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Injustice!

by Dave FEATHERLY

Why should we care? Why should you care, why should I care? Why should anyone care?

She's a woman few of us knew. She stabbed her husband and pled guilty to voluntary manslaughter. She accepted a sentence of 6-12 years in state prison.

Why should anyone care? Why do I care? I never met her. She was a stranger. Why does her neighbor who spent time with me for an interview care?

If "the system" doesn't care, why should we? They're in charge of doing right by people, aren't they? Many of them are "officers of the court," aren't they? Isn't it the charge of even the district attorney's office, even in an adversarial system, to do their best to insure justice is done?

If you believe that - if you defend that principle of the legal system - perhaps you can explain to me how in one case, a guy can repeatedly strike his brother with a deadly "weapon," disable him, then go to his bedroom inside a house and talk on his cell phone to a California girlfriend and sleep, while his brother slowly dies on the driveway. The assailant never calling 9-1-1 until he awoke several hours later. That guy received probation only for his dastardly and deliberate act, yet a woman, who had been repeatedly physically and emotionally abused and reported several of the incidents and required hospitalization after one of the assaults and had twice, within months of the incident in question, sought a protective order, had stabbed a foolish husband with a knife that would not render a fatal wound 99 times out of 100, then ran immediately to a neighbor asking him to call 9-1-1. Yet she was charged with first degree murder even though the DA's office knew the stabbing was not premeditated. Ultimately, she pled guilty to a lesser charge and is now doing 6-12 in Lusk.

What's wrong with that picture? What in the name of God is wrong with that picture? And who should care?

Let's first assume that the District Attorney's office has no conscience - that they are okay with that comparative narration. We have no choice but to believe that. It happened just as described above. In the woman's case, at her sentencing, she did not have in attendance a good share of the clergy of a certain faith, nor did she have a sentencing judge of the same faith as hers, nor did she

have an ADA of the same faith as she.

In addition to all of the disadvantages she faced from the prosecution's side, she had no defense counsel. At least none that fought for her acquittal. She had one who surrendered. Knowing full well that his client had been repeatedly beaten by the man she stabbed, the defense counsel rolled over for the prosecution and came across as grateful that she would not be tried for first degree murder.

First degree murder requires premeditation. There was no plan to kill the guy. The woman had every right to defend herself against further abuse - it was her house, not his. And she didn't stab him, or shoot him, while he slept. That would have the easy solution for her and still have been defensible as self-defense in other jurisdictions. Wyoming's legal system works differently against women who are abused and for men who abuse them. Women are re-victimized.

I have read similar case files time after time and find the same thing. The guy beats the woman multiple times and every time it reaches three assaults, when a felony should kick in, the prosecution dismisses the latest charge and the guy gets another bite of the apple. He beats his wife or girlfriend still again and the routine is repeated. Charges are dismissed or the charge is changed to something like reckless endangerment and the felony is again avoided. Five, six times.

The public defender's office cannot keep up. Like the DA's office, the more cases that can be plea bargained away and not go to trial, the better for them. But this is one of the cases that should have gone to trial. Juries will find innocent people innocent. They did on the flimsy case the DA presented against a guy who was charged with aggravated assault - with no victim. But, that guy had a private attorney, not a public defender.

The worst private attorney in town should have been able to get this woman acquitted. Her defense is in the case files of circuit and district court. But no defense was offered. This defendant was vulnerable. After being beaten repeatedly by a man she took into her home, she was assaulted one more time. By the system. No injuries inflicted by the guy she married a couple years before this incident were as bad as the injury resulting from having a public defender represent her interests. No woman should have to endure the torture this one did. She didn't

murder her husband. She reacted to an ultimatum he presented her. "It's me or you." She finally decided she wouldn't allow him to kill her and she tried to disable him - something the system would not do for her. She had endured as much abuse as she could take. She hadn't planned for it to end the way it did. It just did. She had repeatedly sought help from the system. All the system ever did was return the abuser to his victim. Her.

And, when she sought restraining orders in the months before the incident but did not show for the hearing, instead of the system turning over her plea for help to someone who could explain to her the options she might have, the system just dismissed the protective order applications and closed the books. To them, she was just one more woman who wouldn't break the cycle - she wouldn't leave the abuser. But, she didn't return to her abuser as so many women have, the system returned her abuser to her.

