

**Military Resistance 7J13**  
[GI Special]



**The Ice Begins To  
Crack:  
SSgt. Says “Morale Has  
Gotten Low. I Will Say It  
On The Mountaintops”**

**Nervous Army Commander In  
Afghanistan Forced To Reply To  
Reports Of Low Morale Among  
His Troops:  
His Letter To Soldiers Admits They  
Are Questioning The Mission:  
“Some May Ask Why’ Efforts To  
Clear Valleys Of Insurgents Or Keep  
Roads Open Are ‘So Important (Or  
Really Worth It’”  
“Staff Sgt. Stephen Barnes, A Squad  
Leader Fighting In The Tangi Valley,  
Says: ‘Morale Has Gotten Low. I Will Say  
It On The Mountaintops’”**

Haight said he wrote the letter after a request by Capt. Jeffery Masengale, a chaplain who told British newspaper The Times that many soldiers worried their mission was pointless and the Afghans reluctant to help them.

Oct 17, 2009 By Gregg Zoroya, USA TODAY

WARDAK PROVINCE, Afghanistan — An Army commander in Afghanistan has responded to concerns about low morale among his troops in a personal letter that assures them they are contributing to the “overall success of the mission” here.

As the Obama administration debates the military strategy in Afghanistan, the letter offers a rare glimpse about how that debate is playing out among troops on the battlefield in one of the country’s most violent provinces.

Col. David Haight, of the 10th Mountain Division’s 3rd Brigade Combat team, sent the letter to the 3,500 men and women after two of them were killed in combat and his chaplains reported that many were disillusioned about the war.

“From the individual’s foxhole, it is probably often difficult to see the bigger picture,” wrote Haight, who provided a copy of the letter to USA TODAY.

Haight wrote that “some may ask why” efforts to clear valleys of insurgents or keep roads open are “so important (or) really worth it. ... I am here to solemnly testify that it is all important.”

**In an interview after sending out the letter, Haight said that some of the public debate may have reached soldiers in the ranks.**

“I can tell a soldier to do anything, and he may or may not in his mind question why,” Haight said. “But if you explain the why very, very clearly, he will not only accomplish the mission, but he will do the mission to a much higher standard.”

“Morale is something that varies by person and circumstance,” said Army Lt. Col. Mark Wright, a Pentagon spokesman. “But based on conversations with commanders in the field, morale across the force is generally pretty good.”

The letter itself wasn’t unusual, said Lt. Col. Paul Swiergosz, spokesman for 10th Mountain Division, based at Fort Drum, N.Y. Haight writes a letter every month in the unit’s newsletter, Swiergosz said. He said the unit’s soldiers remain focused on their mission.

**Haight said he wrote the letter after a request by Capt. Jeffery Masengale, a chaplain who told British newspaper The Times that many soldiers worried their mission was pointless and the Afghans reluctant to help them.**

**Masengale declined to comment.**

Staff Sgt. Stephen Barnes, a squad leader fighting in the Tangi Valley, said “there’s a lot of soldiers that are going to be glad as hell that (the chaplain) has spoken up. Because out of fear of reprisal, they don’t speak. I will say it. Morale has gotten low. I will say it on the mountaintops.”

**MORE:**

# **This Should Just Do Wonders For Morale #1: “Army Canceling The Deployment Of 3,500 Fort Drum Troops To Iraq” They “Might Be Headed To Afghanistan Instead”**

Oct 16, 2009 The Associated Press

FORT DRUM, N.Y. — The Army is canceling the deployment of 3,500 Fort Drum troops to Iraq in January.

Fort Drum spokeswoman Julie Cupernall says there's no word yet on whether the 3,500 troops of the 10th Mountain Division's 1st Brigade Combat Team might be headed to Afghanistan instead as part of a troop level increase now being debated by the Obama administration.

**MORE:**

## **This Should Just Do Wonders For Morale #2:**

### **Bagram Base Trauma Hospital Getting “More Than 3,000 Wounded U.S. Soldiers Each Month”**

October 15, 2009 By David Axe, The Washington Times [Excerpts]

As the Obama administration debates the need for additional U.S. troops in Afghanistan, commanders at Bagram Air Base say their facilities already are overwhelmed by existing demand.

More than 3,000 wounded U.S. soldiers each month already have forced the trauma hospital at the base -- the only one of its kind in all of Afghanistan -- to expand into a cluster of air-conditioned tents erected beside the main building.

At present, aerial port workers cannot distribute pallets, via airplanes and helicopters, as fast they receive them. Deliveries to active combat zones often require the services of an Air Force C-130 like Col. Tony's. Incoming shipments, in contrast, often arrive on contracted civilian aircraft.

