

# American Board of Criminal Lawyers

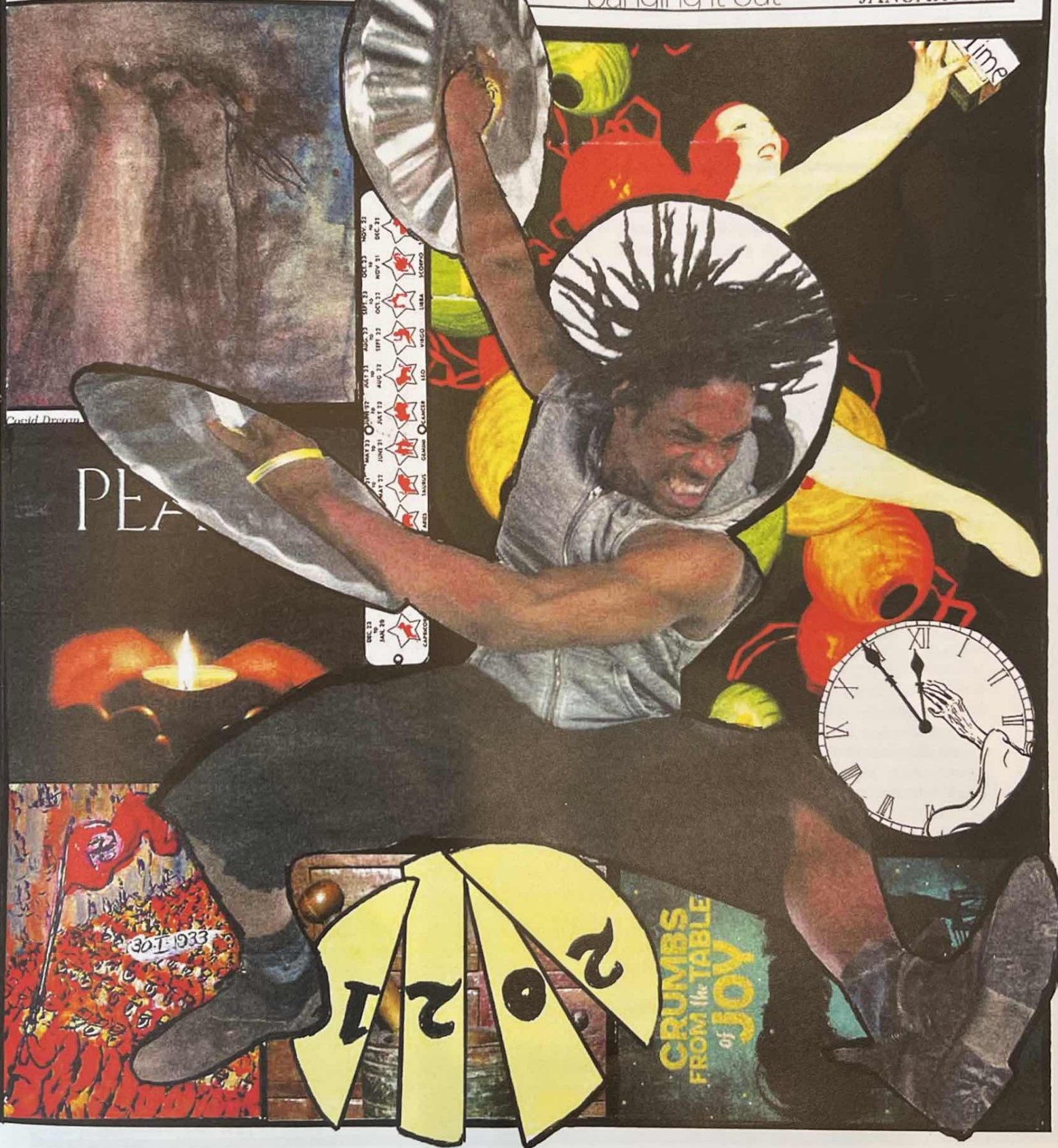
## THE ROUNDTABLE



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banging it out

JANUARY 2022





### Really Good News

The following letter addressed to "Lacheen Family or Current Resident" expresses a hope worth sharing: Better days are coming.

Erica

Willingboro NJ 08046

Dear Lacheen Family,

I hope you and your family is well, I am one of Jehovah's Witnesses, and as a public service I am reaching out to all my neighbors in the area. Sharing some comforting and important information.

Due to the pandemic and current events many people have been concerned about where the world is headed, and if there will be a day when the world will come to an end. What has comforted me is God's Word the Bible at Ecclesiastes 1:4 says, "A generation is going, and a generation is coming, but the earth remains forever."

So according to the Bible, the earth will never be destroyed, and it will always be inhabited.