Had a victim's advocate met with her, she might have been advised to see the protective order through - to one more time ask, no, beg, the system to keep the abuser away from her. So often, victims say, the courts send him back to beat them worse. "One of these times, he'll kill me. I'd rather be beaten than be dead," they've told me.

That may not be how the system is designed to work but here in Laramie County, that's how it works all too often.

This woman should not be in Lusk. She should be home with her three children. One but a baby, one a special needs child and one close to his teenage years and needing his loving mother more than ever.

She was described to me today, by one who has known her well for the past few years, as a devoted mother. A mother who walked her younger son to elementary school two miles from home, regardless of weather. She was proud and declined a ride. She could not protect her sons like she could not protect herself. The hurt and frustration all of them must have felt is unimaginable. The abuser came into their lives a short time back. They weren't subjected to abuse when it was just the boys and their mother. Now, this stranger worms his way into their house and beats their mother and abuses them also. Hate is a strong word but it would not be unreasonable for these boys who so loved their mother to hate the man who disrupted and destroyed their lives.

After the incident, the woman immediately ran across the street to the neighbor who had befriended her and had offered to "deal" with her husband if he were again abusive to her or the kids. She told him she needed to call 9-1-1. Her phone had been disconnected so her neighbor called on his portable phone. Initially, he did not know what had happened. He thought it was an emergency for one of her sons. Asked by 9-1-1 what the emergency was, he asked her and she said she had stabbed her husband. She did not say "I killed her husband." She didn't know how badly he was hurt. She just knew that she had stabbed him.

After being asked by 9-1-1 what the emergency was, he gave her the phone. After her report to 9-1-1, she remained with the neighbor until a single patrolman arrived - some 10-15 minutes later. Next to arrive was a fire truck and that was another 7-10 minutes later - then an ambulance arrived with paramedics 10-15 minutes later. From a call reporting a stabbing. Could her husband have survived with a faster response? No one knows. But, it took a long time for emergency responders to arrive, according to her neighbor.

A district attorney's office is charged with seeking justice, not convictions or vengeance. Why did no one quickly interview the one person who was with the woman within minutes of the incident and a neighbor who knew the troubles of this couple? Why didn't the public defender's or the district attorney's office immediately contact him for an interview while events were fresh in his mind and while there still had to be some uncertainty whether she had committed a crime? Court (district and circuit) files are replete with reports of domestic abuse by the husband. Why did the neighbor have to call the public defenders office a dozen times to even get a return telephone call? Because there was never a planned defense. She blurted, "I stabbed my husband," and the public defender was too incompetent to mount a defense for this battered woman. It was just another case to dispose of - a case in which a defendant had said she stabbed her husband.

Was she asked, "was he beating you again?" Was she asked, "did he threaten you - stab me or I'll kill you?" No, they did nothing. The DA's office deliberately and with malice charged this battered woman with first degree murder without a shred of proof it was premeditated. Someone then made up the story that she had said she "meant to cut off his penis." She was given a choice by a bully with a history of abusing women. Her best choice was to stab him. Would the system have been more satisfied if he had stabbed her - or beat her one more time? They turned a blind eye and deaf ear so many times before, what would one more time hurt? This is an injustice that cries out for correction. See P. 5.

Union Pacific Historical Society

25th Anniversary

July 8 - July 11 in Cheyenne

Most Convention Activities will be held at
Little America Convention Center

July 9th - UP shop tours

July 10th - Domeliner excursion to Yoder

July 11th - A giant railroad collectible
and model swap meet will be held
at the former UP depot lobby

No admission fee, open to the public 9 am - 3 pm

Further information is available at:

www.uphs.org or 635-5197

The Wyoming Coalition for the Homeless

➤ Volunteers are needed for a number of activities at the WCH. If you can teach computer classes, drawing and painting, life skills and/or job skills classes, you could be of help. Those interested in volunteer positions at WCH, please contact Virginia at 634-8499 or stop in at the WCH office at 907 Logan Avenue.

➤ Donations are always welcome at the Wyoming Coalition for the Homeless. Anything from clothes to laundry detergent to paper goods to cash can be used. Donations can be dropped off at 907 Logan Avenue from 9 am - 3 pm Monday-Saturday and 9 am - 1 pm on Sunday.

