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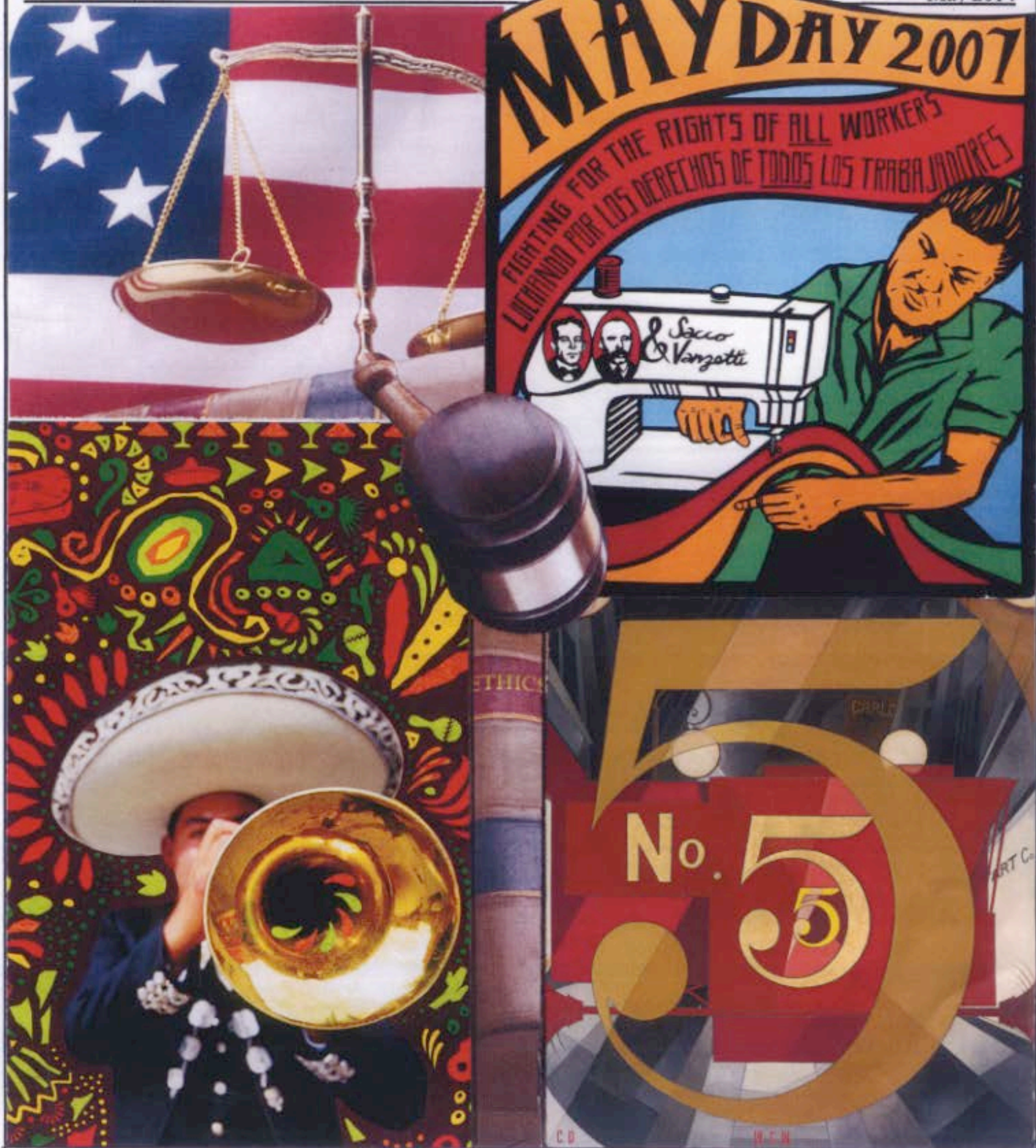
American Board of Criminal Lawyers

THE ROUNDTABLE

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UPPARSIM

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May 2014



C.B. W.C.N.

