

THE PRECEDENT

How Important Are Law School Grades to Your Career?

By Emma Popiolkowski

The season for worrying about grades is upon us. Is all the stress worth it, or is it all for nothing? Harrison Barnes, attorney and author, explains the importance of law school grades to a legal career in his article, *Law School Grades and Your Career*.



If you have hopes of working at the most prestigious of law firms, your grades might matter more than you think. According to Barnes, the most competitive firms usually only consider hiring attorneys who ranked high in their graduating class. This is sometimes true no matter what stage you might be at in your career. However, just as any market is subject to the tug of war of supply and demand, the market of jobs for attorneys also has highs and lows. Barnes explains that during 1998 through 2000, top firms that traditionally had stringent standards when it came to grades suddenly gave them no thought, because the firms had more work than they had attorneys. Then, in 2002, the jobs dried up and again grades determined who was hired and who was not.

If your grades do not reflect your ability or dedication, do not despair. Barnes also points out that although grades do play an important role in how potential employers perceive you and your work, your grades are only part of the package. For a new graduate searching for their first job, grades will be one of the few pieces of information firms can rely on for hiring decisions. Smaller firms that do not partake in on-campus interviews, or firms looking for attorneys specializing in certain areas of law, rely less on grades than top firms that do on-campus interviews.

For the junior associate with a few years of experience, grades become less important. Barnes explains that a few years out of law school, some people decide that the practice of law or working in a top law firm is not for them. This means attorneys are naturally competing with less people for jobs than they were right after graduation. Also, by the time an attorney has been working a few years, they likely will have found a specialization, and the more obscure the area of law, the less competition there is for jobs. Employers may be willing to overlook a low law school G.P.A if they find an attorney with the unique expertise they need.

(Look for more information about the impact of grades on legal careers in the next issue.)

SOURCE: Harrison Barnes, *Law School Grades and Your Career*, LAW CROSSING, <http://www.lawcrossing.com/article/4638/Law-School-grades-and-your-career/>

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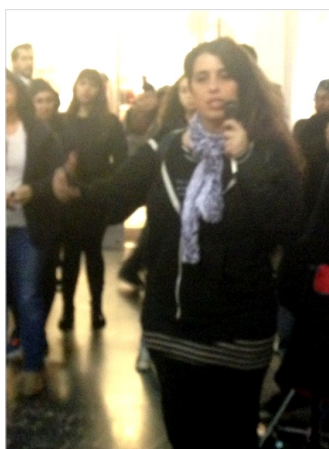
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Editorial: "Film the Police" - A Protest Story

By L.E. Becker

What were you dreaming of doing while you were stuck behind your laptops and books studying hour after hour and day after day for the weeks leading up to your last final? If you were me, you were checking your Twitter feed every so often for updates, photos, and live video streams from protests across the country, and you were particularly jealous when your friend posted a picture from where she stood on the 110 Freeway in downtown Los Angeles, where protestors stopped traffic after the Grand Jury decision not to indict Ferguson Officer Darren Wilson in the shooting death of Michael Brown.

I am an ardent supporter of the First Amendment, the text of which concludes in the right of the people "to petition the Government for a redress of grievances." Recent events, including the police brutality-related deaths of Michael Brown, Eric Garner, Ezell Ford, Tamir Rice, and many others, have amplified the reality of a long history of disparate treatment of Black Americans in the hands of law enforcement. An investigation by ProPublica estimates that Blacks are 21 times more likely to be shot by the police than Whites. But the justification for petitioning grievances about our government does not end there, as our country seems to be suffering an epidemic regardless of race compared to other Western countries. In 2011, while the United States had 409 incidents of police shooting deaths, Germany had 8 and Britain had none. Is law enforcement training in our country falling short to prevent avoidable deaths in police confrontations? Or is our society and its institutions cultivating unfortunate situations where an officer has no option but to pull the trigger? I believe it is a combination of both along with a variety of other factors, and so I choose to participate when and where I can to help bring visibility to social justice issues that affect us all.