More information on this topic may be found at JW.org by entering "A Better World Is Near"

free of charge. If you have any questions, feel free to contact me at the above address.

Sincerely,  
*Erica*

### Our Prescient President

George Washington reluctantly ran for the Presidency in 1788. He remains the only Independent elected to that office. His farewell address, of September 19, 1796, provides the framework for the peaceful transfer of power. (It is read aloud in the Senate every year; this year, that event occurred a week after Trump's impeachment trial had concluded there.) In the address, Washington, like a father chiding his bickering children, advised his countrymen, no matter what their political passions, to consider the fundamental bonds that connected them as Americans. Political parties were useful to check the worst instincts of a monarch, he wrote, but, in a democracy, a party

agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another, foment occasionally riot and insurrection. It opens the door to foreign influence and corruption, which find a facilitated access to the government itself through the channels of party passions.

### Champeen Deen hits two out of Court and a double in last three at-bats!

On the morning of August 20, 2018, a two year old child was transported by EMT's to the hospital. He died shortly thereafter.

An autopsy was completed the next morning.

It found:

Multiple blunt force injuries to the Head, Thorax and abdomen.

Cause of death:

Homicide

A pediatric doctor, who is also a child abuse expert, opined the injuries were not accidental and could only have been caused by physical abuse. The victim's mother told police that when she was getting ready for work at 9 PM the night before, her boyfriend, the defendant, was potty training her son. She observed him pop the child on his buttocks because he would not stay on the toilet. An older aunt of the mother said while she was in the back room getting dressed, she saw William "whoop the boy's ass".

William was questioned on the same day the autopsy was completed in an un-air conditioned room for three hours at police headquarters under the guise of it being investigatory in nature. However, the purpose of the interrogation was to extract a confession from him. He admitted to popping the child on his butt for not staying on the toilet but never admitted to "whooping the child's ass" or hitting the child in the stomach or in the head.

William Burton was arrested and later indicted for capital murder and felony murder aggravated child abuse.

At trial, the mother's sister testified that Willie and the mother had an argument right before she went to work. After the mother left the house, the defendant left. Two days later when the EMT's were putting the child in the ambulance to take him to the hospital, the defendant (supposedly) was on the couch staring into space saying: "I am sorry. I am sorry. I did it".

The headlines screamed that a two year old toddler had been beaten to death while being potty trained by his mother's boyfriend.

Yesterday, after sitting in jail for 3 years, Willie was acquitted on both counts.

In closing, Jeff Deen's patented "Paul Revere" closing was used to secure a victory for the defense!

Way to go Jeff Deen!!!

*(Reported by John Beck)*



# THE METRICUS REVIEW

Jury Research Newsletter

Volume 5 Number 1

January 1993

## Jurors' Preconceptions of the Law

### The Research

A number of studies have documented that jurors frequently do not understand very well the law as it is explained in the judge's instructions. A researcher, whose work is reported in the *Journal of Personality and Social Psychology*, looked at two related issues, namely: 1) what jurors know, or think they know, about the law before hearing the judge's instructions; and 2) how they use that prior knowledge to reach a verdict.

Specifically, the researcher conducted a series of experiments, too elaborate to describe in this space, that were designed to test: 1) whether individuals have their own conceptualizations of specific crime categories (e.g., burglary, assault); 2) whether their conceptualizations match the defining features of the crime as specified by the law; and 3) what effect the judge's instructions have on jurors' determination of guilt or innocence, given their personal preconceptions of a crime.

After reviewing the results, the researcher concluded that individuals do, indeed, hold conceptualizations of different crime categories, and that these conceptualizations do not correspond to the correct defining features of the crimes. For example, the researcher noted that, while the law defines robbery as the taking of property from a victim by force or threat of force, a large percentage of the public define robbery as an activity involving an armed perpetrator taking something of value, especially money, from the victim's home.

In addition, the researcher found that, for four out of the six types of crimes examined, the subjects were likely to make the wrong decision — specifically, to render a “not guilty” verdict — after reading scenarios in which the events described a) met the legal requirements for a given crime, but b) did not match the subjects' conceptualizations of the crime.

For example, the conviction rate for kidnapping among subjects who read scenarios that conformed to the subjects' conceptualizations of kidnapping was ninety-two percent, while the conviction rate for kidnapping among subjects who read scenarios that did not conform was forty-nine percent. (Remember, *all* of the scenarios described events that met the legal definition of the crime.)

Finally, the researcher found that the verdicts reached by the subjects who received the judge's instructions with respect to the law were no different than the verdicts reached by the uninstructed subjects. In other words, the researcher found that individuals rely on their own preconceptions — and not the judge's instructions — when deciding whether a crime has been committed.