'Deep Throat' case still has lessons

San Antonio Express

April 26, 2014

In judicial hearings held in the theater lobby, Dexter was accused of misdemeanor commercial obscenity and felony possession of a criminal instrument — the 16 mm movie projector. Police used cotton swabs on theater seats and floors to collect evidence that the film appealed to patrons' prurient interests. "They were determined to find semen," Dexter's attorney, **Gerald H. Goldstein**, said last week. Can you imagine San Antonio police going on their hands and knees in a dirty little theater like that with cotton swabs? The idea of showing there was semen on the floor was to show it appealed to prurient interest," he said.

Months later, in a circuslike Bexar County trial that featured the showing of the sexually explicit film to jurors, Dexter was convicted after 35 minutes of deliberations on the obscenity charge. He was sentenced to 90 days in jail and fined \$750, but the verdict was reversed on appeal.

An even more significant case ensued from the tactic of arresting Dexter on the felony criminal instrument charge. Federal judges ruled that the multiple arrests on the felony charge were unconstitutional, bad-faith harassment by police and prosecutors. The U.S. Supreme Court awarded legal fees to Dexter's defense, and the district attorney who prosecuted Dexter lost out on a federal judicial appointment.

Forty years later, the "Deep Throat" prosecution in San Antonio, one of several around the world at the time, is recalled as a landmark legal dispute. The long-running case exposed community attitudes about sex before it was openly discussed and before pornographic images were everywhere.

Many of the case's central figures have passed away, including prosecutors and the trial judge, but several participants look back on the Deep Throat saga as an unforgettable and sometimes humorous experience.

Goldstein said Dexter's case still has relevance. "First amendment issues have come to the forefront again," he said. The issue "wasn't so much the sex but the affront on the established order." But decades later, Goldstein said even he has come full-circle when it comes to porn. "Now I'm an old fart, and it offends me," he said.¹

¹The actual quote was "some of what you see today even offends me," but then the 4th Estate always gets the last word and the byline. Nevertheless, it was a fun journey!

Goldstein

NEWS FROM THE FRONT LINE -from Ed Mallett

I expect that everyone in ABCL agrees that criminal defense lawyers are also civil rights lawyers.

Lost my 4 day federal medicare fraud trial last month. I never said my client was innocent. Possibly she was not. . .the jury thought about it for only an hour and half.

But we just won a civil rights trial — bench trial over 5 weeks last autumn, decision yesterday. Gerry Birnberg and I have been representing all the Muslims in the Texas prison system for 37 years ago. The Attorney General — now running for governor — welched on our 1977 settlement in 2012 and now we win again. He ordered six hours of religious programming per week instead of one hour per month. Federal Judge Ken Hoyt said that the state's case for terminating their 1977 consent decree was a "hoax." We will appeal because the Court denied attorney fees. They will appeal because that's what they always do. We think that our victory will stand.

Woman found not guilty after admitting she took meth hours before Mobile crash that killed elderly victim

By Michael Dumas - May 01, 2014

MOBILE, Alabama — Shortly after she testified on Friday to snorting methamphetamine hours before a 2012 crash, a jury found Maria Hirtreiter not guilty in the death of an elderly Pensacola woman. Hirtreiter, 44, was charged with manslaughter for causing the March 16 accident that killed 69-year-old Pensacola native Gaynell Payne. The defendant was trying to turn into a parking lot near her home when she struck Payne's vehicle. The victim died en route to an area hospital.

On Friday Hirtreiter told the jury about the day of the crash, and how she came to ingest methamphetamine. Working as a certified nursing assistant, she had taken her 2-year-old son to work with her, at the home of a paraplegic she was caring for.