Alissa Kokkins, Los Angeles People's Media

On Friday, December 19, 2014, three days after my last final, I was finally able to attend an anti-police brutality protest at Hollywood Boulevard and Highland Avenue, the site of the police shooting death of street performer David Wear, known as "J", who was alleged to have been swinging a knife at passers-by. The shooting had occurred just two weeks prior on December 5. The protest started as a "Film the Police Workshop" organized by Los Angeles People's Media. Organizer Alissa Kokkins gave a presentation on how to use camera phones to film the police when there is concern about their conduct with the public. "Filming the police is the one revolutionary act that has brought us all together," Kokkins told the crowd of around 20-30 engaged bystanders.



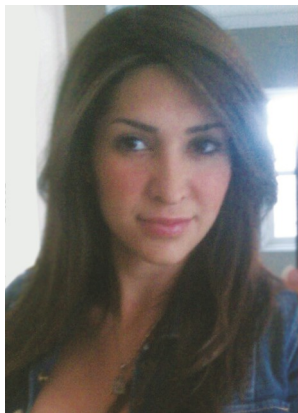
Protesters shutting down the 110 Freeway. Photo by Jessica Parral.

(Continued on page 8)

An End to Excessive Force Claims and Lawsuits Against Police Officers?

OPINION

By Neda Ziba Mohammadzadeh



It seems like almost every other day we hear reports of incidents involving law enforcement officials using excessive force, which consequently result in trials with both the city's money and the officer's job on the line. The most recent incident being splashed all over the news is the \$1.5 million dollar settlement offer that Marlene Pinnock received after the brutal beating she endured from California Highway Patrol officer, Daniel Andrew. According to an article published on September 25, 2014 by Fox News, Officer Andrew was captured on video straddling 51-year-old Pinnock and punching her repeatedly in the face and chest area. The video was taken by a driver on the I-10 on ramp near La Brea Avenue in Los Angeles on July 1, and soon after, went viral on the internet and media. The incident resulted when highway drivers placed a 911 call stating that a woman was walking barefoot alongside the I-10 freeway. When Officer Andrew arrived, Pinnock attempted to walk away from him at which time he tackled her to the ground, straddled her, and began punching her. After nine hours of mediation between Pinnock and the agency, Pinnock settled her claim at \$1.5 million dollars, in addition to Officer Andrew's resignation from the agency. However, the settlement may not be the end for Andrew, who still may face the possibility of criminal charges.

Often when we see or hear about law enforcement officials using excessive force, the first reaction is generally one that sides with the person who was on the opposite end of the beating stick – no pun intended. However, how can any person ever really be sure that an officer used excessive force when they encountered a particular person? How can we put an end to the types of lawsuits and liabilities that officers are prone to on a daily basis as a result of their line of work? Though the cameras mounted on the dashboards of all police cruisers can account for what happens between an officer and a civilian, it is limited to what occurs directly in front of the police cruiser and it generally does not record sound. What happens outside of these cameras' limited zone of vision is where all the claims of police excessive force arise. Lake Havasu, Arizona, has not only found a

solution to the rising number of claims of police using excessive force, but has managed to cut those number of claims and reduce costs resulting from unnecessary settlement offers.

Since 2010, all Lake Havasu police officers are required to have cameras mounted on their body which record the conduct and actions of not only the officer, but the civilians that they encounter while on duty. The results have only been positive thus far. The number of complaints regarding police officers use of excessive force has decreased significantly in the city. Furthermore, where complaints of excessive force have been made against police officers in Lake Havasu, the video footage has become the evidence to which the police department, judges, and attorneys turn. The footage is used to make a determination as to whether the officer truly did use excessive force in his encounter with the civilian, as opposed to the usual "he said, she said" evidence that has been utilized in the past. The video footage has aided in showing that the officer—more often than not—acted in accordance with the department's protocol. Also, the video footage has helped to prove that the complaining civilian has either given an exaggerated version of his encounter with the officer or acted in a manner that not only warranted, but required the force used by the officer. As a result, body cameras have become the leading reason as to why complaints against Lake Havasu police officers have diminished drastically or have been dismissed when made.



Photo by Associated Press

So why aren't all police departments utilizing these body cameras? The most common response to this question is: it's just too expensive. The cameras themselves range anywhere from a few hundred dollars to \$1,000, and the uploading and storing of the video footage has its own costs and expenses. If you ask me, a few more lawsuits with large settlements like the one Pinnock had to pay would be just as expensive, if not more. I guess a few more lawsuits where the "he said, she said" evidence will result in a major payout by the police department and the loss of another officer's job may be the wakeup call necessary for police agencies to start utilizing the body cameras.

