

# No Standing News

Since we have no standing, we stand with those left standing

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## Serving the Outlaw City of Missouri Law and Disorder

**Missouri v. Seibert, Making History – Rolla style.** Rolla boosters are always looking for a way to put Rolla on the map and on June 28, 2004, it finally happened. The US Supreme Court made Rolla famous by smacking the **Rolla Police Department** for their illegal methods in questioning **Patrice Seibert** in the 1997 death of her son. Rolla is now famous, will be in the legal history books forever and this is how it happened: In 1997, when Rolla Police **Officer Hanrahan** questioned Seibert about her son's death, the officer intentionally did not read Seibert her *Miranda* rights, hoping to get a confession. During the interrogation, Seibert admitted that she knew that her mentally disabled son was supposed to die in the fire set by another son and his friend. After this admission, Seibert was given a 20-minute break from the interrogation; when it resumed the officer advised Seibert of her *Miranda* rights, which she waived. Seibert then repeated statements she had made prior to receiving a *Miranda* warning. The Missouri circuit court (in Rolla) allowed the tape of Seibert's second, warned confession to be presented at trial, relying on the Supreme Court's decision in *Oregon v. Elstad* (in *Elstad*, the Court held that the initial failure to give a *Miranda* warning does not negate a voluntary confession made after the warning is given). The Missouri Supreme Court, in a 4-3 opinion, reversed. The court distinguished this case from *Elstad*, holding that because the officer intentionally did not administer a *Miranda* warning, Seibert's warned confession was involuntary and therefore should have been suppressed. The US Supreme Court on June 28th agreed thus putting Rolla on the map of places people speed up to get

away from.

The irony is that this historic decision was not publicized in the RDN and the decision was handed down during the same month that the sheriff and police departments in Phelps County were having their public rant about the prosecutor's incompetence which was also the same month the Sheriff's department lost the evidence in a drug case. Obviously things haven't improved much in the intervening seven years since the RPD made legal history so we dedicate this issue to the dysfunctional state of law enforcement in Phelps County.

**Sheriff's Candidate Rick Williams not at meeting.** After the last issue of NSN **Rick Williams** (no relation to Mark Williams of the Sheriff's Department) called and said he was not at the meeting on June 7th when the vote of No Confidence was taken against Phelps County Prosecutor **Ken Clayton**. Williams said that he understood the group was almost entirely from the sheriff's department except for **Chief Pikka** and **Captain Kearse**. Rick Williams will still have to explain to voters how his position is either the same or different from those at the meeting. We expect to hear more from Williams on this issue before November as he campaigns to unseat incumbent sheriff Don Blankenship. Williams has no primary opposition because the other Democratic primary candidate, **Bill Walker**, is ineligible to hold office due to some alleged felony issues.

## A Miserable Management Record

**Let he who is without sin cast the first stone.** One would assume that before pointing the finger at someone else, the finger pointers would make sure their own coattails were very clean but apparently **Don Blankenship** and **Roy Day** didn't think about that before they questioned the prosecutor's competence. Because Clayton isn't running for office this year (although you would think the sheriff is running against the prosecutor) we took a look at Day and Blankenship's records. Day for instance, has changed his tune since he ran for sheriff in the 2000 Democratic primary. (Day lost the primary to Paul "PJ" Mertens but Mertens lost to Blankenship despite the growing criticism of Blankenship's interdiction on the interstate.) In October 2000, **Karen Dillon**, reporter for the Kansas City Star did an investigative series on

Blankenship and a few other renegade sheriffs who were doing drug interdiction on the Interstate but not turning over the proceeds of seized property to the Missouri School Fund as required by the state constitution. In an interview with Dillon before he went to work for Blankenship and joined his Sugar Tree Gang, Roy Day said, "*I think he [Blankenship] is creating a drastic loss of service to the citizens of Phelps County, not to mention when they go federal with their forfeitures.*" Since he became part of the Sugar Tree Gang, Day has changed his mind about the need for service by the citizens of Phelps County.

