OPINIONS

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THE LAKELAND TIMES | OUR VIEW

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GREGG WALKER, Publisher | RICHARD MOORE, Columnist

The justice system is asking the wrong question in sexual assault cases

Readers should come to their own conclusions about the story we describe in today's edition about an alleged sexual assault at the 2021 Hodag Festival (not this year's festival but last year's), but for us it raises one particularly important question: Just what does it take in this county — and indeed in this country — to actually prosecute an alleged sexual assault?

To be clear, we are not talking about acting as judge and jury. But we wonder why it is so difficult for alleged victims of sexual assault to even get their story in front of a jury. The statistics are woeful: According to the Rape, Abuse, and Incest National Network (RAINN), out of every 1,000 sexual assaults, only 310 are reported in the first place, and only 50 of those result in arrest.

Even the statistics about how many sexual assault arrests actually result in charges are hard to come by. But where they are available, it is abysmal. In the Manhattan district attorney's office in 2019, for instance, prosecutors dropped 49 percent of sexual assault cases, and that was an increase from 37 percent in 2017.

According to the National Institute of Justice, out of 2,887 cases studied, only 212 were unfounded, but just 504 were arrested. And, of those, charges were filed in a mere 363 cases.

Over in Austin, Texas, from July 2016 to June 2017, 224 cases were referred for prosecution to the district attorney's office, but the DA charged only 77. Of those 77, only one went to trial, and the victim was a man. That got the city sued in a case that cost taxpayers nearly a million dollars.

No matter where you look, the statistics are dismal. So just what does it take to get a prosecutor to go to court?

In the case at hand, as with another case that we have reported on this year, there was certainly more going on than he said-she said. Readers can see the story for details, but for starters, the woman had not one but two medical conditions that made even consensual sex painful, and impossible without a lubricant.

Why would a woman subject herself to that experience? Why would she consent to an act that she knew would be painful and, what's more, given the situation in the camper with neither party having a lubricant, impossible?

And so that begs the question about the abrasions she suffered: Were they the result of consensual sex? For if they were, that means the woman was giving consent to the man to injure her in an act that she knew could not possibly happen. It means she was engaging voluntarily in an act that would be more painful than the medical exams that her doctor characterized as extremely uncomfortable.

And why would the woman flee as she did, running from the camper crying, falling face first into the ground and suffering even more injuries? Again, the statements of her friends describing her flight from the camper are consistent, and, while they may have been her friends, they gave the statements simultaneously in writing, separately.

And also consistent was the woman's mental state afterward — one of trauma.

There was the hurried attempt by one of the men in the party to intervene after he learned that the woman was in the men's camper, and even he, in his statement to police, admitted that the woman asked him to "get me out of here." Again, this does not sound like a woman who had engaged in consensual sex. Why would she need to have someone intervene and "get her out" of there?

Taken together, the existing medical conditions and the parameters they set on the woman's behavior, the injuries, the eyewitness accounts of her departure from the camper — all these point to something more, a whole lot more, than a drunken act of consensual sex.

Then, too, we know from numerous studies that, while false reports of sexual assaults do exist, they are uncommon. The vast majority of women tell the truth. We know, too, that of the few fake charges there are, most emerge only much later and usually against people known to the person making the allegation. Many are teens hoping to stay out of trouble.

None of this is the case here.

The totality of the evidence leads to our inescapable conclusion that this woman should be able to tell her story and make her case to a jury, as would, of course, the accused.

Apparently, we are not the only ones who believe the evidence is that strong. As the story reports, a court commissioner granted the woman a 10-year order of protection, the most the statutes allow and which are granted not only when the court finds reasonable grounds to believe that the respondent has engaged in the accused conduct but also finds "by a preponderance of the evidence stated on the record" that there is a substantial risk the accused may do so again.

An order of protection is not a guilty verdict, of course, but it establishes that the evidence the woman has is court-worthy and convincing. If it moved a court commissioner to grant the toughest and most uncommon order of protection one can get in the state, who is to say what a jury in another courtroom might say?

Why should one male district attorney foreclose that opportunity? Frankly, we don't believe justice can be served without that day in court.

So the question remains, why do district attorneys refuse to bring charges even in cases where there is strong evidence, and, according to the record, when many of the prosecutors actually believe the victim?