WSCL Student Activities

Pet Therapy Day Sponsored by Intellectual Property & Technology Society



On Tuesday, December 2, Western State welcomed Paws 4 Healing for Pet Therapy Day to kick off finals reading week. Dozens of students stopped by to relieve their finals stress with the help of some furry new friends.

Pet Therapy day was organized by the Intellectual Property and Technology Society. The student org hopes to invite Paws 4 Healing back for finals week in the Spring.



TACO DAY

Western State Students Rewarded for Reaching Public Service Goals

On Tuesday, November 18, Western State students were rewarded for reaching their goal of 350 volunteer hours during our Public Service Week from October 18-24. Students participated in several Public Service events including a Red Cross blood drive and the Orangewood Children's Carnival.



Western State prides itself in giving back to the community, and there are many volunteer opportunities available year-round. If you are interested in volunteering, contact Public Service Chair, Angelina Lerma



Happy Holidays

FROM THE EDITORIAL TEAM OF THE PRECEDENT

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People v. Tom: Your SILENCE Will Be Used Against You!

By Steve Bell



Everybody knows the standard *Miranda* warnings, right? It's been a staple of every cop show since the Sixties: “*You have the right to remain silent. If you give up that right, anything you say may be used against you in a court of law...*” But it turns out that what everyone “knows” is wrong – in some situations, such as remaining silent before receiving the *Miranda* warning, you can be convicted for remaining silent.

Background

The Fifth Amendment provides, in part, that “[n]o person...shall be compelled in any criminal case to be a witness against himself.” The Supreme Court, in *Miranda v. Arizona* (1966) and elsewhere, interpreted this self-incrimination clause as establishing a right to remain silent in the face of police interrogation, giving rise to the familiar warning mentioned above and to a number of other similar protections.

For example, in *Griffin v. California* (1965) and following cases, the Supreme Court held that the Fifth Amendment forbids prosecutors from (1) commenting on a defendant's decision not to testify at trial and (2) suggesting that a defendant's silence is evidence of guilt. Under-pinning this decision is the sound policy that any suggestion that silence implies guilt undermines the self-incrimination clause. Put another way, if a defendant truly has a right against self-incrimination, a prosecutor should not be allowed to attack the defendant for exercising that right.

However, more recently in *Salinas v. Texas* (2013) the Court cautioned that the Fifth Amendment's self-incrimination clause “*does not establish an unqualified right to remain silent. A witness' constitutional right to refuse to answer questions depends on his reasons for doing so...[A] witness must assert the privilege to subsequently benefit from it.*” (emphasis added)

Decision

On August 14, 2014, the California Supreme Court issued a 4-3 decision in *People v. Tom*, reversing the appellate court and reinstating Richard Tom's felony conviction for vehicular manslaughter. In 2007, Mr. Tom was speeding through the streets of Redwood City when he broadsided another car. Confronted by police at the scene, and before receiving his *Miranda* warnings, Tom chose to remain silent. At trial, the prosecutor used this silence against him, arguing to the jury that Tom's refusal to talk to police officers indicated a “callous disregard” for those he had injured in the collision. Silence, the prosecutor continued, showed Tom to be a “reckless and remorseless killer.”

In other words, the defendant's silence indicated his guilt.

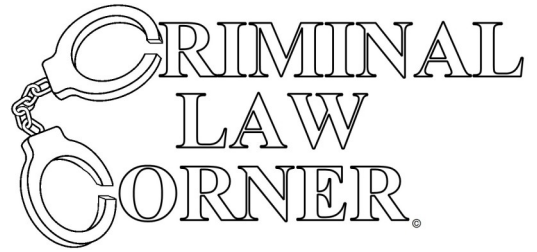
What about the Fifth Amendment's self-incrimination clause? Relying on *Salinas*, the California Supreme Court held that prior to receiving his *Miranda* warnings Tom was required to explicitly invoke his Fifth Amendment right to silence in order for its legal protection to apply. In other words, the burden was on Tom to formally tell police that he was exercising his Constitutional right to silence. Because he did not do so, prosecutors were free to exploit his silence and Tom was convicted – a conviction now affirmed by the California Supreme Court.

