

Legally Speaking



Lynch Law

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There are a handful of racists who like to set good people against each other to promote their own self-interests. White racists are incensed that there are African-American mayors, governors, congressmen, generals, judges, and even a black President. Black racists are frustrated by the same thing. How can they sell their message of hate and hopelessness when the evidence that African-Americans can succeed in the larger community is there for all to see? Their worst nightmare is that “blacks” will disappear into the “melting pot” of American society. Their dream is not Martin Luther King’s dream. If black citizens are part of the larger community, “black leaders” are not needed. People will look for lead-

ers, without respect to race, who work to improve the community as a whole.

Some of the most vocal black “leaders” lash out against successful black Americans as having betrayed their own people. That an African-American can be successful does not promote the racist message that blacks are unable to progress on their own. Without any concern for the facts, these so called “leaders” promote the idea that every encounter between the police and a black person is a race motivated attack on the black community. This leads to anger that divides communities, not understanding that brings people together.

Many years ago there was a university experiment in which a class of law students were shown a film of an automobile accident. The students were then asked questions about the film. One question was, “Where was the lady with the baby carriage?” Most said she was on the street corner. The problem was, there was no lady with a baby carriage. The students “saw” what they had been led to believe they should see. If you look for racism in every event you will find it, even if it is not there.

In Ferguson, Missouri, there was an altercation between a police officer and Michael Brown that resulted in Brown’s death. Brown, along with a friend, was involved with illegal drugs, had robbed a convenience store, and assaulted and battered the store owner.

Brown’s friend, who was present at the time, admitted that. Robbery is a felony, a serious crime. It does not require the assailant be armed. The value of the property taken is not relevant because the essence of the crime is placing the victim in fear as a means of taking the property. Robbery differs from shop lifting or larceny. In those crimes no one is placed in fear. The 6’4,” 290 lbs. Brown is clearly shown on surveillance tapes assaulting the convenience store clerk.

Brown’s friend did not try to stop Brown from robbing the store and was prepared to share the loot. That made the friend an accessory. An accessory to a felony has committed a felony. There is a rule of law called the “felony murder rule.” The “felony murder rule” holds that if someone dies from any cause related to the commission of a felony, anyone participating in the felony may be charged with murder even if his only part in the crime was to act as a look out. Brown’s associate had reason to lie about what happened that night. He could have been charged with murder as a result of Brown’s death.

There are differing stories as to what occurred when the officer confronted Brown and his friend. Extremely poor coverage of the story resulted in the publication of pictures of Brown as a small child, not as the hulking adult he was. His distraught mother, not the battered store clerk, was the focus of news stories. Even Jeffrey

Dahmer, the cannibal serial killer, had a mother.

The race baiters turned the story into one of a “white cop” killing a “black 18-year-old child.” A lynch mob mentality quickly developed.

Brown’s associate in crime first gave the “we weren’t doin’ nothing” story to the press. That is what street punks usually say even when they are caught red handed. Their tactic is to distract attention from themselves to someone else. Brown’s associate later admitted he was with Brown when the store was robbed; but, he said, they were just on their way to smoke some marijuana.

It was said that the officer, while still inside the police car, grabbed the 6’4”, 290 lb. Brown by the neck, and tried to pull him into the police cruiser through the driver’s side window. Think about that for a moment. If you were sitting in your car, you might be able to grab someone’s arm through the window; but, could you grab the throat of a 6’4” man standing beside your car? Even if he could, why would any officer want to drag a suspect into a cruiser over the steering column, across the officer’s lap thus pinning the officer in the car’s seat? For that matter, how difficult would it be to drag a 290 lb. man through the driver’s side window of a car with one hand?

The officer said the suspect punched him in the face through the window. Forensic evidence supports the officer’s statement that he had been punched. Assault and battery on a police officer is a crime. In many states, it is a felony. The officer stated that the suspect attempted to take his gun and that the gun discharged

inside the cruiser. Brown’s friend said that the officer had his gun drawn while he was trying to drag Brown through the window of the car. That is, the officer had his left hand on the suspects throat and his right hand on his gun. How could Brown’s friend see the gun inside the car if it was between Brown and the officer? Forensic evidence shows the gun went off inside the car and Brown had a close range wound of his hand.

A number of witnesses saw the struggle in the car from a distance. Their impressions were driven by what their minds had been pre-programmed to see. Those who expected to see an abusive officer, saw one. Those who expected to see an officer doing his duty, saw one.

