

ARE YOU MORE WORRIED ABOUT THE COPS OR THE CROOKS?

by Reggie Koch

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As many of you know, I am a retired police officer. I still have friends who are police officers, and recently one of them was sharing with me his disgust with the laws that protect the rights of criminals, specifically drug dealers. His complaint had to do with some recent court decision that caused a change in his department's policy and limited an officer's ability to search pursuant to consent. He was irked with the new policy, and he suggested the following question to me: "Come on, people, do you want me to get the drug dealers off the streets, or don't you?" he asked, as he sort of threw his hands up in seeming despair. Clearly, he felt that the courts and laws are unnecessarily binding the hands of police, and hindering their ability to do their jobs.

Many law enforcement officers, especially the lesser educated ones, suffer from these feelings that police are so limited by the courts that they cannot do their jobs. They almost believe that lawyers and judges just make these rules up because they secretly have a goal of anarchy and public lawlessness.

I remember struggling with this as a young police officer and wondering why we go through so much to "protect" criminals. It took me years of experience and lots of education to find the answers. Of course, the simplistic offering that most police officers receive in their training classes is that these laws protect innocent people from being wrongfully convicted. But that explanation is not sufficient. Even if it were sufficient, police officers do not understand or respect that answer, because most police officers believe that—even if given the unfettered authority to detain and search anyone at any time—they would not ever arrest and prosecute "innocent" people anyway. Others had tried to make me understand these seemingly ridiculous "protect the criminals" laws before, but because they had never seen the problem from the perspective of a law enforcement officer, they were not able to make me understand.

I hope I did a better job making my friend understand. It goes something like this:

Early in my law school studies, a law professor whom I love dearly told the class that in his opinion the main difference between liberals and conservatives is whether one is more worried about the COPS, or whether one is more worried about the CROOKS. "Personally," he said, "I've always been more worried about the crooks." As a recently retired police officer who was generally raised as a white privilege conservative, I wholeheartedly agreed. Yes, I thought, I am way more worried about the crooks than I am about the cops.

By the time I finished law school and got a couple year's experience in practicing law under my belt, that had changed: I am now much more worried about the cops. Let me explain:

Growing up as I did, a lower-middle-class white boy with hard-working parents and a strong exposure to Christian values, I never had a problem with the cops, and they seldom had any

problems with me. Hell, I wanted to be one. Until 1998, I had never lived in another country, and throughout my law enforcement career I was cultured to believe that crime and criminals were the things we all had to worry about most. I heard some groups, mostly African American folk, complaining about unfair police practices, but I largely dismissed these complaints as the whining of people who were simply trying to draw attention away from—and make excuses for—their own bad behavior.

Living in the United States all your life—if you are white and lower-middle-class or above—is very disarming, when it comes to police. By being born here, each of us has already won the lottery. We have an awesome criminal justice and court system (not perfect, but still awesome), and positive values still run strong in our society. Crime, I thought, crime is the enemy; we cannot let criminals get the upper hand, or we will lose civilization and become barbarians again.

It was not until I studied the history of our legal system and began reading real case law that I came to learn that my focus on fearing "crime" was misplaced.

Crime has always been. In every society at every time, there have been ups and downs of crime. We deal with it by whatever means necessary. In a strong society with strong government, we let the police and criminal justice system battle crime. In more "lawless" societies, we fend for ourselves by strapping on guns and taking the law into our own hands. (Cue some old cowboy movies, or *Gunsmoke*, if you like.) Sometimes criminals get the upper hand, for sure, but if there is justice in government, or even no government at all, we adapt and do whatever it takes to overcome and suppress crime. Crime is a problem that has always been with us and always shall be with us. We must be mindful of it, for sure. And if we fall victim to a crime, we certainly don't like it. But in times past, in the big picture, the huge concern of the population has never been about criminals in the street. No, throughout history most oppression has not come from criminals. Rather, large scale oppression has come from corrupt government.

When I was a police officer, I thought the answer was simple: If you will just give me free, unfettered authority to enter, search, and arrest as I see fit (don't worry, I would NEVER send an innocent person to jail), my "brothers and sisters in blue" and I could resolve the crime problem, and then—with the fear of crime resolved—we could all live worry-free. Of course, nothing could be further from the truth.

Before law school, I had never studied the U.S. Constitution. Most police officers have little meaningful instruction about our Constitution. Of course, I had heard about it, as have most. This is unconstitutional, that is unconstitutional. I assumed that it was a document about crime and how to help police protect us from criminals. I thought that when our forefathers set our country in motion, they were striving to protect us from crime and criminals in the street. No, they were not. Even back in those days when some areas were overrun by crime in the streets, our forefathers did not appear to even address the "crime problem" at all in their writings. Reading constitutional documents, the declaration of independence, and other historical writings, one can hardly tell that crime even existed: At least, not the kind that happens on the street in dark alleys.

It was oppressive government that was most feared, not street criminals.

If one goes back and looks at history, crime has never been the big problem. It was corrupt government. When people fled England and other places to come here, they were not fleeing crime; they could deal with the crime. They were fleeing government oppression. If a country has a strong government and justice system, crime problems will come and go, but they will always work themselves out to some acceptable level. If a country has a corrupt and oppressive government, it will never work itself out; it will rot.

Our country's forefathers, when they framed our Constitution, had ONE THING in mind: How do we keep government in check and not allow to happen here what has happened in all the places from which we fled? And almost every word of the Constitution and our government structure is set toward that one goal: Keep control of government. Checks and balances. Never too much power in the hands of one person or group. Keep police and military clean, un-oppressive, and under control.