The main problem created by this burden-shifting decision is the adverse effect it is likely to have on those who are unable to formally and explicitly invoke their Fifth Amendment protections: the uneducated, the intoxicated, and the mentally ill come to mind.

As for the rest of us, remember that we **don't** have a right to remain silent – unless we **formally assert** that right!

Read the complete decision: *People v. Tom*, 59 Cal.4th 1210 (2014).

Student Org Event: *Parole, Snitch, or Die!*



On Thursday November 13, the Criminal Law Association partnered with the Criminal Law Practice Center and Western State Law Review to host Dr. Keramet Reiter's presentation of "Parole, Snitch, or Die!"

Dr. Reiter's fascinating examination of supermax prisons focused on California's own Pelican Bay State Prison, one of the first such facilities in the nation, and raised a number of questions about the efficacy and humaneness of this hugely expensive incarceration model.

Dr. Reiter is a professor at UCI Law and a national expert on prison law.



Riley Updates: The *Criminal Law Corner* which appeared in the September 2014 *Precedent* (Vol.11 No.1) discussed the Supreme Court's unanimous decision in *Riley v. California* requiring police to obtain a warrant before searching the contents of a cellphone. Now two post-*Riley* cases improve our understanding of technology-related Fourth Amendment issues.

In *People v. Evans*, __ Cal.App.4th __, 2014 DJDAR 13573 (1st Dist. 10/03/14), the court held that because the contents a personal computer involved the same privacy concerns addressed by *Riley*, a warrant was needed before law enforcement could search a computer that a repairman mistakenly believed and informed police contained child pornography.

In *United States v. Guerrero*, __ Fed.3d __, 2014 WL 4476565 (5th Cir. 09/11/14), the court held that *Riley* does not apply to cell phone location data because the phone's owner had no reasonable expectation of privacy in data disclosed to a third-party cell service provider.

Steve Bell is 2014-15 Criminal Law Association President. Any opinions expressed are solely the author's.

A PROTEST STORY *(Continued from Page 2)*

Kokkins advised the crowd on everything from filming technique to locations where the public typically has the right to film the police, including all public spaces, like sidewalks and parks, as long as filming does not interfere with an ongoing police investigation. The crowd was also informed of free online livestreaming services and phone apps such as UStream and LiveStream.



LAPD Officers and Protesters face off on Hollywood Blvd

Following the workshop, there was a march up and down the streets of Hollywood. I hustled along the fast-paced march to keep up as the protesters tried to outpace the officers, fearing “snatch and grab” arrests. Chanting “Hands up, don’t shoot!” we weaved in circles on the streets and through a mall. As the group reentered the street, a caravan of police on bikes and in patrol cars followed, urging us to get onto the sidewalk or risk being cited.

After looping up and down La Brea and back to Hollywood Blvd, the march was suddenly interrupted. The marchers’ fears came true as four protestors were suddenly charged by officers and arrested. A tense 20-minute standoff between baton-in-hand riot police and the remaining protesters followed.

The standoff eventually dissipated and protesters headed back to Hollywood and Highland. As I walked back, a peculiar conversation caught my ear.

“We want you to protest,” a Sergeant of the Los Angeles Police Department’s Hollywood division told a young man who had covered his face with a bandana. “You can do it as long as it doesn’t infringe on other people’s rights.” The officer and a protester debated about the legitimacy of protests that “disrupt the peace”.

“The reason we march in the streets, I’ll tell you why, is because we’re demanding attention. The media won’t put us in the news, and people won’t listen to us,” the protester explained. “People are asleep.”



L.E. Becker is a Juris Doctorate Candidate for May 2015 and Production Manager for The Precedent.

SOURCES: Ryan Gabrielson, Ryann Grochowski Jones and Eric Sagara. Deadly Force, in Black and White. PROPUBLICA. <<http://www.propublica.org/article/deadly-force-in-black-and-white>>. Ben Winsor, Here’s One Theory About Why Cops In America Kill So Many People <<http://www.businessinsider.com/why-do-us-police-kill-so-many-people-2014-8>>



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