**MORE:**

## **This Should Just Do Wonders For Morale #3: Correction: “640,000”**

# **“At The Accepted Counter-Insurgency Soldier/Citizen Ratio Of 1:50, And Afghanistan With A Population Of 32 Million, A Total Of 640,000 Troops Would Be Required”**

From: Don Bacon {Veteran & The Smedley Butler Society}  
To: Military Resistance  
Sent: October 17, 2009  
Subject: Afghanistan

re: 250,000 U.S. Combat Troops required in Afghanistan

You're low-ballin' it, chief.

*[This refers to a comment, clearly badly mistaken, in last issue of Military Resistance; "Counterinsurgency-For-Beginners established years ago the basic rule of thumb that a 10 to 1 ratio is necessary to defeat a national resistance movement. T"]*

FM 3-24, COUNTERINSURGENCY\*: "Most density recommendations fall within a range of 20 to 25 counterinsurgents for every 1000 residents"  
<http://www.fas.org/irp/doddir/army/fm3-24.pdf>

**At the accepted counter-insurgency soldier/citizen ratio of 1:50, and Afghanistan with a population of 32 million, a total of 640,000 troops would be required.**

\*A product of the current CENTCOM commander and McChrystal's boss, Petraeus.

## **DO YOU HAVE A FRIEND OR RELATIVE IN THE MILITARY?**

**Forward GI Special along, or send us the address if you wish and we'll send it regularly. Whether in Iraq or stuck on a base in the USA, this is extra important for your service friend, too often cut off from access to encouraging news of growing resistance to the wars, inside the armed services and at home. Send email requests to address up top or write to: The Military Project, Box 126, 2576 Broadway, New York, N.Y. 10025-5657. Phone: 888.711.2550**

## **IRAQ WAR REPORTS**

# Insurgents Destroy 2 Bridges In Anbar: Attacks Pick Up In Western Iraq

October 18, 2009 By Uthman al-Mokhtar, Washington Post Foreign Service [Excerpts]

RAMADI, Iraq, Oct. 17 -- Insurgents detonated a truck loaded with five tons of explosives Saturday on a bridge here that links western Iraq to Jordan and Syria, pulverizing part of the overpass and paralyzing traffic for hours.

Another, smaller bridge was also destroyed in Fallujah, where a roadside bomb struck an Iraqi military patrol on the highway, killing four soldiers and wounding 14 others, said Sulaiman al-Dulaimi, a spokesman for the Fallujah General Hospital.

**The attacks underlined the potency that insurgents still wield in a long-restive Anbar province that the U.S. military and Iraqi government tout as a showcase of their success in defeating the insurgency.**

They come after numerous attacks that have led many Anbar residents to fear that fighting may worsen as the U.S. military withdraws, insurgents remain and tribal rivalries mount ahead of parliamentary elections in January.

In each case, the attacks seemed to suggest a certain sophistication.

At the hospital, Lt. Hussein Jum'a said the roadside bomb in Fallujah weighed more than 40 pounds "and was planted on the side of the main highway by experienced hands."

The larger bridge that was destroyed spanned the Euphrates River in Anbar's provincial capital, Ramadi.

The insurgents were able to smuggle the explosives through checkpoints meant to control traffic in and out of the city. Fighters have targeted bridges in the past, particularly during the peak of the insurgency.

Col. Salih al-Dulaimi, the police commander in Ramadi, said the blast hurled chunks of concrete from the bridge into the river. The bridge itself is near the house of Ahmad Abu Risha, a tribal leader whose brother led a U.S.-backed militia that helped calm the insurgency before he was assassinated on Sept. 13, 2007.

"At first I thought an airplane had struck the bridge because the powerful explosion shook the entire area," said Jassem Khalifa, a 29-year-old witness. "I saw huge concrete blocks flying in the air before landing on the ground or into the Euphrates.

"If insurgents can possess five tons of explosives and use them freely to destroy bridges, then it would be a shame to claim that we have achieved security," he said.

The bridge's destruction effectively severed the well-traveled land route between Iraq and Syria and Jordan, stranding hundreds of trucks on both sides of the river and forcing many to seek an alternative route along unpaved, dangerous roads. The U.S. military also uses the road to transport equipment out of the country.

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## **AFGHANISTAN WAR REPORTS**

### **U.S. Service Member Killed Somewhere Or Other In Afghanistan**

18 Oct. 2009 ISAF Public Affairs Office

One U.S. service member was killed in an improvised explosive device attack in southern Afghanistan, Oct. 18.

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### **Rhineland Soldier Killed In Afghanistan**



Sgt. Ryan Adams

Oct. 3, 2009 By Mike Johnson of the Journal Sentinel [Excerpts]

A Wisconsin Army National Guard soldier from Rhineland was killed and seven other Guard soldiers were injured Thursday in Afghanistan when they were attacked by enemy forces using rocket-propelled grenade fire.