By "going federal" Day was referring to the DEA "Equitable Sharing of Seized and Forfeited Property" program. By turning over their drug cases to the feds for

prosecution the sheriff's department get to keep up to 80% of the non-drug loot, the DEA gets credit for the tonnage, the drug mules give some names to DEA and they walk out the federal revolving door to deliver more drugs somewhere else. However, if the sheriff turned the same cases over to the state (Clayton) for prosecution, all the seized and forfeited property would go to the state school fund for the construction of schools – not to the sheriff's private fund for equipment. Blankenship has a choice, he can give it to the schools or keep it all for himself...hmmm...give it to the schools or keep it all for himself. Blankenship decided to keep it all for himself.

**Fruit of the Sugar Tree.** How much is Blankenship getting off his Sugar Tree operation? The state audit and county records show that the Sugar Tree is aptly named. Between 1999 and 2003 Blankenship has gleaned the following amounts of "equitable sharing" from the Sugar Tree busts; ('99) **\$38,067**, ('00) **\$108,236** ('01) **\$90,210** ('02) **\$127,171** and ('03) **\$301,023** for a grand total of **\$664,707** in just five years. No wonder they spend their time out on the Interstate instead of on county roads. All that cash goes into the Sheriff's Equipment and Training fund which Blankenship gets to spend on whatever goodies can be called Equipment and Training. A few years ago NSN reported that Blankenship went on a spending binge with some of his early seizure profits and bought enough swat clothes, Kevlar vests, night goggles, personalized pencils and other junk to outfit a National Guard unit. Why do they need all that exotic urban warfare gear if they spend most of their time out at Sugar Tree trolling for more loot?

For those of you who have been swallowing Blankenship's line that he is protecting Phelps County from a virtual tidal wave of drugs, it's time to wake up. If all those tons of drugs were really destined for sale in Phelps County, cocaine would be cheaper than powdered sugar, there would be marijuana booths at the Lions Club Carnival and downtown would be full of 'drug' stores. The big drug hauls Blankenship publicizes are destined for large cities like Boston where they have their own taxes and their own police departments to protect their own citizens. Phelps County taxpayers have been paying property taxes and a "Fight Crime for a Dime" tax for Blankenship to protect cities with police budgets a hundred times larger than ours but nailing someone else's drug dealer doesn't protect Phelps County. For our sacrifice we don't even get a thank you note from all those folks in Dallas and Boston.

The question voters need to start asking Blankenship and his supporters is what has he done with the money, drugs and all the rest of the property and exactly when did we give him permission to protect Dallas and Boston instead of Phelps County?

**The Sheriff's 44 vehicles and other toys.** The **\$664,707** cash from the DEA wasn't the full extent of the Sugar Tree haul. Because they keep lousy inventory records and have *no independent inventory audits*, who knows exactly how much is being 'stored' in deputy's homes, what it is worth or whether it's still around at all? In addition there is the fleet of

cars, trucks, trailers and ATV's the Sheriff and his Merry Men like to have on hand. In the 1994 audit the sheriff was informed that, "*Four vehicles seized in the course of criminal investigations and forfeited between August 1994 and April 1995 were ordered by the Circuit Court to be retained by the Sheriff's Department for use in their "special operations"* ("special operations" is the euphemism for the Sugar Tree Road drug trap). The auditor pointed out that the Circuit Court had no authority after August 28, 1993 to issue this kind of order because the state law had been changed (something you'd think our circuit judges would know about wouldn't you?) and that all forfeited property had to be sold at a public sale and the proceeds given to the schools as directed in Article IX, Sec. 7 of the Missouri Constitution. The next audit in 1996, the auditor found the 'storage' problem still going on but by this time his haul from Sugar Tree was really getting rolling so Blankenship found a better way to keep forfeited property without the collusion of our circuit judges, he had discovered the DEA's revolving door for drug dealers and DEA was rewarding him with the cash – lots and lots of cash.