One reason is that prosecutors want a slam dunk case and know that juries tend not to believe accusers. If the accuser and accused know each other, that fuels additional suspicion that something consensual was going in, and any alcohol-fueled incident reduces dramatically the chances of a prosecutor moving forward.

In a 2004 review of studies funded by the National Institutes of Health, an examination of sexual assault charging decisions in two large urban areas observed that the fact that the "prosecutor controls the doors to the courthouse" is particularly important in cases in which the credibility of the victim is a potentially important issue, such as in sexual assault cases.

Prosecutors attempt to avoid uncertainty, the study stated, and, while it found that charging decisions were based on legal factors such as the seriousness of the offense, the strength of evidence in the case, and the culpability of the defendant, legally irrelevant characteristics of the suspect and victim also came into play.

In fact, one study concluded that "the character and credibility of the victim is a key factor in determining prosecutorial strategies, one at least as important as 'objective' evidence about the crime or characteristics of the defendant."

In sexual assault cases, the study stated, charging decisions often rest on predictions regarding the way jurors will interpret and evaluate a victim's background, character, and behavior, and, the study added, that leads prosecutors to rely on stereotypes about "genuine victims" and appropriate behavior.

If prosecutors so much as smell excessive drinking in a case, they tend to believe a jury will not acquit that behavior. In other words, intoxication is no excuse for sexual assault, but it may well be an excuse for a prosecutor who doesn't want to risk losing in court.

We don't know all the factors that went into this charging deci-

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Stossel

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Massie. "One small disruption throws the whole thing off."

When the processors shut down, some ranchers who couldn't get to a federally approved slaughterhouse ended up killing their own animals. If only they'd been able to go to a local processor.

Massie takes his cattle to one. There, he can see the conditions himself. His local slaughterhouse meets *state* inspection standards.

But since it is not USDA-certified, Massie and other ranchers who have their cattle processed there may not sell you a steak. He *can*, however, give it to you or eat it himself. But he may not sell it.

To fix that, Massie proposes a new law: the PRIME Act, which would let farmers sell meat processed by *state*-approved slaughterhouses, with no federal meddling.

"You're self-dealing," I tell him. "Just trying to help yourself."

"I've got 50 cattle," he replies. "This is the most inefficient self-dealing any politician has ever engaged in."

Massie says he's doing it because Americans ought to have a right to eat whatever we want to buy.

"It boggles my mind why Washington, D.C., needs to be involved in a transaction between me ... and a customer who's my neighbor."

John Stossel is creator of Stossel TV and author of "Give Me a Break: How I Exposed Hucksters, Cheats, and Scam Artists and Became the Scourge of the Liberal Media." For other Creators Syndicate writers and cartoonists, visit www.creators.com.

Robbins

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alliance between Russia and Iran, Saudi Arabia is positioned to be helpful. Presidents, alas, cannot ignore facts like this. Editorial writers can, and that Biden's trip to Saudi Arabia was criticized by Sen. Rand Paul on one side and Sen. Bernie Sanders on the other is prima facie evidence that under the circumstances the trip made sense.

As for the much-ballyhooed fist bump, from the breathless media coverage afforded it one might suppose it signified "Great to see you again, old buddy!" rather than "I had to come here and I had to do something, and I ain't shaking his hand." If there's ever been a more unsmiling state visit than this one, it doesn't come to mind.

For his part, former President Barack Obama sent not only greetings but tens of billions of dollars in sanctions relief to Iran's god-awful leaders. As for Trump, think "love letters" to North Korean madman Kim Jong-un and four years of posterior-kissing of Vladimir Putin, the slaughterer then and now of thousands of Ukrainians.

For Biden, it's now back to America, and more fun at home.

Jeff Robbins, a former assistant United States attorney and United States delegate to the United Nations Human Rights Council in Geneva, was chief counsel for the minority of the United States Senate Permanent Subcommittee on Investigations. An attorney specializing in the First Amendment, he is a longtime columnist for the Boston Herald, writing on politics, national security, human rights and the Mideast.

NORTHWOODS POLITICAL DIGEST

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Carpenter calls for split ticket primaries

State Sen. Tim Carpenter (D-Milwaukee) says the time has come to allow voters to split their tickets in election primaries.