Sgt. Ryan Adams, 26, died in Logar province of wounds suffered in the attack, the Department of Defense said Saturday.

The National Guard declined to release the names and the severity of the injuries of the wounded soldiers. The soldiers were receiving medical care as needed, and their families had been notified of the injuries, according to a Guard statement.

Adams joined the Guard in 2001 after he graduated from Rhinelander High School because he wanted to serve his country, his uncle, Patrick Adams of West Bend, said Saturday. "He was very proud to serve his country. He was incredibly proud to be a soldier, and he loved doing what he did," said Patrick Adams, who was with Ryan Adams' parents in Rhinelander on Saturday.

His parents, Peter and Jalane, did not want to speak to reporters, Patrick Adams said. But they released a statement to WJFW-TV (Channel 12) in Rhinelander that states: "We are very proud of our son. He was where he wanted to be, doing what he wanted to do. He did it with pride and honor. He was a great soldier, and he is our hero."

Ryan Adams was deployed with the Guard's 951st Engineer Company (Sapper). About 100 soldiers from the Rhinelander and Tomahawk-based unit were sent to Afghanistan, where they conduct route-clearance operations for the Army's 101st Airborne Division, the Guard said.

It was the second tour of duty for Adams and his unit. It was deployed to Iraq from May 2003 to April 2004 when it was Company C, 724th Engineer Battalion, the Guard said.

At Rhinelander High School, Ryan Adams was a quarterback on the football team and also played baseball, Patrick Adams said.

Ryan Adams also volunteered with Angels on My Shoulder, a nonprofit cancer support group in St. Germain. The group runs camps for children affected by cancer, visits cancer patients at hospitals and clinics, provides weekend retreats for cancer caregivers, and has programs for cancer survivors.

"It was an important cause to him," Patrick Adams said.

Adams' parents have set up a memorial fund at Park City Credit Union, and contributions will be donated to Angels on My Shoulder. Donations can be sent to the Ryan Adams fund, Park City Credit Union, P.O. Box 464, Rhinelander, WI 54501.

As soon as he learned of Ryan Adams' death, Rhinelander Mayor Richard Johns said he ordered the Fire Department to lower its U.S. flag to half-staff to honor the soldier. Johns said flags at other city locations would be lowered to half-staff over the weekend as well.

"It's rough when you lose one of your people. It's a terrible thing to happen in our community, and our condolences go out to the family," Johns said Saturday.

Johns said he had no word about the other soldiers who were injured or the extent of their injuries.

Brig. Gen. Donald Dunbar, the Guard's adjutant general, also ordered flags at all Wisconsin National Guard armories, air bases and other facilities lowered to half-staff beginning Sunday in honor of Adams and continuing until sunset on the day of his funeral.

"With all 10,000 of Sgt. Adams' fellow soldiers and airmen of Wisconsin's National Guard, I salute his service to his community, state and nation; and I pray for the protection and safe return of all the soldiers and airmen of the Wisconsin National Guard



now serving overseas in harm's way," Dunbar said in a statement. Funeral services for Ryan Adams have not been set.

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**Notes From A Lost War:**

**“We’re Resupplying Between 30% And 40% Of Our Forward Operating Bases By Air Because We Just Can’t Get To Them On The Ground”**

**“The Taliban Control Much Of The ‘Ring Road,’ A Circular Route That Links Afghanistan’s Few Major Cities”**

**“Trucking Contractors Aren’t Making It” “The Taliban Are Just Wiping Them Out”**

**“Such Constraints Will Limit The Flow Of Troops To Afghanistan To About One Brigade — Some 4,000 Troops — A Month”**

Private truck drivers “strike often, delay delivery of fuel or arrive at destinations with fuel missing,” the Government Accountability Office reports. In June 2008, 44 trucks and 220,000 gallons of fuel were lost to enemy attacks or plunder.

Oct. 3, 2009 Asmaa Waguih, Reuters [Excerpts]

The Taliban's lengthening shadow across Afghanistan is making it increasingly difficult to supply the 65,000 troops there now or to send in reinforcements.

"We're resupplying between 30% and 40% of our forward operating bases by air because we just can't get to them on the ground," says a senior Army logistician, speaking on condition of anonymity, referring to the roughly 180 U.S. outposts around the country.

That's because the Taliban control much of the "ring road," a circular route that links Afghanistan's few major cities.

"Trucking contractors trying to supply some of them aren't making it," he adds. "The Taliban are just wiping them out."

Such constraints will limit the flow of troops to Afghanistan to about one brigade — some 4,000 troops — a month.

