

Unlikely Heroes

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With every coming year, more and more savvy professionals and volunteer citizens come to the aid of persons with intellectual disabilities who get in big trouble with the law. With increasing understanding and skill, they do what they can to work for fair outcomes that all Americans should receive. Sometimes they are successful and at other times they are not. Even so, during some of the darkest moments, unlikely persons step into the fray. They receive little notoriety in the media, but others involved in such cases know they are there. Somehow an inner compass drove each of them to speak out and take unorthodox actions that left the rest of us watching with unspeakable awe. Anyone who works in this field carries memories of such sudden and surprising interveners like one might carry diamonds in the pocket. Among my memories of many, seven stand out.

State's Attorney Homer Cummings Wipes Out His Own Department's Case

Early in 1924, someone shot and killed Father Hubert Dahme, a well-loved Catholic priest. It happened on a sidewalk in downtown Bridgeport, Connecticut. Newspaper reporters pressured for an early capture and conviction. Every available policeman searched for clues. Eight days later, the police arrested a "transient indigent, and a person of low mentality of the moron type," named Harold Israel. In a 10-point report, authorities identified seven eyewitnesses, a pistol, and an empty shell. Also, interrogators got Israel to confess to murdering the priest. Fairfield County State's Attorney Homer Cummings personally studied the report and confession.

At the arraignment hearing on May 28, 1924, Cummings announced to the court that he would speak for his whole department. Then an astonishing thing happened. He dropped the case. He spoke without notes. For 90 minutes he discredited every piece of evidence against Israel. At the finish, the

courtroom audience sat in stunned silence for a time. Then they stood and applauded. Even so, not everyone applauded Cummings's surprise move. Police Superintendent Patrick Flanigan and his men became enraged. The newspapers printed their fury on the upper fold of the front pages.

Also, Cummings, a Democratic national committeeman, suddenly received heat from his own political party. Only a few days later, the party held a dinner in honor of Assistant Secretary of the Navy Franklin Roosevelt, and Cummings was noticeably not invited.

Interestingly, in 1933, President-Elect Roosevelt chose Homer Cummings as his first Attorney General. Also interesting, in 1954, Bridgeport resident Ralph DeNigris broke a 30-year silence. He admitted to witnessing the killing and being threatened with death if he ever spoke out about it. The real murderer was not Harold Israel (Zeldes, 1994).

Detective John Sam Refuses to Lie

On February 25, 1983, 10-year-old Jeanine Nicarico was home alone in her pajamas in her Naperville, Illinois, home. She did not go to school because she did not feel good. That afternoon, someone broke into the house, kidnapped the child, drove to an isolated trail west of the city, raped her, and brutally beat her to death.

Two days later when the body was found, Detective John Sam and three other Dupage County investigators in the violent crime division began to work around the clock on the case. Sam was one of the most thorough and respected detectives in the state. His record for getting confessions leading to convictions topped the area's list for the previous 3 years. The four detectives followed-up on hundreds of leads, finding nothing solid. Even so, they settled on three suspects, Alejandro "Alex" Hernandez, Rolando Cruz, and Stephen Buckley, in hopes of getting confessions. They spent long hours talking to them. Cruz, 20, was a

loquacious sort of person who rambled on about a “vision” he had about the case, but he never confessed. Alex, also 20, with “an IQ in the low 70s,” was a wild talker, too. Every time they met with him, he came out with a different batch of cock-eyed stories, but he never confessed. Hernandez enjoyed being with the officers and “helping them catch a criminal.”

Finally, the investigators placed Alex with a “snitch” nicknamed Penguino. Penguino wore a wire so the detectives could listen to the interchange. A bragging contest ensued. Penguino talked big about crimes he knew about, and Hernandez tried to come up with his own experiences. At last, Alex said he was present at Jeanine Nicarico’s murder. He even said, “All I did was hold her down.” The detective hearing these words told Sam, who became so furious that he wanted to grab Hernandez and throw him out of an upper story window. These seven key words started a steam-roller leading to murder charges. Later, Buckley dropped away as a defendant, but inexplicably Hernandez and Cruz were connected, convicted of murder, and sentenced to death.

Even so, Detective Sam suddenly balked. Shortly after Alex’s statement, Sam did his own investigation and found that neither Cruz nor Hernandez could have committed the crime. He came up with a long list of exculpatory factors that even included a strong alibi for Alex. At the time of the crime, Alex was spreading gravel on the driveway of his family’s home. Sam took his evidence to Tom Knight, the Dupage county chief of criminal prosecutions, who had announced that he would personally prosecute this high-profile case. In spite of their conversation, Knight said he was going forward with the case. He ordered Sam to keep quiet.

