly Patricia O'Meara, Vol. 15, No. 16 -- May 3, 1999

Bryer's LA Court Kickback Scam

Donation to
LA Bar
Association

Deposit to
AFCC/LASCJA
Account

Payment to
Judges

CT Task Force Spars With Parents Over Billing Fraud in Family Court

-*Washington Times*, Anne Stevenson, December 26, 2013

- **June 2013:** CT State Legislature creates family court task force to address consumer complaints re: GAL oversight, billing fraud.
- **December 2013:** Task force convenes. AFCC members appointed onto task force to “solve” problem they are accused of creating.
- Parents request audit of court vendors:
 - State auditor’s report showed significant money, resources missing from family court budget
 - AFCC affiliated vendor CT Resources Group double billed parents, court, health insurance company for services not performed

CT Resources Group

Dr. Sidney Horowitz, Dr. Howard Krieger-mental health evaluators, custody evaluators, paid by family court to train staff, ran GAL certification program, evaluate litigants.

- Parents provided private billing statements, invoices from providers
- Communications between Horowitz and court talked to judges off record about cases, double billed. Judges approved payments for services not provided.
- Checked against health insurance company billing records
 - Tittle v. Tittle: Horowitz testified children had no mental health problems
 - Billed health insurance company using dx codes for major mental illnesses the children did not have

OUTCOME FOR CT CONSUMERS

CT Judicial Branch either has the most honest and efficient workforce known to mankind, or alternatively, serious oversight problems:

- 10+ complaints about AFCC judges dismissed by Judicial Review Commission.
- No GAL has ever been professionally disciplined. Ever.
- Legislature (made up of mostly lawyers) passed laws statutorily legitimizing GAL's role, did nothing to address billing fraud
- No Attorneys were disciplined. Except those who stood up for clients re: AFCC conflicts of interest.
- Dept of Public Health investigations into Horowitz, Krieger still open.
- State's Attorney opened an extortion investigation into a GAL's conduct in one case.
- Secretary of State's investigation into AFCC still open.
- No one fired by Judicial Branch.
- Chief Administrator William Carbone (AFCC member) and Chief Family Court Administrative Judge Lynda Munro (CT AFCC founder) voluntarily retired for unpublicized reasons. CT AFCC founders Judges Gerard Adelman and Holly Aberly-Wetstone moved to different courts for unstated reasons.