Most U.S. troops arrive in Afghanistan via air, largely through the Manas air base outside Biskek, Kyrgyzstan. But little of their gear gets there the same way.

Instead, it's crammed aboard ships, departing primarily from U.S. ports for the 45-day voyage to Karachi, Pakistan. Then there's at least two weeks of ground travel into Afghanistan.

The challenge, says one Marine officer preparing to head to Afghanistan if Obama gives the order, is to marry up his unit's 5,000 troops with their gear, including 2,000 vehicles, somewhere in the middle of Nowhere-istan at the same time.

"There's a lot of physics you can't overcome when it goes by sea," he says. All his gear, except for vehicles carrying top-secret communications gear, will get there by ship. "You don't want those," he notes, "going by container ship through Karachi."

**Logistical woes persist even once U.S. troops are at their assigned outposts.**

**Private truck drivers "strike often, delay delivery of fuel or arrive at destinations with fuel missing," the Government Accountability Office reports.**

**In June 2008, 44 trucks and 220,000 gallons of fuel were lost to enemy attacks or plunder.**

Beyond the convoy attacks, the U.S. has used Russian aircraft to fly armored vehicles into the country, and is seeking private contractors to defend U.S. bases and convoys across the entire country.

The Pentagon's pending solicitation says interested companies must be capable of preventing "any intrusion by unauthorized personnel, theft, destruction of, or damage to property within the secured boundaries, and the facilities themselves."

That's a tall order that even the U.S. military hasn't been able to fill.

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# **U.S. Command Ignored Warnings Before Deadly Afghan Attack: Three Intelligence Reports Dismissed Days Before Eight U.S. Soldiers Killed; “Why Didn’t They React And Have Immediate Support On Site, Based On The Intelligence”**

October 16, 2009 By Bill Gertz, The Washington Times

Three intelligence reports warned that Taliban insurgents were planning an attack just days before this month’s raid on two remote military outposts in eastern Afghanistan that killed eight U.S. soldiers, but the reports were dismissed as insignificant, U.S. officials told The Washington Times.

As a result, military officials did not send additional troops or make preparations to protect the 140 U.S. and Afghan troops at the combat outposts near Kamdesh in Nuristan province by the Pakistan border, the officials said.

**Army Maj. T.G. Taylor, a spokesman for the Army’s Task Force Mountain Warrior, told The Times that the three reports did not stand out among hundreds of others and that the intelligence was deemed to be not specific and uncorroborated.**

**One U.S. official, who spoke on the condition of anonymity because of the sensitivity of the information, said that despite the Army’s characterization of the reports as insignificant, some of the reporting was included in finished intelligence that circulated in classified channels throughout the region before the attack.**

**Finished intelligence is material that has been analyzed and determined to be of value.**

A former senior Army officer said the intelligence should have prompted action to provide the outposts with more defenses.

**“Why didn’t they react and have immediate support on site, based on the intelligence, and even based on the initial attack that occurred?” retired Maj. Gen. Paul E. Vallely asked.**

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**BAD IDEA:  
NO MISSION;  
POINTLESS WAR:  
ALL HOME NOW**



US Marines climb through a mountain region suspected of being used by Taliban fighters while on patrol through an Afghan village in Farah Province, southern Afghanistan, September 29. (AFP/File/David Furst)



Soldiers from the U.S. Army's Charlie troop, 371 Cavalry, 3rd brigade of 10th Mountain Division based in Fort Drum, New York, patrol in Kherwar district in Logar province October 3, 2009. REUTERS/Nikola Solic



A U.S. Marine with Bravo Company, 1st Battalion 5th Marines on patrol in Nawa district, Helmand province, southern Afghanistan, Oct. 3, 2009. (AP Photo/Brennan Linsley)



Soldiers from the U.S. Army's Charlie troop, 371 Cavalry, 3rd brigade of 10th Mountain Division based in Fort Drum, New York, patrol in Kherwar district in Logar province October 4, 2009. REUTERS/Nikola Solic

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## TROOP NEWS

### HOW MANY MORE FOR OBAMA'S WARS



U.S. Air Force medical staff prepare to load wounded servicemen and women onto a C-135 aircraft for transport to Landstuhl Regional Medical Facility in Germany for further medical treatment, at Bagram Air Field in Afghanistan, Oct. 13, 2009. (AP Photo/Maya Alleruzzo)

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## **15,000 More Soldiers Off To Obama's Imperial Slaughterhouse; Two More Units Extended**

Oct 10, 2009 Army Times

About 15,000 soldiers from three brigade combat teams and one armored cavalry regiment will deploy to Iraq beginning in summer 2010, the Defense Department announced Thursday.

In addition, two units currently in Iraq will be extended to support the country's elections in January.