➤ The Wyoming Coalition for the Homeless will be open during Frontier Days. We are here to help. Need takes no holidays. Compassion takes no time off.

SANDWICH SPECIALS

Starts Friday, July 3, 2009

2 Cheeseburgers
Large Drink
Large Fries **\$5.99** plus tax

thru Thursday, July 2, 2009

Double Cheeseburger
Large Drink
Large Fries **\$5.25** plus tax

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Pershing & Snyder



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Injustice (continued from front page)

Often, these Laramie County serial domestic abuse cases end with the man or woman leaving Cheyenne - separately or together. On occasion, the abuser goes to prison. But, all too often, the system perpetuates the abuse by dismissing the criminal charge that would send the abuser to prison. Sometimes, the felony charge is avoided repeatedly.

Why? Sometimes the DA's office "roll" these guys into becoming "confidential informants" - snitches. Based on the percentage of domestic abuse cases that I review that end in dismissals or reduced charges, the total must be staggering.

Evidently, to work in prosecution of criminals, you have to become callous about the lot of victims - impervious to the suffering of the weaker. Success is measured by convictions and a "guilty" plea, whether through a plea agreement or a court (judge or jury) verdict, they all count the same. For a "successful" DA, conviction rates have to be in the high nineties.

Charging an accused with crimes not fitting the action or charging an accused with multiple, duplicative crimes makes it easier to get a plea or conviction out of at least one of the crimes charged.

Back a few years, I presented a story here of one Johnny Lopez, a Casper resident who was initially charged and convicted in Natrona County of second degree murder for, at most, "slapping" his best friend on the side of the head, causing him to drop back onto a sofa.

The Wyoming Supreme Court reversed that verdict and remanded for retrial on involuntary manslaughter. He was offered a plea with time served. He could not bring himself to plead guilty to causing his best friend's death and he stood trial a second time. He was convicted again and served several years in prison.

At least in that one instance, the Wyoming Supreme Court told the lower court, "Come on, you guys, the crime, if any, does not reach the level for which he was charged and convicted. Do it over."

That is what's needed in this case. She needs to have her case appealed. And, at another trial, if a DA recharges her for trying to save her own life and the lives

of her three precious children, she needs a private attorney who will mount a defense, not wave a surrender flag.

There is nothing in the past that would have led the prosecution to think she intended to cause the death of her husband. There is ample evidence in the court files - files both the DA's office and the public defender should have found and reviewed - to indicate the husband was abusive and had a history of domestic violence. Against this woman and a previous girlfriend. In the files, they would have also learned that he had used a knife as a threat with his previous girlfriend.

This woman never threatened anyone with a knife or in any other way. But, there are several complaints about the guy's assaultive behavior and the other incident with a knife. Her story holds up because it's the truth. Her defense attorney should be disbarred, in my opinion.

There is absolutely no reason to believe this woman planned or intended to kill her husband. Even though she had endured his regular abuse and the system repeatedly sent him back to assault her, her reported behavior that day did not suggest she was the aggressor - that she had decided, finally, "enough is enough" and grabbed a knife to end his abuse.

He had the knife. He had hit her earlier in the day when she was trying to use the bathroom. He had hit her when she was "doing the dishes." He brought the knife to her and "dared" her to use it. He may have thought she'd use it to end her suffering - by stabbing herself. He had previously assaulted her to a degree that required an ambulance. She had sought protective orders twice in the three months before this incident. Yet she had sought his attention and craved his affection. He would push her away.

Her self-esteem was low. Yet she had much to feel good about. Until this guy came into her house. Allowing him to move into her house when he had been evicted from a neighboring apartment was an act of generosity - an act of compassion and charity. She was a nice person, a proud woman and a great mother, according to the neighbor. Is there a competent attorney out there who will step forward to help this woman?

Watch for this one



The Cheyenne Herald is investigating an allegation that a city attorney violated **Rule 1.7.** of the **Wyoming Rules of Professional Conduct for Attorneys at Law.**

The violation, as alleged, occurred in the early part of this decade. The violation is of **Rule 1.7. Conflict of interest: current clients.** "(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."

Rule 1.7. (b) "Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), lawyer may represent a client if: (4) before proceeding with the representation, each affected client makes an informed decision to waive the conflict, in writing signed by the client."