**Blankenship has a fleet of 44 vehicles but only 54 employees.** When the auditors arrive they will find the sheriff, using the DEA loophole, has acquired a fleet of 44 registered vehicles for his department of only 54 people. Blankenship says only 10 of the 54 are "road deputies." How many cars can a "road deputy" drive at one time? Over 30 employees are jail and clerical staff and do not need individual cars. Blankenship demands the county provide insurance and pay the operating costs for all 44 vehicles. The County Commission does as he orders. The sheriff told the commissioners years ago when they tried to make the sheriff and his deputies account for their travel expenses, that they had no control over him and if they didn't butt out of "his" business he would sue them. In this case they should do just that - butt out of his business and let him figure out how to gas up, insure, maintain and register his 44 vehicles for a department of only 54 persons. How many of these vehicles were seized evidence – fruit of the Sugar Tree - that Blankenship says have to be 'stored' by deputies?

The reason Sheriff Blankenship doesn't need 6 trailers, 28 private passenger cars and 10 trucks (some are new ATV's; the list doesn't include the four Wave Runners they wrecked at a party at the lake in 1993) is because we are paying for the gas, oil, insurance and maintenance for the personal use and enjoyment by the sheriff and his employees of this private car pool. We conclude that they must be using this county property for their personal pleasure because they're not using them for county patrol. We are paying annual premiums of **\$11,570** for liability and another **\$11,207** for physical damage insurance as well as the gas, oil and maintenance for vehicles that Blankenship's employees (and others?) are driving at county expense. The Phelps County Commission should provide insurance for the few marked cars and one prisoner transport van and tell Blankenship to hand in the keys to the rest of his toys and 'store' them in the county parking lot until they can be auctioned as the law requires. We can't afford his car collection.

**We were warned.** The state auditor has been warning us since 1992 that we have a sheriff who can't perform routine simple management tasks properly. These are basic things even the manager of a gas station can do. In the 1998 audit the auditor found that receipts were still not kept in secure location (since 1992), receipts were still not deposited intact or on a timely basis (since 1992), records were still not kept for the petty cash fund (since 1992) and vehicle logs were still not maintained (since 1992). The Sheriff responded (as he has since 1992) that he had "partially implemented" the correct procedures. The next compliance audit (alternate two-year audits are financial only) is this year and we're betting the auditor will find exactly the same problems and Blankenship will again say he has "partially implemented" the correct procedures.

Then there are other functions that are SOP for any law enforcement department that Blankenship also hasn't done year after year after year. These are specific but basic law enforcement functions, such as keeping track of ticket books and who issues citations, evidence security etc., things which are also beyond Blankenship's management capabilities. The auditors have repeatedly told Blankenship to make deputies using county vehicles keep mileage and usage logs and quit 'storing' seized property at deputy's homes. Blankenship's feeble excuse is the deputies have ATV's, camcorders, guns and vehicles at their homes because he doesn't have enough storage space. In 1996, he told the auditor that, *"At this time (and every other time since he first took office) I do not believe it necessary to maintain a daily log for each vehicle. I will, however, discuss this situation with my detective to see if he can come up with an acceptable alternative."* (What exactly is an "acceptable alternative" to writing down numbers from the odometer?) Blankenship continued: *"I encourage my officers to use department vehicles for personal business within the county because it provides a higher visibility for the Sheriff's department... Our officers are on call basically 24 hours a day and they must be able to respond to a situation at a moments notice."* On call 24 hours a day...must respond at a moments notice? What a howler.

Lack of record keeping is lack of public accountability, consistent lack of public accountability over the same issues for 12 years begins to look like something more sinister. But it gets worse...