The units that will deploy this summer will replace units already in theater, DoD said, so their deployments will not increase U.S. troops levels there.

These units, which will serve as advisory and assistance brigades, are:

- 4th BCT, 3rd Infantry Division, Fort Stewart, Ga.
- 2nd Stryker Brigade Combat Team, 25th Infantry Division, Schofield Barracks, Hawaii
- 3rd Armored Cavalry Regiment, Fort Hood, Texas
- 4th BCT, 1st Cavalry Division, Fort Hood

The units that will be extended, at the request of Gen. Ray Odierno, commander of Multi-National Force-Iraq, are the 1st Cavalry Division headquarters and elements of the II Marine Expeditionary Force.

The 1st Cavalry Division headquarters, which is in charge of Multi-National Division-Baghdad, will be extended for up to 23 days, while the Marine elements will be extended up to 79 days. II MEF currently runs Multi-National Force-West.

The extensions are to ensure that “key capabilities are maintained during the critical period following the January elections,” according to DoD.

In addition, the extension will provide additional support for the orderly redeployment of the remaining Marine forces and equipment.

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## **“I Used My Authority To Block Attempts By My Executive Officer To Demean And Prosecute A Man Because He Thought The Sailor Was Gay”**

[Thanks to Mark Shapiro, Military Resistance, who sent this in.]

Letter To The Editor  
Oct 16th, 2009  
Washington Post

In 1989, as commanding officer of a Navy carrier-based squadron, I used my authority to block attempts by my executive officer to demean and prosecute a man because he thought the sailor was gay. I would not allow such harassment.

The sailor in question had an outstanding performance record and was serving his country with honor. What possible difference did it make whom he loved?

It's time for the people of this country to show some courage in the face of the bigots who would shame, condemn, abuse or demean gay, lesbian, bisexual and transgender citizens.

As Americans, we are all pledged to uphold the Constitution of the United States. Accordingly we are legally and morally bound to enact legislation that ensures the law shall be applied equally to all of us, regardless of our differences and especially if those differences incite prejudice in others.

Anything less is gay-bashing.

I hope the citizens of this country do not continue to dishonor my military service by continuing to permit gay-bashing.

ROBERT J. McNAMARA  
Hilliard, Ohio

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## **Major Arrested For Producing Child Porn: “Including One Involving An Infant Who Appeared To Be Less Than A Year Old”**

Oct 16, 2009 By Michelle Tan - Staff writer; Army Times

FBI agents arrested an Army lawyer and West Point graduate Wednesday on charges of producing and distributing child pornography.

Maj. Daniel A. Woolverton of Arlington, Va., 35, is scheduled to appear in court Friday, according to the U.S. Attorney's Office for the Eastern District of Virginia.

Court documents state Woolverton faces one count of production of child pornography and two counts of distribution of child pornography. All three are felonies.

As of Thursday, an attorney for Woolverton was not listed in federal court records.

The case began May 22, when an undercover FBI special agent, using peer-to-peer software, came upon a user named "VERONICA\_S2000" who had made available for sharing "several child pornography images and videos," according to an affidavit submitted to the court by FBI Special Agent Chad Gallagher.

The undercover agent browsed through the user's folder and viewed images that appeared to be child pornography, according to the affidavit.

On or about July 21, through an administrative subpoena, investigators learned that the images were coming from an IP address assigned to a Daniel Woolverton at an Arlington address, according to the affidavit.

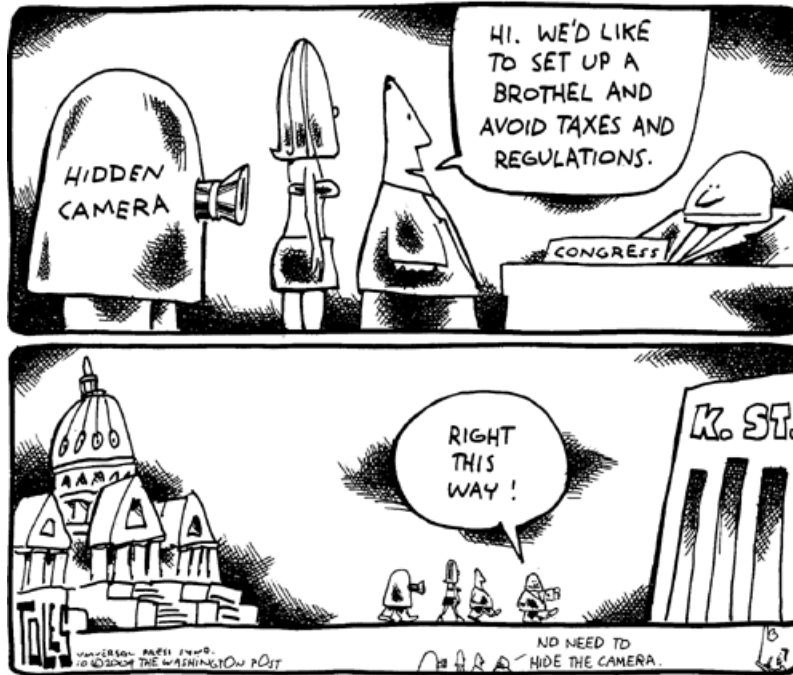
FBI agents searched the address Wednesday and seized a 4-gigabyte camera memory card that contained about 19 images and videos depicting sexually explicit conduct,



including one involving an infant who appeared to be less than a year old, according to the affidavit.

