

On Tuesday, January 31, 2012, Judge Patricia Lykos contacted me by phone and asked me if I had "investigated" the members of the Grand Jury for the 185<sup>th</sup> Criminal District Court. I told her that I had not. I responded in this manner as I felt that "investigation" was far too strong a description of what I had done in this regard. As media representations of my actions, and those of this office, have been, at best, incomplete, I would like to clear the record and explain precisely what occurred.

On Saturday, October 22, First Assistant District Attorney Jim Leitner called me and said that he had spoken to Judge Lykos earlier that morning, and that it was their belief that the Grand Jury was acting in violation of the law. Specifically, the Grand Jury had barred the District Attorney's Office from the Grand Jury room. They had then proceeded to take testimony from witnesses at a time when our office had not yet been disqualified, nor had Attorneys Pro Tem been appointed. Mr. Leitner voiced his concern that the Grand Jury was leaking information to the DWI criminal defense bar and the news media. I believe that he also voiced a complaint that the Grand Jury was compromising the ability of our office to prosecute DWI cases, although I may be recalling this fact from another conversation with him.

Mr. Leitner told me that a Grand Juror shared the same uncommon last name with a DWI defense attorney who had been quoted in media sources. He thought that this was suspicious with regard to possible leaks of secret proceedings, and directed me to research whether there was a familial relationship between these persons. I told him that I could research familial relationships via subscription databases. Primarily by accessing Accurint and TLO, two subscription databases that "mine" or collect information from a variety of third party sources, it appeared to me that there was no relationship, and that their common last name was mere coincidence.

Mr. Leitner also told me that the foreperson of the Grand Jury was an attorney. He directed me to research what kind of law she practiced, and whether there was evidence of ties to outside parties who might have access to Grand Jury actions. I asked him if, for example, he wanted me to look for her having practiced criminal defense or DWI law, or whether she had served as counsel for a media organization. He confirmed that these were the kinds of "red flags" I was to look for. I told him that our subscription databases would give me information on professional associations. Again, primarily by accessing TLO and Accurint, I found no suspicious associations. I terminated my inquiry at this point, and called Mr. Leitner to tell him that I had found nothing upon which to proceed.

I called the District Attorney later that afternoon and left her a voice message. I did not discuss specific databases or search tools used, nor did I give her a detailed "blow by blow" account of my findings, other than that I had essentially found nothing.

That was the sum total of my actions on October 22. I was informed by the First Assistant DA that he and the District Attorney believed that the Grand Jury was violating the law. As a law enforcement officer, I shared a belief that a violation of the law had occurred. I was asked, in the course and scope of my official function, to perform an inquiry to determine whether a full investigation was warranted. Finding no information upon which to proceed, there was no such investigation. Contrary to media and blogosphere speculation, I did not access TCIC or NCIC in the course of my inquiry.

On the following Saturday, October 29, Mr. Leitner called me while I was out running errands with my wife. He said that he had spoken to the District Attorney that morning, and that they had discussed burgeoning rumors regarding persons who might either be influencing the Grand Jury, or who might stand to benefit politically from their actions. I was in my car and not taking notes at the time, but I recall that he mentioned Judges Mark and Susan Brown, attorney Brent Mayr, the Attorneys Pro Tem, and Judge Mike Anderson. He also mentioned that there was a photo on the Internet of the foreperson for the Grand Jury being sworn in as a member of the Board of Regents at Sam Houston State University. She was being sworn in by Judge Devon Anderson.

Mr. Leitner made it very clear to me that this was not a "work request." I got the impression that he was asking me to do this because he is not familiar with how to navigate social media sites, and he knows that I am able to do so. He asked, when I got home, if I could search publicly accessible Internet sources to see if I could find, and I believe that he used the word "links," between these persons. He specifically mentioned Facebook and "the blogs." I performed a search on my own time, from my home, using my personal computer, accessing only sites that are available to any and every person with a computer, specifically Facebook, MySpace, Twitter, and a general Google search.

I did not use any law enforcement databases or subscription data collection sites. The following Monday, I told Mr. Leitner that I couldn't really conclude that these so-called "links" were indicative of anything more than coincidence, but that there did appear to be at least some relationships between some of the named persons. I did not produce a report to him, and I do not believe that we discussed the matter again after that.

Also, as I recall, shortly thereafter, attorney Mark Bennett, in his online blog, essentially charted relationships between several of the same persons. In all candor, he did a more thorough job, or at least made a more compelling argument than I could have, regarding these relationships, in his published findings.

That's the whole story. In summary, my actions on the 22nd were predicated on the widely held belief of this office, plausible to me, that the law was being violated. The First Assistant directed me to conduct an inquiry to try to find information to that effect. Finding no such information, I made no further inquiries.

My actions of the 29<sup>th</sup> were made in response to a request from the First Assistant for my help. Those actions did not involve the use of any county equipment or property, nor were any law enforcement or otherwise proprietary data sources accessed, nor did I engage in those actions in the course and scope of my duties as a law enforcement officer.

What I have recounted in this document was provided to the Attorneys Pro Tem when I met with them, outside the presence of the Grand Jury, in November.