"Election time is just three weeks away, and on August 9, voters will again be forced to vote for one party or the other," Carpenter said. "But the truth is voters want to vote for the person. Not the party."

Carpenter said he introduced a bill to allow voters to do just that and, had it been enacted, it would have given voters the right to choose one candidate per race from any party. But, Carpenter said, Republican senators referred the bill to committee and once again failed to schedule a public hearing, leaving in place an unfair system which will continue to confuse voters in all parts of the state.

"On August 9, many voters across the state will be prohibited from choosing their preferred candidate for United States Senate if they vote for a Republican candidate for governor, or vice versa," he said. "In the worst case scenario, their ballots get thrown out entirely because they reasonably assumed they could vote for a Democrat for one office and a Republican for another."

Some voters prefer independent candidates, Carpenter said.

"If voters were able to vote for the person rather than the party, more independents might decide to run, cooling off the vicious partisanship we see today," he said. "It's too bad we couldn't have this discussion before Republican legislative leaders closed up early for the year. By failing to consider my bill, Republicans are allowing this unfair, confusing system to persist."

Carpenter said he could guess only one reason why Republicans avoided voting on his bill.

"Voter confusion has been their strategy, and leaving in place single party primaries seems like one of the tactics," he said.

Tiffany calls on Evers administration to secure coal energy supply

This week, U.S. Rep. Tom Tiffany (R-Wisconsin-7) sent a letter to Gov. Tony Evers and Public Services Commission of Wisconsin chairwoman Rebecca Cameron Valcq, calling for a moratorium on the closure of any existing coal-fired power plants in response to warnings about the possibility of rolling blackouts this summer.

Alliant Energy and WE Energies have already announced that three coal plants previously set to be decommissioned would stay online for at least another two years; however, Tiffany says more must be done to ensure Wisconsinites have reliable energy production.

"The far left's forced green fantasy is failing," Tiffany said. "Wisconsin families, farmers, and small businesses shouldn't have to wonder if their lights or air conditioner will come on the next time they flip the switch."

Tiffany said it was time for political leaders to decide: Do we want reliable and affordable energy sources that America can produce cleaner than any other nation in the world, or do we want third-world style rolling blackouts to become a common occurrence?

For the first time ever, Tiffany says, the Midwest Independent System Operator power grid issued an alert warning to power companies in Wisconsin of possible rolling blackouts this summer. In May, the North American Electric Reliability Corporation (NERC) warned that two-thirds of the U.S. could experience blackouts this summer.

The West, Texas, and much of the Midwest are at risk due to extreme weather conditions and capacity shortfalls.

While the U.S. has experienced extreme weather and bad droughts in the past, Tiffany says, as a result of the rushed transition to green energy, electrical grids have become more dependent on wind and solar power generation, two energy sources Tiffany says are as erratic as the weather.

In fact, he says, during the latest "conservation appeal" in Texas, wind energy output was forecast to operate at just 8 percent capacity.

And that's why Tiffany says he is urging the Evers administration to enact a general moratorium on the closure of any existing coal-fired power plants to avoid situations like that in the future.

Tiffany has also introduced a bill that would still allow wind and solar arrays to be built; however, it would eliminate the energy tax subsidies that help finance the siting of solar panels and wind turbines on agricultural lands, often permanently taking these lands out of farm production.

Wisconsin Elections Commission: Redesigned website puts emphasis on usability

Starting this week, election officials and voters across Wisconsin will notice a new look and feel for the Wisconsin Elections Commission website.

The URL — elections.wi.gov — remains the same, but the updated site is intended to be easier to use for both the state's 1,800-plus election clerks and for the many thousands of Wisconsin residents who use the site.

The new site debuted Tuesday morning.

"We're very pleased with the many improvements to the website," said WEC administrator Meagan Wolfe. "The new design will make it much easier for both clerks and citizens to find what they are looking for on our site."

The main agency website also includes easy-to-find links to other important election-related sites maintained by the WEC, such as MyVote, where voters can access information about their local elections as well as register to vote and request absentee ballots, and Badger Voters, where anyone can purchase datasets about past elections.