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## **DANGER: POLITICIANS AT WORK**



### **Troops Invited:**

Comments, arguments, articles, and letters from service men and women, and veterans, are especially welcome. Write to Box 126, 2576 Broadway, New York, N.Y. 10025-5657 or send email to [contact@militaryproject.org](mailto:contact@militaryproject.org): Name, I.D., withheld unless you request publication. Same address to unsubscribe. Phone: 888.711.2550

**POLITICIANS CAN'T BE COUNTED ON TO HALT  
THE BLOODSHED**

**THE TROOPS HAVE THE POWER TO STOP THE  
WARS**

## CLASS WAR REPORTS



### **Antonio Zuñiga: Presumed Guilty**

**“Crooked Cops Regularly Solve Cases By Grabbing The First Person They Find, Often Along With A Cooked-Up Story From Someone Claiming To Be An Eyewitness”**

**“Asked By The Lawyer Why She Was Prosecuting An Innocent Man, The**

# **Prosecutor Says With A Weak Smile: ‘It’s My Job’” “One Of The Police Sidled Up To Him And Suggested He Could Make The Whole Thing Go Away By Offering Them Money”**



Antonio Zuñiga behind bars during his trial. He was released April 3, 2008. Photo: Abogados con Cámara

OCTOBER 17, 2009 By DAVID LUHNOW, Wall St. Journal [Excerpts]

Mexico City

Antonio Zuñiga’s life changed when he went for a walk on Dec. 12, 2005. As he crossed a busy Mexico City avenue, two burly cops grabbed him from behind and shoved him into a patrol car.

So began a nightmarish journey into Mexico’s legal system that seems lifted from the pages of Franz Kafka.

For nearly two days, the street vendor was held incommunicado and not told why he was arrested. His questions met with hostile stares from detectives, who would say “You know what you did.”

He says in an interview that he only learned of the charges after walking into a holding cell and being asked by a prisoner: “Are you the guy accused of murder?”

Mr. Zuñiga, then 26, was charged in the shooting death of a gang member from his neighborhood.

**Ballistic tests showed Mr. Zuñiga hadn't fired a gun. Dozens of witnesses saw him working at his market stall during the time of the murder, which took place several miles away. And he had never met the victim. Still, he was found guilty by a judge at trial and sentenced to 20 years in prison.**

Mr. Zuñiga's case is not unusual in Mexico.

Crooked cops regularly solve cases by grabbing the first person they find, often along with a cooked-up story from someone claiming to be an eyewitness.

Prosecutors and judges play along, eager to calm a growing public outcry over high crime rates and rising violence from Mexico's war on illicit drug gangs.

In practice, suspects are often presumed guilty.

More than 85% of those charged with a crime are sentenced, according to Mexico's top think tank, the Center for Investigation and Development, or CIDE.

### **“At A Screening In Mexico City On Thursday Night, The Audience Gave A Standing Ovation. Many Were In Tears”**

Australian documentary filmmaker Geoffrey Smith won international acclaim for 2007's "The English Surgeon," a documentary about a London neurosurgeon who performs brain surgeries in the Ukraine.

Earlier this year, Mr. Smith found himself in Mexico, where he was asked by a friend to take a look at the first cut of "Presumed Guilty," a documentary about Mexico's legal system. Mr. Smith was so moved by what he saw that he agreed to help the film's makers – lawyers Roberto Hernandez and Layda Negrete – re-edit the film. "Presumed Guilty" premiered at the Toronto Film Festival in September.

*WSJ: How can a film like this change things in Mexico?*

Mr. Smith: This is a David and Goliath story of two people who took on a system. It's beautiful and so heartfelt and gives so many people inspiration that change is possible.

At the screenings, you can see the righteous indignation. People are angry, but they also want to channel that anger and do something about it.

I call it the positive use of anger.