**Just a "weakness in "Seized Property Inventory Procedures?"** Given his arrogant attitude toward accountability it should have come as no surprise to lawyers, judges or the prosecutor that the sheriff's department 'lost' 5 lbs of dope in the Serena Day case causing the case to be dismissed for lack of evidence on June 21, 2004. It's not the first time it's happened it's just the first time a lawyer made a big point of it and it became an embarrassing part of the official court record. Sloppy record keeping by the Sheriff has been a consistent theme in every audit since 1992, but in the 2000 county audit, the auditor found a new problem to add to the old list. This time the finding was deficiencies in "Seized Property Inventory Procedures" and the auditor noted that,

*"One detective receives, disposes, and has access to seized property and maintains inventory records. A periodic supervisory review of inventory records is not conducted and documented and some items has not been assigned an inventory control number. In addition, the detective indicated that property items had not been disposed of for several years. Evidence awaiting approval for disposal as of April 2001 had been removed from its evidence bag or storage bin. As a result, a reconciliation between the four page listing of items to be disposed and individual items awaiting disposal could not be performed. Finally the documentation or paper trail for some seizures is not adequate."* Alarm bells were ringing but no one was listening. Wouldn't you think an audit which for the fourth time in 8 years documents the same sloppy management of petty cash and traffic tickets and now the vital safekeeping and inventories of drugs, guns, money, jewelry, vehicles and other property needed as evidence for prosecution would have set someone's hair on fire? Well it finally raised an eyebrow in this circuit because in 2002, at the request of the Circuit Court, the auditor tracked over 730 cases and found evidence missing in most of them! Folks, this isn't some new form of accountability Sheriff Blankenship has to sit down and invent; this isn't building a space platform or finding a cure for psoriasis, it's standard operating procedure in every police and sheriff's department in the country and it has been for over 50 years. The dog pound keeps better records of mangy dogs. What we now have is an open door for every felon convicted in Phelps County to challenge his conviction and for everyone in the future to make them drag all the evidence – every ounce of dope, every gun, every camcorder, every flat screen TV – into the courtroom. The lawyers and judges just trust the sheriff to have the evidence somewhere that he is supposed to have because he tells them he has it. Blankenship and the department now have no credibility and that's not just an audit problem that's a very serious and very expensive judicial problem.

**County insurance for the sheriff's department.** The county wasn't able to get their old liability insurance carrier to even bid this year so they had to get insurance through MOPERM, the state insurance pool. The cost of the insurance premium that covers just the sheriff's department went from \$15,000 to \$50,000 the deductible is now \$25,000! (You read that right – a deductible of \$25,000 per lawsuit). We don't know why the private insurance company didn't bid but one has to wonder if it had anything to do with the seventeen (17) federal civil lawsuits that have been filed against Blankenship and members of the department since he was elected in 1992 (that doesn't count appeals). After paying off a certain number of high-dollar lawsuits insurance companies tend to either drop you or hike your rate to astronomical levels so you'll take your chronic liability somewhere else. Odd isn't it that we've never read anything in the paper about Blankenship's 17 lawsuits or how they turned out?

**Blankenship's video enterprises.** The 'special operations' at Sugar Tree didn't just result in cash, cars, drugs and guns, it

has it's fun side and has made video stars out of **Sheriff Blankenship, Deputy Mark Williams** and **Deputy Righnower**. For only \$49.95 you can purchase videos of them demonstrating their drug interdiction expertise. In "Follow Up After The Initial Drug Arrest" we learn that "Mark Williams is an expert interrogation officer with hundreds of drug seizures to his credit. Mark teaches you how to interrogate, who to contact, and how to talk to other departments. (A skill Mark seems not to use much at home) All the information you need to have a successful follow up. You will also learn what info to obtain from the suspect, and

*how to get info from the suspect."* (That last one gives us goose bumps.) We haven't seen the video because Hornbeck Video Productions will only sell it to cops, but we assume Mark didn't delve too deeply into how to keep track of the drugs until trial. Deputy Righnower is the star in "How to Locate Marijuana Grower's Patches." He must be saving his talent for the paying customers because we haven't seen any evidence that Righnower's expertise is being used in this county where marijuana grows undisturbed. Perhaps the idea is for Phelps County residents to pay \$49.95 for the video so we can Locate Marijuana Grower's Patches for ourselves.

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