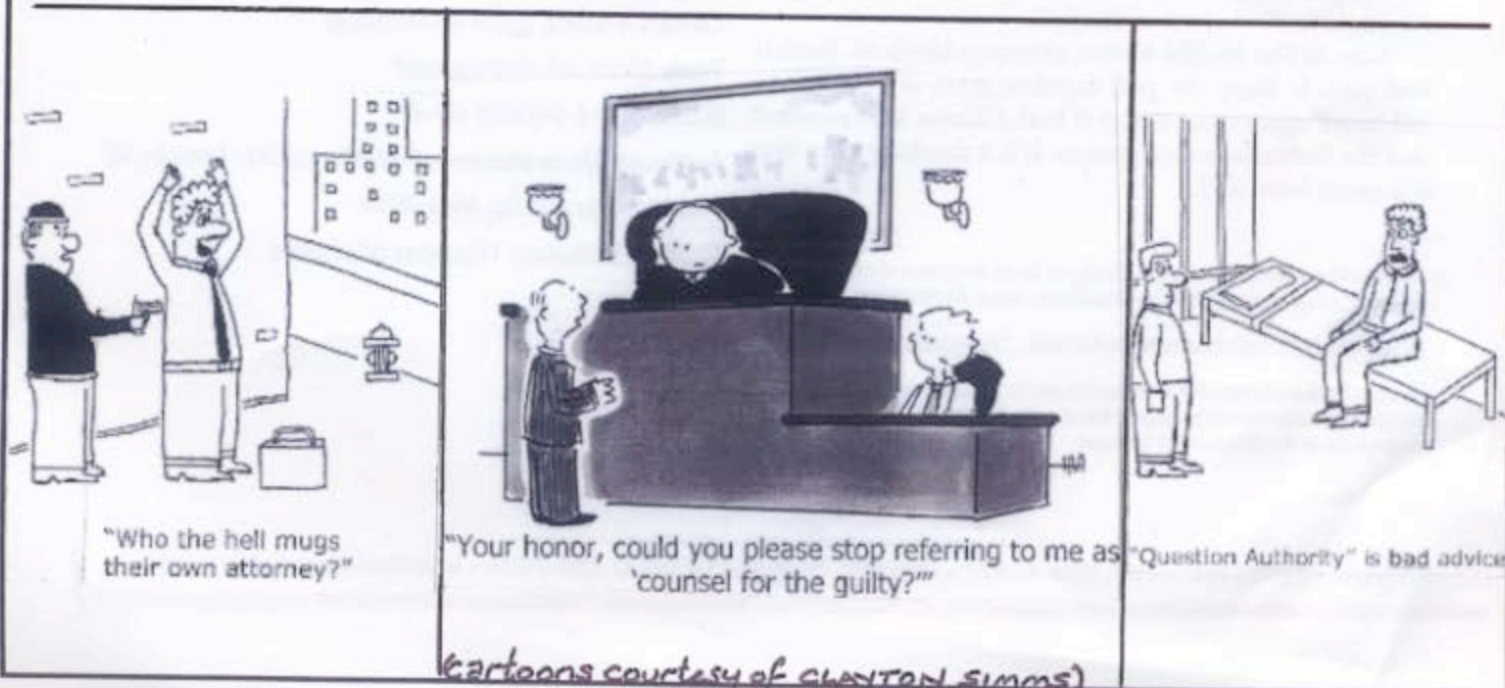
The man, a veteran who has since passed away, would give her the drug, which he was prescribed for by doctors at a Veterans Administration hospital, she said. Hirtreiter said that, a majority of the time she worked for the man, she would snort the powdered stimulant off a small saucer and its immediate effects would help her do her job. "At first it's a rush of energy," she said. "You feel very awake very quickly." Hirtreiter testified that on days when she had her young son with her at work, she took care not to take the drug anywhere near him. According to prosecutors, the defendant was still under the influence of the drug when turned into the path of the victim's car.

Defense attorney **Jeff Deen**, who throughout the trial maintained the methamphetamine's effects had worn off by the time of the crash, was nonetheless stunned when the jury read its verdict, less than two hours after it began deliberating. "The jury obviously considered the evidence and reached what I know is a very difficult verdict for them," Deen said. "People get scared when they hear about people using drugs and driving, but the facts just didn't match up that drugs were causing her to act recklessly. "They reached the right decision."

COOL CAT WITH NEW BODY GUARD
(WHICH IS WHICH?)



I've been representing apex predator trainers for about thirty years. This Canadian lynx won't have anything to do with anyone but me, and the guy who raised him. **Chuck W.**



New from Addicus Books...