**And it's not just Mexico that needs changing in its justice system.**

**This is something that can happen to any of us.**

**At the screening in Toronto, we had two men who were wrongly accused and spent, between them, 54 years in Canadian prisons for crimes they did not commit.**

**It was powerful for the audience to see that this, too, happens in their own country.” -- David Luhnnow**

Mr. Zuñiga’s story has a twist. His plight attracted the attention of Roberto Hernández and Layda Negrete, a married pair of lawyers who are also graduate students at the University of California at Berkeley. The couple took on his case, won a retrial, and in a stroke of luck, convinced a Mexican official to let them film the ensuing trial, which lasted for more than a year.

The result is a 90-minute documentary called “Presumed Guilty” that offers a rare—and chilling—glimpse of Mexico’s dysfunctional legal system. The film was an official selection at the prestigious Toronto Film Festival, and won top documentary honors at Mexico’s Morelia Film Festival.

Festival organizers decided to screen it in the city’s central plaza, where 2,000 people turned up to watch.

At a screening in Mexico City on Thursday night, the audience gave a standing ovation. Many were in tears.

### **“He’s Here (In Prison), Right? He Must Have Done Something”**

Unlike the U.S., Mexico’s legal system has no jury trials. In the majority of cases, there are also no oral arguments, meaning lawyers don’t stand in front of a judge to plead their client’s case.

Judges usually never meet the accused. Everything is done via paperwork. Judges are subject to a Napoleonic code of justice, meaning laws are strictly codified, leaving them little room for judgment.

Most Mexicans have no idea what happens in a courtroom. Only specific parts of a trial are open to family members and others. The rest, including evidence for or against the accused, is sealed to the public until the case is closed.

The film offers viewers a front row seat to an ordinary case. The result is not pretty.

**When asked by one of Mr. Zuñiga’s defense lawyers what evidence he has against Mr. Zuñiga, the detective in charge of the case says: “He’s here (in prison), right? He must have done something.”**

**Asked by the lawyer why she was prosecuting an innocent man, the prosecutor says with a weak smile: “It’s my job.”**

Mr. Zuñiga lost the retrial.

The footage of the proceedings from the documentary, however, was so shocking that a panel of judges on an appeals court freed Mr. Zuñiga.

The prosecutor did not respond to requests for comment. Both Mexico City's police department and the Supreme Court said they could not comment on Mr. Zuñiga's case or judicial matters in general.

For Mr. Hernández and Ms. Negrete, this is the second time they have led to the release of an innocent man. In 2005, they filmed a 14-minute video about the legal system that featured a young man wrongly accused of stealing a car. He was released soon after.

"It's an expensive way to fix injustice in Mexico," says Mr. Hernández, 34. The pair hope to pass a law allowing every criminal trial to be filmed. They have a Facebook page called Lawyers With Cameras.

Someone committing a crime in Mexico has only a two in 100 chance of getting caught and punished, according to Guillermo Zepeda, a CIDE scholar.

**A big reason is that just 12% of crimes are reported to the police, Mr. Zepeda says.**

**In a big deterrent, police ask many people who report crimes for money to solve the case or become suspects themselves, Mr. Zepeda says.**

According to a survey of 400 criminal cases in Mexico City carried out by National Center for State Courts, a U.S. nonprofit, in nine of 10 cases, suspects were found guilty without any scientific evidence like fingerprints or DNA. In more than six of every 10 cases, suspects were arrested within three hours of the crime, leaving little time for serious detective work, according to a study from CIDE, a top Mexican graduate school. Almost none were shown an arrest warrant, the study said.

**Most police officers are judged on the number of arrests they make, not whether they arrest the right person.**

**The same goes for prosecutors. "You want a good career? Accuse, Accuse, Accuse," one Mexico City prosecutor said.**

Simply being accused is bad news.

Because Mexico doesn't allow bail for serious crimes, an estimated 42% of Mexico's inmates languish in jail without having faced trial—some 90,000 people, according to a study by the Open Society Institute, the New York based non-profit funded by financier George Soros.

The medieval legal system is a major handicap for the country as it tries to modernize and bring to heel powerful drug gangs that have declared war on each other and the government. But analysts say the offensive will stall without meaningful reform to police forces and the court system.

Last year, Congress amended the Constitution to incorporate the presumption of innocence into modern Mexican law, as well as allow oral trials in most cases. The problem: Mexican states have until 2016 to implement the changes.

As part of that reform, the Calderón government won a change allowing police to detain suspects without an official warrant for up to 40 days, from just two days previously. The government argues it needs to do this for the drug war.

Having won that concession, however, advocates say the Calderón government is now dragging its feet in implementing the judicial reforms that might make cops and judges more accountable.

**“After He Repeatedly Insisted He Was Innocent, One Of The Police Sidled Up To Him And Suggested He Could Make The Whole Thing Go Away By Offering Them Money”**



Detective Jose Manuel Ortega. Photo: Abogados con Cámara

In Mr. Zuñiga’s case, he was accused of murder based on the testimony of a single person and nothing else. That person, it turned out, was the cousin of the gang member who had been killed and was arrested as a suspect shortly after the shooting.