The situation escalated until Brown was shot. The officer said the shooting was in self-defense. Brown’s accomplice, said Brown was shot in the back and/or his hands were up trying to surrender. Forensic evidence did not support a finding that Brown had been shot in the back. It could not, however, determine the position of Brown’s hands.

Our society has a way, set by law, to determine what occurred in such incidents. The system calls for people to be selected from the community at random. Those people, called a jury, are shown the evidence and they make a determination of what occurred based upon facts, not emotion. It is not a perfect system. It sometimes makes mistakes. It is, however, the law. It is our society’s way of resolving issues without resorting to violence.

In this case, the question was, “Did the officer shoot in self-

defense?” There was nothing to suggest that race was a motivating factor in the officer’s actions.

Before all the evidence could be assembled, the community in Ferguson was inflamed by repeated racist statements that white police officers were killing young black people. The implication was that Brown’s death was due to racial animosity, not any misconduct on Brown’s part. A mob used those statements to justify riots, looting and property damage.

The matter was sent to a grand jury to determine if criminal charges should be brought against the officer. In Missouri a grand jury consists of 12 people. Of the 12, at least nine must vote for an indictment, that is, a formal criminal complaint. To indict, the grand jury must determine there is probable cause, that is a “reasonable basis,” to believe a crime may have been committed. Probable cause is a much lower standard than the standard required for a conviction on a criminal complaint. In a criminal trial, the jury must unanimously determine there is guilt beyond a reasonable doubt. It is much easier to get an indictment than a conviction. The major criticism of the grand jury system has always been that it is too easy for prosecutors to get indictments because the accused has no right to present a defense, call or even question the witnesses. Some have complained that prosecutors do not try hard enough to get indictments against police. In most states, the state’s attorney is elected. If he or she is not doing his or her job, there is a political process by which the state’s attorney can be removed.

Members of a grand jury, unlike

a trial jury, may ask questions of the witnesses. They may ask the state to produce such evidence or witnesses as the grand jury would like to see or hear. The major function of a grand jury is to protect people from politically motivated prosecutions. Without that protection, someone could spend years in jail awaiting trial and be forced to exhaust all of his or her assets defending against a charge when there is no credible evidence that he or she had committed a crime. Protecting people from abusive prosecutions is important.

During the grand jury proceeding, people who should have been responsible community leaders, demanded the officer be indicted without regard to the evidence. Their words encouraged the mob that, frankly, was attempting to intimidate the jurors. When the grand jury, having heard extensive evidence, found no reasonable evidence to support criminal charges against the officer, the mob rioted, saying they wanted “justice.” Justice was done by the grand jury. Those who refused to accept the jury’s determination, did not want justice, they wanted vengeance. They wanted the law of the mob. They wanted lynch law. A lynch mob is a lynch mob, no matter what its ethnicity.

People who claimed to be “leaders” of the black community continued to inflame the situation by crying out that white police officers are killing black men. These are words of hate, not an attempt to establish a dialogue to define and address problems. These words are a call to violence, not understanding.

When the police, or federal law enforcement officers, overstep

their authority, this author has not hesitated to call for reforms in the way those officers are trained or the tactics some elected officials encouraged their law enforcement officers to use. No knock searches, warrantless searches, search-on-sight policies, the misuse of informants, corruption in the departments, entrapment, arrogance towards the community are all things that have been complained about in this column.

This author supports two-man police cruisers, body armor for officers, adequate staffing, foot patrols, police-community outreach programs, and officers being required to live in the communities they serve. Cameras in cruisers and in all areas of police stations where suspects might be held are a good idea. Body cameras for officers have their drawbacks. They may make some people unwilling to talk to officers, especially when government corruption, gangs or drug dealers are involved. There is no way to keep such pictures private. Also, some people might not want an officer to take pictures while inside their home.

All that being said, playing the race card does not help build the community bridge that needs to be in place to make meaningful improvements in community policing. When you call an entire profession “racist murderers,” when you are making death threats against them, when you are throwing bottles at them, it is unlikely that they will work with you for improvement.