The TWELFTH VICTIM

The Innocence of Caril Fugate
in the Starkweather Murder Rampage

Linda M. Battisti
John Stevens Berry

In 1958, nineteen-year-old Charles Starkweather gained notoriety as one of the nation's first spree killers. He murdered eleven people in Nebraska and Wyoming. After a week on the run, he was arrested and later convicted and sentenced to die in the electric chair.

Starkweather's girlfriend, Caril Fugate, fourteen, was with him throughout the murder spree. Was she his hostage or a willing participant in the murders that included her parents and three-year-old sister? This question still stirs debate more than fifty years later. Fugate claims she was terrified to attempt escape—Starkweather had told her he would make a phone call and have her family killed if she disobeyed him. Unbeknownst to her, he had already murdered her family.

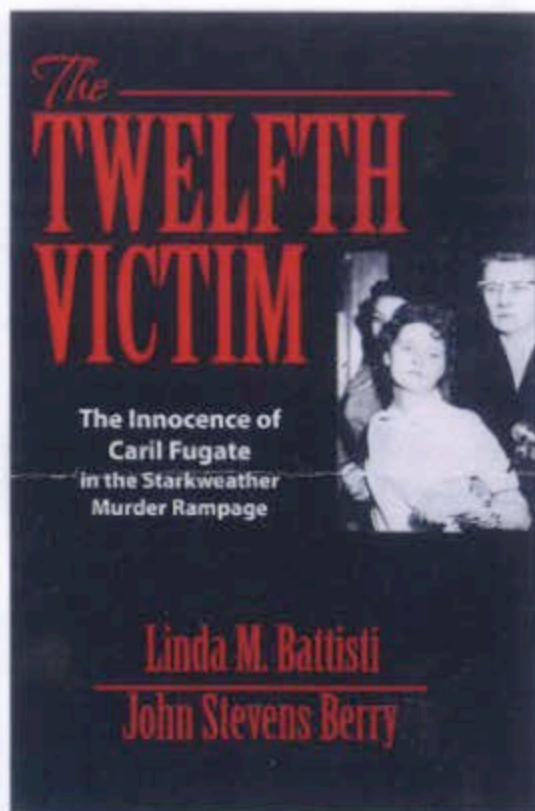
A jury found Fugate guilty of being an accessory to first degree murder. She was sentenced to life in prison; however, in 1976 she was paroled.

Now, in *The Twelfth Victim*, attorneys Linda M. Battisti and John S. Berry, Sr. pull together years of research to tell how Fugate was a victim of both Charles Starkweather and the Nebraska justice system. It is a shocking story that has never been told.

"A compelling cultural essay... a sort of penance for our acceptance of a crude, flawed, and even corrupt legal system..." Gary Gabelhouse, Author, *The Third Temple*

"Rarely has a legal tangle been so masterfully told..." Roger Welsh, Author, *My Nebraska*

"Authors Berry and Battisti deliver the perfect one-two punch to clarify the scandalous gossip and hearsay that has so plagued this story for decades..." Jeff McArthur, Author, *Pro Bono—The 18-Year Defense of Caril Ann Fugate*



Title: *The Twelfth Victim: The Innocence of Caril Fugate in the Starkweather Murder Rampage*