Sam did not keep quiet. He spoke out loudly and often. After days of being derided by many of his colleagues, he resigned. Frisbie and Garrett (1998), in writing about the case gave a touching statement about Sam’s painful decision.

It was a decision Sam regretted in some ways in later years, because he never made it back into police work and never found a job he liked as much. At the time, however, he felt he had little choice, even though he had to admit he failed to find the killer. (p. 64)

Lawyers filed numerous appeals for Hernandez and Cruz that led to the ordering of four retrials. Even so, all of them seemed doomed as dates for the death chamber came closer and closer. During

the frays, Illinois Assistant Attorney General Mary Brigid Kenney went the way of John Sam. She resigned because she refused to defend the convictions.

After Hernandez and Cruz spent 10 years on death row, DNA tests connected the rape and murder of Nicarico to a serial rape murderer named Brian Dugan. Cruz and Hernandez were exonerated and released. Tragically, while the two were being tried and convicted, Dugan raped and murdered two other women with the same uncontrollable rage he wreaked on Jeanine Nicarico. After being convicted and imprisoned for these crimes, Dugan offered to testify in the Nicarico trial if the court granted him immunity for this particular murder. Law officials refused to take the offer (Frisbie & Garrett, 1998).

Deputy Sheriff Dustin Toler Speaks Out for Johnny Wilson

On the evening of April 19, 1986, officers took 20-year-old Johnny Lee Wilson, a man with mental retardation, to headquarters in Aurora, Missouri. They interrogated him for the murder of 79-year-old Pauline Martz. By 1 a.m. the next morning, officers got Wilson to sign a confession. They did it even though they did not possess a single piece of physical evidence connecting him to the crime. Doug Seneker, one of the interrogators, validated this accomplishment by saying:

There is a principle in interrogation. A person will not admit to something they haven’t done, short of torture or extreme duress. No matter how long you’re grilled, no matter how much you’re yelled at, you’re not going to admit to something you haven’t done. (Davis, 1990)

Wilson moved through the court system with lightning speed. It began when Judge L. Thomas Elliston gave him a terrible scare. Elliston told him that if he went to trial he could receive a death sentence. Hearing this, Wilson pled guilty, received a sentence of life without parole and went directly to prison (Perske, 1991).

Nine years later, on September 29, 1995, Governor Mel Carnahan pardoned Wilson. “It is evident,” he said, “that the only facts this mentally retarded man knew about this hideous crime were the facts given to him by investigators who felt pressure to solve the case quickly” (Carnahan, 1995).

Even so, a number of Aurora citizens put their necks on the line long before the governor’s pardon.

Deputy Sheriff Dustin Toler was one of them. He was at the headquarters during Wilson's interrogation. A few days later, he resigned. He spoke out about the handling of Wilson's interrogation. He wrote a 14-point fact sheet showing how officials mismanaged the case and covered up their mistakes. He voiced his misgivings on camera to a producer of a film documentary (Sonneborn, 1995). As he told a newspaper reporter:

The sheriff often referred to [Wilson] as slow. Others referred to him as moron and dumb sh-t. By cutting him down, that would make them look bigger. That's just part of their mentality. [Others in the station] referred to Wilson as a "f—retard." (Mauer, 1990)

Toler seized every opportunity to speak out about the "unprofessional" interrogation of Wilson. He even ran for sheriff, but he lost. Why did Toler do it? *He did it because he had a brother with mental retardation.* That single fact kept him from remaining silent.

Warren Ormsby, a Cantankerous Bail Bondsman

Warren Ormsby, a bail bondsman in Aurora, Missouri, saw how Johnny Lee Wilson had been cornered like a chick in a pen of cobras. He became livid. He confronted the officers. He stormed into the office of then Governor John Ashcroft, demanding an investigation. When the governor failed to do anything, he organized a "Free Johnny Wilson by Trial" movement. That statement became a bumper sticker that was affixed to many cars in the Aurora, Missouri, area. They erected billboards expressing the same sentiment. Ormsby led a petition drive that contained 2,600 names, pleading with the governor and attorney general to investigate the situation. In protest, some members of the movement even walked the 157 miles from Aurora to the state capitol in Jefferson, Missouri.