The suspect, Victor Daniel Reyes, initially told police in two separate interviews that his cousin was shot by three other gang members, nicknamed Luis, Ojitos (Little Eyes), and Crucitos (Little Cross). He said Luis, the gang leader, fired the gun. He never mentioned Mr. Zuñiga, according to court testimony.

The day after the murder, police took Mr. Reyes to the neighborhood to find the three gang members. After hours of searching, Mr. Reyes pointed to Mr. Zuñiga crossing the street. “He did it,” said Mr. Reyes, according to court documents.

Only in his third interview with police, after Mr. Zuñiga was arrested, did Mr. Reyes mention Mr. Zuñiga by name as the assassin. The three gang members originally described as the murderers were never arrested by police, or questioned. The police released Mr. Reyes after he named Mr. Zuñiga.

“When they first grabbed me on the street, my first thought was ‘I’m being kidnapped,’” Mr. Zuniga said during an interview at a Mexico City restaurant. “I didn’t even know they were cops until I heard voices on their scanner.”

It was during his first police interrogation that Mr. Zuñiga says he missed his opportunity to get out of his predicament.

**After he repeatedly insisted he was innocent, one of the police sidled up to him and suggested he could make the whole thing go away by offering them money, and lots of it.**

**But Mr. Zuñiga said no, in part out of principle and in part because he didn't have much money. "You just blew it," the cop said, according to Mr. Zuñiga.**

In the three months it took for Mr. Zuñiga's case to come to trial, he was sent to Mexico City's rough Reclusorio Oriente prison.

He shared a small cell with 20 inmates. He slept on the floor, under a cabinet. Cockroaches climbed over his face at night.

**His girlfriend, Eva Gutierrez, threw a party to raise money so that Mr. Zuñiga, who goes by his nickname Toño and left school in the 8th grade, could buy food in prison —something most inmates have to buy.**

A local man hired to help with the party turned out to be Marco Antonio Arias, the man who won his freedom thanks to Mr. Hernandez's first documentary. When Mr. Arias found out what the party was for and heard Mr. Zuñiga's story from Ms. Gutierrez, he put her in touch with Mr. Hernández and Ms. Negrete.

The couple didn't think they could free Mr. Zuñiga, but hoped to publicize the case by making a video. "The first thing they told me when we spoke on the phone was 'you're screwed,'" says Mr. Zuñiga.

Upon reviewing his case, the couple realized that his lawyer at the trial was not even a lawyer; he had forged his legal identification. That was enough to ask for a retrial.

In Mexico, retrials go to the same judge as the initial ones.

The documentary footage follows what happens next. The judge, Hector Palomares dons his robe this time around and sits behind a makeshift desk. Mr. Zuñiga says Mr. Palomares never emerged from his office at his first trial. Mr. Palomares declined to comment for this article.

At one point, the witness, Mr. Reyes, is asked by one of Mr. Zuñiga's defense lawyers to describe the three gang members whom he'd originally accused. He describes each one. Asked to describe Mr. Zuñiga, the man he later accused, he can't.

The detectives who arrested the street vendor and handled his case testified, but claimed they didn't remember anything.

"We have a lot of cases," says Jose Manuel Ortega, the lead detective, shrugging his shoulders. "I can't remember all of them." Mr. Ortega declined to comment.



At the height of the retrial, Mr. Zuñiga confronts his accuser face-to-face. As the pair talk in stilted tones and pause so a stenographer can transcribe each word, the drama builds.

**Finally, Mr. Reyes admits he never saw who killed his cousin.**

**But Judge Palomares upheld his initial guilty sentence.**

**“It was like a kick in the stomach,” said Mr. Zuñiga in the interview. “It was my life they were throwing away.”**

**He had been in jail for nearly three years at that point.**

Mr. Hernández and Ms. Negrete took the case to the appeals court. They showed the footage of the trial. After seeing the footage an appeals court judge pushed hard to get him released. Mr. Zuñiga was freed on April 3 of last year.

Other inmates were so amazed that they kept asking him to see his release paper, to touch it.

**He is not entirely free from his ordeal.**

**A few months ago, he got a text message on his cellphone: “Don’t worry. We’ll soon get you back in here where you belong.”**

**He says he didn’t want to the number back, out of fear. He says he has gone into hiding, to protect Ms. Gutierrez, who is now his wife, and their baby girl.**

**Judge Palomares is still on the bench in a Mexico City court.**

**Detective Ortega is still an active duty cop.**



Eva Gutierrez and Antonio Zuñiga in their home. Photo: Abogados con Cámara

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