Author: Linda M. Battisti and John Stevens Berry

Price: \$21.95

Pages: 250

Binding: Trade paperback / 5.5 x 8.5

Cover: 4-color, gloss lamination

Text: Black ink throughout

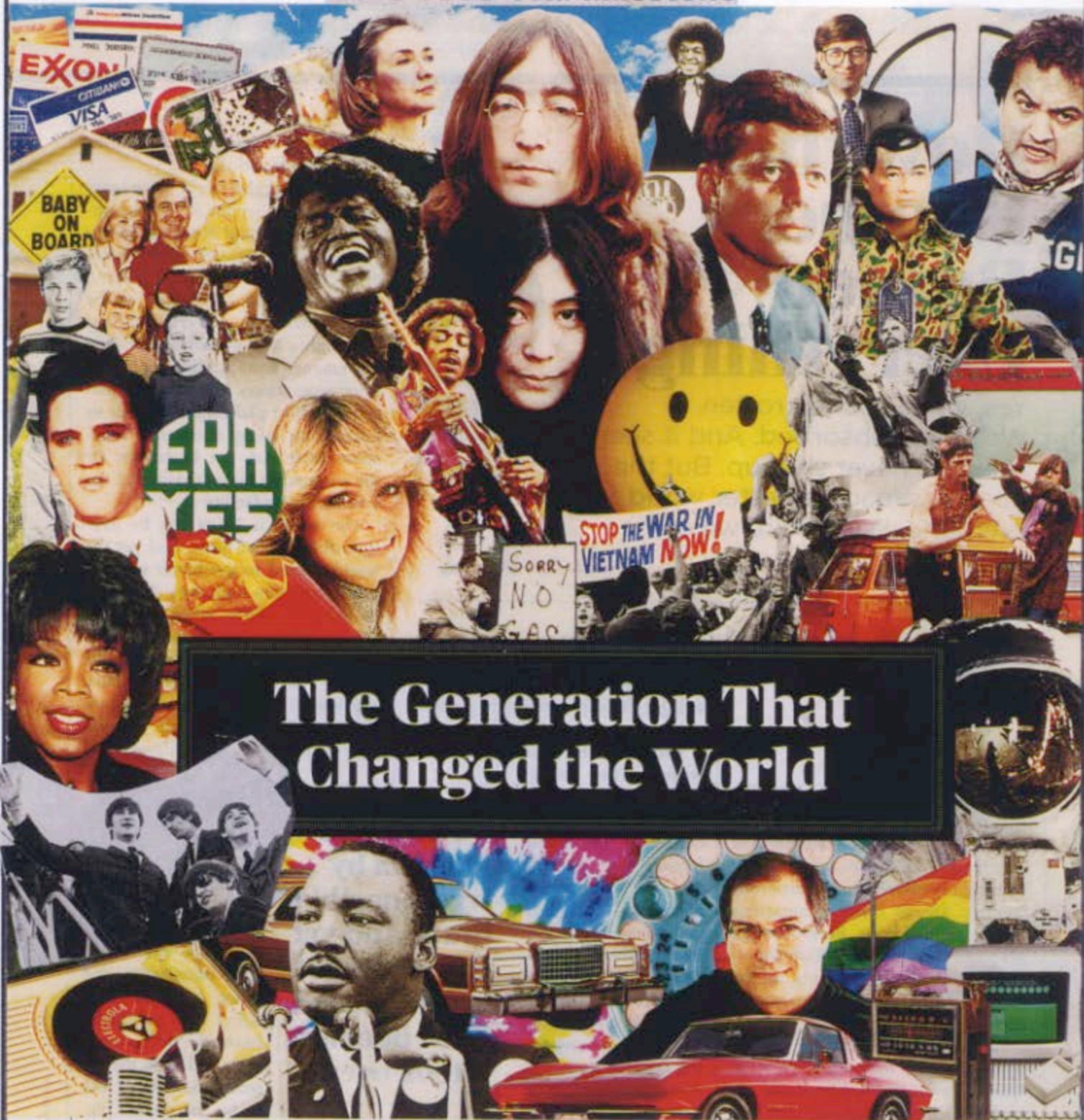
ISBN: 978-1-940495-28-6

Authors' Hometowns: Bay Village, OH / Lincoln, NE

Publication Date: May 2014

Other Features: 16 pages of photos

1964: 50-Year Milestone



The Generation That Changed the World

Say what you will, the boomers have had, in Emerson's words, their "crowded hour." As children, they cowered beneath their grade school desks while the world teetered on the brink of nuclear war. They lived through the murders of their leaders, the moon walk and the Vietnam War; mass experiments with sex and drugs; the bloody fights for civil rights, women's rights, gay rights and environmental sanity. And then

the smoke cleared and, behold, a new generation of leaders and thinkers emerged to reshape our world. Steve Jobs and Bill Gates led a digital vanguard; Oprah Winfrey harnessed the power of a rampant media. Bill Clinton, George W. Bush and Barack Obama transformed the idea of leadership. In 2014 we will celebrate this postwar generation, its glories and its follies, but most of all its place in history. —Robert Love

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The RoundTable

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Future Meetings

June 12-15, 2014: Aspen, CO
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