The political machine in the Aurora area resorted to every action they could think of to silence Ormsby, but he would not shut up. He became a pain in the butt to every lawyer who ever took the case, and there were many of them. Finally, Ormsby, because of his bail negotiations with many defendants in the area, used his own self-created grapevine. He learned that Chris Brownfield was one of two persons who bound up Pauline Martz with duct tape, burglarized her house, and set it on fire before they left. He found

that Brownfield was doing life without parole in the prison at Lansing for crimes similar to the Martz murder in Kansas. Brownfield spoke openly about the crime; he even provided evidence that only the killers could really know. For example, Brownfield admitted that during the crime, they left a stun gun in the house. Aurora investigators found the gun, but they never divulged this fact to the public. Even so, the state of Missouri found numerous legal technicalities that kept them from acting on the truth that Brownfield brought to the case (Perske, 1991, pp. 43–50). Ormsby never ceased to annoy everyone he could until Governor Mel Carnahan finally pardoned Johnny Lee Wilson on September 29, 1995.

Marvin Dinsmore Walks Into a Race War

On May 23, 1978, on a sunny afternoon in Decatur, Alabama, Tommy Lee Hines, 25, an African American with an IQ of 35, walked up to the window of a business and pushed his face against the glass. His actions frightened a secretary on the inside. She called the police.

While being processed at the police station, Hines was asked by an interrogator, "How many women did you rape, one, two or three?" Hines said, "Three." After 2 days of interrogation, he signed a confession saying he raped three white women at separate times. He signed it even though he cannot read, recite the alphabet, count up to 10, or name all the months of the year. Officers brought the three victims to the station for a face-to-face viewing. Two said he was the attacker, but one did not. Even so, all three claimed that they were overpowered and were driven in cars to the rape scenes. The crescendo of rage and revenge became so powerful that no one seemed to pay attention to the father of the accused, Richard Hines, when he said, "They had Tommy driving a car. That boy can't even ride a bicycle" (Time, 1978).

A trial was set for October. In the meantime, members of the African American community organized. They filled the city hall and county courthouse. These actions provoked a counter action by the state's Ku Klux Klan, who loaded their shotguns, donned their white robes, and fashioned crosses for burning near the courthouse. One thousand members with 60 dogs attended a rally on July 15 "to give support for the judicial system of Decatur and Morgan County" (Perske, 1991, pp. 95–96). One month later, the KKK held a rally with

6,000 members who camped on the courthouse lawn and burned crosses. Still later, 150 of them clashed face-to-face with 53 marchers representing the Southern Christian Leadership Conference. It ended with four persons being wounded.

Into this hotbed of racial tension stepped Marvin B. Dinsmore, a retired engineer and a white man. In spite of the clashes, Dinsmore kept his focus on Hines' innocence. He knew the young man well because his daughter with mental retardation attended the same workshop. Also Hines served as a respected board member of The ARC of the United States. He knew Hines to be a gentle, likeable, and a completely nonviolent person. Dinsmore used his own funds and enlisted the help of others to get good defense lawyers. He testified in the hearings on behalf of Hines. "Most of us knew he was innocent," Dinsmore said. "Why, Tommy couldn't even put a key in a car door, let alone drive it. . . the sad thing about it all, the real situation got lost in all the hullabaloo" (Perske, 1991, pp. 95–96).

The prosecution, nevertheless, plunged forward, employing two psychological evaluators from state mental hospitals who claimed that Hines was competent to stand trial. Officers testified that they found no disability. One by one, they claimed that Hines was cooperative, coherent, and rational. They said so in spite of all Dinsmore and others were saying. Hines was convicted, found guilty, and sent to Kirby prison.

When it became evident that other inmates raped Hines in the prison, Dinsmore cranked up his support as well as that of others. The question of competency to stand trial was raised again during a hearing in Birmingham. This time, defense evaluators appeared before a jury with tapes of their sessions with Hines. Many Alabama newspapers published transcripts of the interactions. Then the whole world seemed to learn that this man thought that bananas were orange and an oath was a little round thing. We all also learned that Tommy Lee Hines was a warm man, he was homesick, and he wanted above all else to go home to Decatur and live with his mother and father again (personal communications with Dinsmore, 1981, 1982).

On November 20, 1980, a jury in the Jefferson County Circuit Court in Birmingham found Hines to be incompetent to stand trial. According to Alabama state law, he then needed to be placed in some form of state custody until he was able to

stand trial—which was never. Consequently, the state arranged for him to live quietly in a group home in Tuscaloosa in order to keep him out of any more prisons or institutions. Dinsmore continued speaking out until Tommy Lee Hines was quietly released in 1993.

Later, biographer Roger Steele said, "Although reforms of the civil rights era were intended to create a more equitable criminal justice system for African Americans, Alabama lagged behind until the Hines case" (Steele, 2003). Dinsmore was no legal technician, but his energy and spirit helped to fuel this progressive step.