If you are a police officer, you need to pay attention to this. Scoff if you wish, but all you are doing is burrowing back inside your own ignorance. You may think that you and your buddies on the midnight patrol shift could solve all the world's problems if the courts would just let you do your job. You are incorrect. No matter how good people are, if they are given unfettered authority, they WILL misuse it. Power corrupts, and absolute power corrupts absolutely. I am no exception, and neither are you.

If you think that if we allow police more authority to stop us, enter our homes, search us, question us, and detain us so that they may better *protect* us, you are wrong. It will be a very, very short time before this authority is abused, and I don't mean just maybe.

To my police friends who disagree with me, I would just remind you that I have been where you are; you have not been where I am. I have seen both sides of this, and what I am telling you is the truth.

I remember a few years back hearing about someone being held somewhere here in the United States without charges and being denied a lawyer. The reason given was that the person was somehow classified as an enemy combatant, even though the person was not detained anywhere near a battlefield. Then, I heard that when an attorney began filing paperwork and causing a stir, the attorney was jailed as well. When this begins to happen on a regular basis, we are inches from losing our country.

When you hear about people being held without charges, being held without bond, being denied an attorney, or being beaten for a confession, it should strike fear so deep in your heart that you piss your pants!

Let me write that again:

If you hear about people being held without charges, being held without bond, being denied an attorney, or being beaten for a confession, it should strike fear so deep in your heart that you piss your pants!

So, my police friends, if you ask me: "Do you want me to get the drug dealers off the street, or don't you?" . . . here is my answer:

No, leave them there. If you getting them off the streets means that I must give you more authority to stop me, question me, or detain me than you already have, then just let them go. I will choose not to buy their drugs. If they are a rapist and they get too bold, I will kill them myself (or someone will). The only thing worse than living with rapists, murderers, and the like, is to live under an oppressive government.

Here is why:

A rapist can rape me, a murderer can murder me, a drug dealer can sell drugs to my kids, a prostitute can . . . (oh, wait, never mind, nix the prostitute part), a thief can steal from me, etc., etc., etc. But in the end, they are criminals and I am not. That is where the line is drawn. They can do all this stuff to me, but criminals on the street **CAN NEVER MAKE ME INTO A CRIMINAL!**

Only oppressive government can do that.

Awhile back, there was an article in the Arkansas Democrat Gazette about how some lawmakers are beginning to fight back against overly oppressive prosecutions. Below is the link to the article if you want to read it yourself, but here are some excerpts:

WASHINGTON — Abner Schoenwetter, a Miami seafood importer, spent six years in prison, paid tens of thousands of dollars in fines and legal fees, and is at risk of losing his home. His crime? Agreeing to purchase lobster tails that federal prosecutors said violated harvest regulations - in Honduras. Now Schoenwetter, 64, is a convicted felon with an ailing wife, no job or right to vote and three years of supervised release ahead of him. But he's also a star witness for congressional efforts aimed at stemming what a growing number of legal experts and lawmakers consider "overcriminalization" - the federal government's penchant for writing new laws to criminalize conduct that could be addressed with fines or other remedies.

"It used to be a grave statement to say someone was making a 'federal case' out of something," Walsh told lawmakers. "Today, although the penalties are severe and frequently harsh, the underlying conduct punished is often laughable."

"We're talking about people's freedom and the way it affects people's faith in their government or lack thereof. We've got to get this cleaned up," Rep. Louie Gohmert, R-Texas, a former judge and prosecutor, said after Schoenwetter told the panel about the agents who burst into his home early one morning, "herding my wife, my mother-in-law and my daughter into the living room in their nightclothes."

A major problem, legal experts and lawmakers say, is that many federal laws are written so vaguely that prosecutors are not required to prove criminal intent to put someone behind bars.

Joining Schoenwetter at the witness table: former race car driver Bobby Unser, who - after getting lost in a blizzard - was prosecuted for entering a national wilderness area on a snowmobile. The charge carried a six-month prison term and a \$5,000 fine. Because it was considered “strict liability,” the government didn’t have to prove Unser intended to break the law, or that he even knew he broke the law. “That doesn’t seem like American justice to me,” Unser told lawmakers. “Why should I, who nearly died in the blizzard, have to show there was no true need for me to enter the wilderness? I didn’t even know I was there.”

<http://www.arkansasonline.com/news/2010/oct/10/criminal-laws-under-gun-20101010/>

This reminds me of once when I was in a training class at the Little Rock Police Department and I was chatting with a Florida police officer (who was attending the same class), and he told me that if you went fishing in the waters off the Florida coast and got caught with lobsters that had tails that were too long or too short, it was a felony. And each such lobster in your possession was a separate felony count. They will put you in jail; take all your money, take your law license or medical license or whatever, deny you the right to vote or carry a gun, etc., etc., for lobsters!

Oh, and by the way—ignorance of the law is no excuse!

It seems to me that we have forgotten what arresting someone and putting them in jail means. Jail is a *cage*. We put people in cages for catching lobsters with tails that are too long or too short? WTF?

Guess what? Kill all the lobsters and let them go extinct before you give government the right to take a person's life away for catching food!

So, again, criminals can rape me, steal from me, kill me, etc. (By the way, as a proud gun owner and pretty damned good marksman, they do so at their own risk!) BUT THEY CAN NEVER MAKE ME INTO A CRIMINAL.

Only corrupt and oppressive government can do that.

I vow be the best lawyer I can be, to defend good cops and sue bad cops, and fight against bullshit laws for the rest of my life (or take up arms and die in revolution) before I live under an oppressive government.

Yes, despite having been one myself—and still being very good friends with some—I’m much more worried about the cops than I am about the criminals.