### What it Means

If the majority of prospective jurors do not know what a robbery is, how many do you think understand what securities fraud or patent infringement entails? (Please note that these claims, like many other claims in civil disputes, are articulated using words that are not alien to most people — words like “fraud,” for example.)

Since the research reported here makes it clear that you cannot rely on the judge's instructions to clarify ju-

rors' misconceptions, we recommend that you include in voir dire questions like “What does the word ‘libel’ (or ‘malpractice’ or ‘trade secret’) mean to you?”

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“Jurors rely on their own preconceptions, not the judge's instructions, when deciding whether a crime has been committed.”

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In other words, in addition to using voir dire as an opportunity to identify prospective jurors who are likely to be biased against your client per se, use it, as well, to identify those prospective jurors whose mistaken preconceptions about the claims are likely to lead them to arrive at an unfavorable verdict. □





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### The RoundTable

Steve LaCheen, Editor

Rita Bognanni, Staff



### Future Meetings

March 18-20, 2022: Las Vegas, NV - Four Seasons

July 15-17, 2022: Traverse City, MI - Delamar

October 7-10, 2022: Detroit, MI - Cadillac Hotel



*Season's Greetings*

**artcraftcollages.com**

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The RoundTable  
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"I'd like to rent a double room here tonight."

"You got it."

"Thank you very much."

"No problem."

■

"Another beer please, bartender."

"You got it."

"Got it? I don't see anything."

(Beer arrives.) "Thanks."

"No problem."

■

"I would like to start with the Caesar salad, please."

"You got it."

"But that's impossible, my plate is empty. How could I possibly have — I mean possibly got — it?"

■

"A little more coffee, please."

"You got it."

"This coffee's great. Thank you."

"No problem."

■

My problem is that I didn't get it, I certainly don't *got* it, and I *do have* a *problem* with it all.

The problem only gets worse when the young and the hip, and much worse when the middle-aged would-be hip, take a walk on the wild side and escalate the response to, "No problema," an incorrect version of the Spanish phrase "No problema" ("No hay problema" for you Spanish speakers). I suppose there may be some symmetry and consistency in translating bad English into bad Spanish.

You got a *problema* with that?

So many questions, so little time; or maybe too many questions and too much time. Whatever it is, I find myself scratching my head too much of the time about language, word use

and abuse. I am not the only one with questions. In these post-9/11 times, the number of government *interrogations* has increased dramatically. The definition of *interrogate* is innocent enough: to examine by questioning formally or officially. A synonym is more innocent still: to ask.

Unfortunately, interrogations have become a way of life. To steal an advertising line from a national chain of toy stores, *Interrogations 'R Us* in the post-9/11 United States of America. We as a nation would not like to know too much about all these interrogations.

We do not want to know, for example, how the 9/11 Commission got such an impressive mass of detail about the hijackings and the hijackers. Maybe all

Just what do we *got*?  
Do we perhaps *got* a  
substitute for a crisp and simple  
"yes," or is it more complicated  
than that?

those captured guys in Guantanamo, Abu Ghraib, and in those unnamed Eastern European and Middle Eastern dungeons simply decided to come clean and voluntarily tell all once captured — after we *got* 'em, that is. Sure they did. Right. Maybe, and maybe not. They obviously talked, but we do not want to know how they came to talk. I think we know the answer to that, and it is not positive.

On the lighter side of interrogations — I know that it's sometimes tough to see that lighter side — some city police officers were testing high-tech devices that could find explosives in airports, train stations and other public places. The devices apparently electronically

sniff, prod and probe packages, suitcases and bags, picking up God knows what: electrons, gamma rays, kryptonite or whatever. The police termed the testing *interrogating the luggage*.

The word *interrogate* might conjure images of Dick Tracy, Elliot Ness, or *Law & Order* TV-show cops shining a big bright light on a suitcase, with or without a luggage defense attorney present.

"OK, Mr. Tourister, come clean and it may go easier for you. Give it up. What are you carrying?"

Not even inanimate objects are immune from interrogation in this post-9/11 world, so always remember to INTERROGATE THE LUGGAGE.

Since we are talking about television cops, why not pay a little attention to TV robbers as well. Fans of the television cable gangster show *The Sopranos* may remember when mob boss Tony Soprano was shot by his uncle. There was old Tony languishing in the intensive care unit of some North Jersey hospital. There was the big-deal doc giving the tough medical updates to Tony's Mafia princess wife,

Carmela. Whether you watch the show or not, you might appreciate what the take-charge doc said to Carmela when Tony's prognosis was slipping from bad to very bad.

"Mrs. Soprano," he said, "You may have to *recalibrate your expectations*." Sensitive, Doctor, very sensitive, both to the worrying family members and to the English language. I suppose that is something we may all have to do from time to time: *recalibrate our expectations*. The alternative might be institutionalization.