Delbert Ward's Irascible Neighbors

Almost everyone in Munnsville, New York, knew about the four "Ward boys." Bill (67 years of age), Delbert (59), Lyman (62), and Roscoe (70) lived outside of the town in an unpainted ramshackle, four-room house, with no indoor toilet, running water, or phone. From its dirty cluttered interior, it was obvious that the men were outdoor people who used the house only as a shelter from storms and for eating and sleeping. Bill and Delbert slept in the same bed. They milked 23 cows and farmed their land in the same primitive way it was done a 100 years earlier.

They did not read or write, wore the same clothes everyday, chewed and spit tobacco from sunup till sundown, and were followed by the odor of the barn wherever they went. They did not mix well with strangers or drive cars. Sometimes, however, all four could be seen riding their dilapidated tractor into town, facing the wind with their weather-beaten faces and gray bushy beards. They looked like Old Testament prophets hell-bent on a mission for God. Local folks saw them as colorful, simple, unkempt, and about a hundred years behind the times. Most accepted them exactly as they were and left them alone—until June 6, 1990.

On that morning Delbert got up to milk the cows. He shook Bill, but he would not wake up. Roscoe went for neighbor John Teeple. He told Teeple that something was wrong with Bill. On their way back to the Ward place, they met Roscoe, who told them that Bill was dead.

The York State Police arrived and found no evidence of foul play. Even so, they ordered an autopsy because Bill had not been to a doctor for years. The medical examiner admitted that the problems he found in Bill could be due to natural

causes. He decided, nevertheless, to wait for the investigative report from the police. So he wrote, “Cause of death pending further study.”

The police took the three brothers to the state police barracks. Each one underwent pressured interrogations. Finally, Delbert signed a typed sheet filled with answers to leading questions that were asked by the officers. He was told to answer yes or no. He was charged with a mercy killing, which the police described as Delbert reaching over and putting his hand over Bill’s mouth and nose and suffocating him. Lyman signed a similar question-and-answer document, saying that Delbert told him how he planned to kill his brother. Roscoe refused to go along. He told the officers that there was no way Delbert could have killed Bill. “He couldn’t even kill a cat.”

Later that evening, Delbert was charged and jailed. After hearing from the police, the medical examiner finished his report, calling the case a homicide. A prosecutor prepared for the arraignment before a judge. The judge would assign a defense attorney. The case was almost open and shut.

What happened after that left officers in shock. Right from the start, many of the 449 Munnsville citizens refused to believe what the police were saying. Coffee cans with signs—HELP! DONATIONS for Delbert Ward—appeared on the counters of every business in town. Although Delbert stayed in jail for 20 days before his bail was set, his neighbors raised the \$10,000 in one day. They rejected a court-appointed lawyer. They collected money to hire their own lawyer and an investigator to study the police investigation.

The Munnsville citizens used the media unabashedly as their pretrial forum. Town supervisor Charles Young told a *New York Times* reporter, “You give me ten minutes with Delbert and I could convince him that he tore up my sidewalk, and I don’t even have a sidewalk. I just don’t believe he did it.” Emilie Stillwell, a waitress at the Shack Café and other residents dismissed any notion of a mercy killing: “Delbert wouldn’t even know what that means,” Stillwell said. The police, they said, made a terrible mistake and simply refused to admit it.

State police investigator Michael Donegan defended his work on national television. He unwittingly broadcast his utter distaste for the brothers’ poverty, disorder, and strangeness:

We’re talking of no running water. We’re talking of a place that doesn’t have indoor facilities. We’re talking of two grown men sleeping in the same bed. . . . Many people, I don’t think ap-

proved. Or [they] were wary or afraid of that. You know, anything that’s not normal or what we don’t consider to be ordinary creates doubt in our mind.

Neighbor Teeple countered on the same broadcast:

The difference between the lifestyle of the police and the lawyers and the detectives can’t help but color how they looked at the brothers. If they’re dirty, if they don’t speak the language well, something must be wrong with them. Maybe they’re dangerous. Ya can’t really trust these hill people. . . . It surprised everybody outside of Munnsville the way they came together in defense of Delbert (CBS/TV, 1991)

The citizens of Munnsville held dances and raffles, right up to March 19, 1991, when the trial began. Then they filled the courthouse, every day until April 5, the day of the verdict. One reporter called it the case of “The People Versus Publicity.”