There are about 1.1 million police officers in the United States of all races. Each year they make about 9 million arrests of which about 2.6 million are arrests of

black people. There are no accurate figures of how many people die each year as a result of actions by police. The number is thought to be about 400. That number includes intentional wrongful acts by off-duty officers (such as an officer killing a family member); motor vehicle accidents; justifiable homicides and unjustifiable homicides. Some officers involved in incidents leading to a death were black, some were white, some were of other ethnic groups. Likewise the people who died were of different racial backgrounds. There is nothing to show that there is a malevolent plot by police to kill according to race. Each time, however, there is a police encounter with a black person, the mob is inflamed by the rhetoric of hate. This happens even if the officer was clearly justified; even if, as in the case of Eric Garner, there was one or more black officers involved in the incident.

“What do you want?” a woman demonstrator was asked. “We want to control our own city,” she said. Since the year 2000, the majority of people in Ferguson are black. The fault for Ferguson’s political problems lies with its voters who, having the power to make change, failed to do so. The problem is also with the so-called “community leaders” who criticized but failed to assume responsibility and failed to encourage their followers to use the political process for peaceful change. Leading a mob is an ego-adrenalin rush; but, it does not solve problems.

Another protester said that they want the police out of their community. Really. That means if someone is stealing your car, there is no one to call for help.

If some muscle-bound thug tells you to give him/her your jacket or shoes or pants, you do so. It means you live in a house with bars on the windows. It means you cannot sell your house because no one will buy it. It means there are no grocery stores, drug stores, or any other kind of business in your community because the cost of doing business is too high if any punk can walk in and take what he or she wants. It means no taxi will come to pick you up. It means you do not stop at traffic lights for fear someone will smash your car window to rob you. Plumbers, electricians and other trades people will not come to your home out of fear of being mugged. It means that pimps, prostitutes, drug dealers and gang members control your streets.

In 1991, a group of unarmed, 15-year-old black male “children” robbed Kimberly Rae Harbour, a black lady, of one dollar. They then stripped her naked, repeatedly raped her, and despite her pleas that were heard by hundreds of people shuttered in nearby apartments, she was beaten with branches, stomped on, stabbed 135 times and left to die on a city park baseball field. This horrific crime occurred because the boys said they were bored and the neighborhood was not adequately policed. When communities are not policed, when crime is excused, everyone suffers.

People who condemn others by description of their race rather than by their deeds, are racists. People who say, “Kill white cops,” are engaged in a hate crime.

The demagogues have found a catchy sound bite in their claim that white police officers are kill-

ing black males. They have encouraged the use of hateful words and confrontation. Their sound bite has been seen as a call to violence by too many. A better sound bite might be a reminder that, “Racism is an equal opportunity employer.”

People need to remember that the things that pull us apart prevent us from moving forward.

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Survey Results

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sports, long-range shooting and plinking. The majority were not participating in gun collecting, 3-gun and cowboy action with any consistent frequency.

The survey also was used to develop a model to predict spending on guns and accessories and frequency of participation. Unsurprisingly, the more guns owned, the more likely the participant was to both spend on guns and the more frequently they tend to participate in shooting activities.

Similarly, those with most confidence and comfort with guns and the most training, also tended to spend and participate more.

Women in the survey were more likely to have trouble with fit of both guns and apparel the more they participated in hunting and shooting activities.

Growth of the women’s market is also quite visible among firearms retailers. In NSSF’s Annual Retailer Survey, more than 74% of retailers reported an increase in women customers in their stores in 2013 over 2012.

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EPA Can’t Regulate Lead Ammo, Sinkers

The US Court of Appeals for the District of Columbia has upheld the dismissal of the latest lawsuit brought by anti-sportsmen groups petitioning the Environmental Protection Agency (EPA) to issue regulations banning traditional ammunition with lead components and lead fishing sinkers.

The National Shooting Sports Foundation (NSSF), the trade association for the firearms and ammunition industry, and other pro-hunting groups joined the lawsuit on the side of the EPA to ensure that the interests of industry and hunters were properly represented. In 2013, the District Court for the District of Columbia ruled that the EPA had properly dismissed the petition filed under the Toxic Substances Act, whereupon petitioners appealed.

EPA has consistently denied repeated attempts by anti-hunting groups led by the extremist Center for Biological Diversity (CBD) to have the agency ban traditional ammunition and lead fishing tackle and the courts dismissed similar earlier suits brought by CBD. The latest suit simply added more parties.

Traditional ammunition represents 95% of the US market and is the staple ammunition for target shooters, hunters and law enforcement.

“This latest iteration of a frivolous lawsuit is essentially the same as those dismissed earlier and equally without merit,” said Lawrence G. Keane, NSSF senior vice president and general counsel.

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