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TIME OR MONEY

If you haven't the bucks for a good lawyer, get ready to do the time

By Julius (Jay) Wachtel. During the evening hours of March 1, 2011 a Cleveland police sergeant was working off duty directing traffic in front of a downtown parking garage. An SUV exiting the garage made an illegal U-turn and stopped. When the officer approached and banged on the door the vehicle suddenly sped off, [knocking the cop to the ground](#). Fortunately he wasn't seriously injured.

A check of the SUV's license plate (more on this later) revealed that the vehicle was registered to W. Charles Geiger, a resident of Lakewood, an affluent suburb. Police went to his home. From his seat in a patrol car, the banged-up sergeant identified Mr. Geiger as the driver and his wife Patricia as the passenger of the vehicle that struck him hours earlier.

The stunned couple denied any involvement. Mr. Geiger said that he had spent the evening at a restaurant having dinner with his daughter. As for the SUV, he wasn't even driving it. It was taken by his wife, Patricia, who went on a girl's night out at a Cleveland theater with her friends. They parked in the garage and left without incident. Mr. and Mrs. Geiger suggested that officers check with their daughter, restaurant employees and Patricia Geiger's passengers. In fact, an officer apparently spoke with the daughter, who confirmed her father's story and displayed a receipt for the meal.

It was all to no avail. Convinced that the sergeant's identification was enough, officers arrested Charles Geiger for felony assault and other charges, and Patricia Geiger for obstructing justice by lying about what happened.

Unlike most of those with whom police come into contact, Mr. and Mrs. Geiger were prominent citizens and very well-heeled. They sat out the next twenty hours in the slammer, sharing intimate space with unsavory strangers, while their lawyers busily gathered a cornucopia of exculpatory evidence. By that afternoon the D.A. had the meal receipt as well as affidavits from the daughter, restaurant employees and Patricia Geiger's friends (they insisted they used a different exit than the suspect.) A time-stamped restaurant security video clearly shows Mr. Geiger and his daughter leaving when they said they did. A garage video would later prove that the SUV that struck the sergeant [was different from the Geigers' vehicle](#).

Prosecutors realized that the case against the Geigers was, to say the least, very weak. They released the couple, Mrs. Geiger without charges, her husband on \$500 bond. His case was later dropped.

So how to account for the license plate? Hours earlier, the sergeant had chased a motorist driving a similar SUV from a reserved parking space. Unfortunately, that's where Mrs. Geiger then chose to park. The sergeant noticed her SUV while on his rounds and, thinking it was the same vehicle, wrote down the plate. Bottom line: there's a real cop-hater still on the loose, but he's yet to be identified.

“There was a warrant out for his arrest, and it just wasn’t a good idea for him to walk around wanted for such a serious crime.” So said [Pennsylvania State Senator Shirley Kitchen](#) (D – Philadelphia) about that fateful day when she told the siblings of a wanted but innocent man that he should turn himself in to police. “I thought it was going to be straightened out. I really did...I had no idea that this would have led to him being incarcerated for a year.”

Eugene Robinson, 60, is the first to admit that he’s made his mistakes. But he’s no rapist. Yet there was no denying that old mugshot prominently displayed in the “Week’s Most Wanted” section of the August 4, 2008 *Philadelphia Daily News*. An old booking photo – again, the man’s no angel – identified Robinson as a predator who held a sword to his victim’s throat. U.S. Marshals offered a reward, and with neighbors whispering it was only a matter of time before someone tried to cash in.

Robinson got his sister and brother to drive him to the senator’s office. Maybe she would know what to do. He hid in the car while they went inside. And when they returned and passed on the senator’s well-intended advice, he gulped and took it.

Only thing is, Eugene Robinson wasn’t a wealthy, well-known businessman. He was a plumber, scratching out a living and trying to make restitution on a three-year old theft case. No way could he make bail or hire investigators to prove what he knew, that the cops had the wrong guy.

Since this is a post about mistaken arrests, not wrongful convictions, we know that Robinson wasn’t convicted. He was eventually released, but not because authorities thought he was innocent. Luckily for him, the alleged victim failed to appear at two preliminary hearings so the case was dropped. (Had she shown up and for some reason mistakenly identified him, as has happened to others, we all know where Robinson would now be.)

It later turned out that there really was a rapist, but his only connection with Robinson was in their names. Authorities conceded the slip-up. “There was clearly a name and sort of identity issue between this Eugene Robinson and the other guy,” shrugged a prosecutor. In fact, nothing matched – not their appearance, social security number, birthdate or residence address. Robinson’s mugshot and particulars somehow wound up in the wrong file.

C’est la vie!

Robinson was nonetheless punished. All he had was a public defender who couldn’t spend a day running around gathering affidavits. (Indeed, exactly what he did seems unclear.) Unable to post bail, Robinson did five months awaiting trial. Then when he was finally released – remember, the authorities still presumed him guilty – the state revoked his parole on the theft case, reportedly because he wasn’t paying restitution. So he did another eight months.

Robinson finally got a lawyer and sued. Earlier this month the City of Brotherly Love sent some his way in the form of \$85,000. (If that seems puny, consider just how much leverage an unemployed ex-con really has.) One can be sure that Robinson would happily give it all back in exchange for the way things were on August 3, 2008, when he had a job and a fiancée. You see, she too had given up.

America's treatment of indigent defendants is shameful. And that's not just the ACLU's opinion. Here's what [Attorney General Eric Holder](#) had to say:

Putting politics aside, we must address the fact that, simply put, there is a crisis in indigent defense in this country. Resources for public defender programs lag far behind other justice system programs, constituting only about 3 percent of all criminal justice expenditures in our nation's largest counties. In many cases, contract attorneys and assigned lawyers receive compensation that does not even cover their overhead. We know that defenders in many jurisdictions carry huge caseloads that make it difficult for them to fulfill their legal and ethical responsibilities to their clients. We hear of lawyers who cannot interview their clients properly, file appropriate motions, conduct fact investigations, or do many of the other things an attorney should be able to do as a matter of course.

It's no secret that our adjudication system depends on guilty pleas. Imagine what would happen if there was no imbalance in resources between prosecutors and defense and every defendant had the same wherewithal as Charles and Patricia Geiger. Innocent persons who now plead to lesser charges to avoid stiff sentences would go to trial. So would many who are truly guilty. Perhaps there's some light at the end of the tunnel. Observers are closely watching the progress of [Duncan v. Granholm](#) (aka *Duncan v. Michigan*), a state case that challenges Michigan's grossly underfunded system of indigent defense. After three years of bouncing among state courts, the matter seems finally headed to trial.

While every wrongful conviction begins with a mistaken arrest, it's probably fair to say that most mistaken arrests don't end with a conviction. But even for those with the resources to fight back, the consequences can be dire. "You're supposed to feel protected by police," said Patricia Geiger, who spent a scary day in a cell with a dozen women, most of whom we assume weren't innocent. "And we don't feel that way anymore....We love Cleveland, and we want to see the city thrive. But I'm a different person because of this."

Now imagine the impact on those like Robinson, or perhaps people just like you and me, who may not have the means to mount a spirited defense. That, [said reporter Leila Attasi](#) of the *Cleveland Plain Dealer*, was very much on the Geigers' minds:

During a recent interview at their lakefront home, the Geigers said they won't hold their breath in anticipation of an apology for the mix-up. But they wondered aloud what happens to people wrongly accused of crimes – and unlike them don't have the support system or resources to clear their name.

What happens? Charles and Patricia Geiger, meet Eugene Robinson.