Some of the most notable experts in the nation, intrigued by the spirit of the neighbors, became witnesses for the defense. For example Dr. Cyril Wecht, a medical examiner and lawyer who had participated in the autopsy reviews of John F. Kennedy and Martin Luther King, Jr., came from Pittsburgh. He slowly and carefully listed every point he found showing that Bill died by natural causes. Then he listed the absence of factors needed to prove foul play. Consequently, Delbert—though strange, poor, and backward—received a due process trial that only rich Americans usually get.

When the jury came out with the verdict, the judge issued a stern warning: “Ladies and gentlemen, the court will tolerate no outbursts. I mean that. And if there are any outbursts, I will clear the courtroom.” Then came the words from the jury foreman: “not guilty.” The judge barely finished with his release sentence when the audience exploded with cheers and applause (Perske, 1991, pp. 88–94).

Warden Roy Best Tries to Stop the Execution of his Friend

To all appearances, unusually pleasant, 5’ 4”, 130-pound Joe Arridy, the son of Syrian immigrants, was one of those persons with so-called “diseased protoplasm” that had been so much in the news during the early 1930s. At age 7, he was kicked out of a Pueblo, Colorado, elementary school. Later, he was tested and labeled an “imbecile” and was placed in the Grand Junction

State Home and Training School for Mental Defectives. Then, at age 23, he ran away and became an avid railroad boxcar rider during the summer of 1936.

During the same summer, 15-year-old Dorothy Drain was raped and axed to death, and her sister Barbara, 12, was almost beaten to death in their Pueblo home. Law enforcement agencies in all towns on the eastern slope of the Rocky Mountains went on alert for the killer.

At the same time, Arridy was arrested in the Cheyenne, Wyoming, railroad yards. Sheriff George Carroll, a former posse rider who helped capture the infamous Barker Gang, learned that officers pulled the young man off a freight train coming from Pueblo. Carroll took Arridy into his office and asked him leading questions. Two hours later, Carroll called Pueblo Police Chief Arthur Grady and told him that Arridy confessed to the crime in Pueblo.

According to Grady, when he heard about the confession, he “almost dropped the phone.” The police had just arrested Frank Aguilar as the killer. They found the weapon, the head of an axe without a handle, head hidden in his home. Grady did say, however, that Aguilar refused to confess. Hearing that, Carroll interrogated Arridy some more. Then he called Grady again and apprised him that, sure enough, Arridy said he did the crimes “with a man named Frank.” Both men were tried, sentenced, placed in the care of Warden Roy Best and ordered to be executed in the prison at Canon City, Colorado.

It appears that Arridy may have been merely a devalued expendable minnow being used to catch and execute a bigger fish. Even so, Warden Roy Best refused to see him that way. He unabashedly broke the rules of warden-to-inmate protocol. He befriended Arridy. He supplied picture books and cut-out scissors and toys for him to play with in his death-row cell. Arridy was taken into the Warden’s residence on special occasions. He became a friend to Best’s nephew, who also lived in the warden’s home. During the Christmas of 1938, Warden Best gave Arridy a toy train set. After that, gleeful shouts of “train wreck!” and unabashed laughter could be heard throughout the row. When reporters asked Best about Joe, he began by saying, “Joe Arridy is the happiest man who ever lived on death row.”

As Arridy’s date with death approached, Warden Best enlisted Gail Ireland, one of Colorado’s

best lawyers, to carry out vigorous appeals in county and state supreme courts. He dared to interact with Governor Teller Ammons over the case. He enlisted some of the state’s leading clergy to get involved and speak up. These are efforts no warden would ever dare to do. He was so unabashed about it, he could have been fired. Even so, the day came when Governor Ammons called Best and ordered him to execute Joe Arridy.

Historians who dug into the past life of Warden Best found newspaper clippings stating that at executions, reporters saw tears in his eyes. Shortly after the death of Arridy, Marguerite Young, a poet in New York City, wrote a wistful poem about the case. The first stanza is:

The warden wept before the lethal beans
Were dropped that night in the airless room.
Fifty faces peering against last screens,
A clinic crown outside the tomb.

Chaplain Albert Schaller was the last person to interact with Arridy. By common agreement with the warden, he administered the Roman Catholic Church’s last rites for a child (Perske, 1995).

Angels in Hellish Places

There may be something important that can be learned from the actions of these seven persons. There are persons who suddenly appear at a grim scene where all seems to be lost. Their coming is unexpected. What they do it comes as an utter surprise. Sometimes they turn around a case that is going bad. Sometimes they lose, but . . . they try. Oh how they have tried. We need to watch for angels like these.

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