Agency staff and an outside vendor created the new website design with input from clerks, voters, and poll workers over many months and multiple sessions that tested the usability of the site. User feedback from all corners will continue to drive the website design after the launch, WEC officials said.

Municipal clerks are among the heaviest users of the site, as it contains all clerk communications, along with various manuals and instructional material for administering elections. The site also offers information about training opportunities for election officials.

As the new site rolls out, WEC staff will collect user feedback and monitor site traffic and user behavior to inform any other changes or updates.

AFPI: Total border apprehensions surpass last year's record

On July 15, the Department of Homeland Security (DHS) published data revealing that U.S. Customs and Border Protection (CBP) apprehended 207,416 illegal aliens at the southern border in the month of June.

Chad Wolf, former acting secretary of the Department of Homeland Security and executive director and chairman for the Center for Homeland Security and Immigration at the America First Policy Institute (AFPI), said the numbers are a reflection of failure.

"CBP's June apprehension numbers along the southern border are an indictment of this administration's failed border security strategy," Wolf said. "For the fourth straight month, CBP has apprehended over 200,000 illegal aliens at the southern border. And who knows how many illegal aliens went undetected."

Apprehensions have exceeded 200,000 per month six times during the first 17 months of the Biden administration, Wolf said.

"Before this administration, there was only one instance of monthly apprehensions exceeding 200,000," he said. "The border is in disarray because the failed policies of this administration put illegal aliens first and Americans last."

Including June's number, Wolf said CBP has apprehended almost 1.75 million illegal aliens this fiscal year.

"This means we have already exceeded last year's record-setting total, and there are still three months remaining in the fiscal year," he said. "The American people deserve a secure border and policies that work to defeat human trafficking and the movement of illicit drugs, like fentanyl, into our country. It is past time for the Biden administration to stop viewing the situation at the border as a capacity or processing problem and start implementing a strategy that deters illegal aliens from taking the journey to our southern border."

Workforce Development: Worker's compensation premiums decline

Wisconsin companies will pay 8.47 percent less in worker's compensation insurance rates starting Oct. 1, 2022, giving a boost to businesses around the state, the Wisconsin Department of Workforce Development reported.

The lower rates reflect continued worker safety improvements by employers in Wisconsin, which has a record number of people working and a May unemployment rate of just 2.9 percent. The 2022 rate decrease, approved by the Wisconsin Commissioner of Insurance, marks the seventh year in a row worker's compensation insurance premiums have declined in Wisconsin.

The latest reduction in premiums is expected to save Wisconsin employers some $146 million.

The workers' compensation program covers medical expenses and lost wages for employees injured on the job. Data from the independent, nonprofit Workers Compensation Research Institute ranks Wisconsin among the lowest of 18 states in the time employees spend away from work after an injury, thanks to strong health care networks and return-to-work programs that support a smooth transition back to the workplace.

"Strong partnerships among employers, workers, training providers, and other stakeholders are helping to keep employees safe and healthy on the job," said DWD secretary-designee Amy Pechacek. "Wisconsin's proactive, collaborative approach is delivering real benefits for workers and their families while supporting the competitiveness of employers statewide."

Worker's compensation insurance rates are adjusted annually by a committee of actuaries from members of the Wisconsin Compensation Rating Bureau. This independent body examines and selects the methodology and trends that produce the proposed rate adjustment, which is then reviewed and approved by the Wisconsin Commissioner of Insurance.

While the overall rate level will decrease by 8.47 percent, the impact to policyholders will vary based on specific circumstances.

Our View

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sion — district attorney Michael Schiek thought the case so trivial that's he didn't even respond to our request for an explanation — but we believe that, in this case, and in thousands of others like it around the country, prosecutors are asking the wrong question: They are looking at all those foregoing factors — alcohol, did they know each other, do they have a record — and assessing whether those factors make it probable and likely they can get a conviction, when they should instead be looking at all the actual evidence from the incident in question and asking if it is probable and likely that the crime was committed.

And. if the answer is yes, they should bring charges, regardless of the risk of losing. To be sure, prosecutors have an ethical responsibility not to bring weak cases that can ruin an innocent person's life, but by the same token they have an ethical responsibility to bring a case when they think a crime was committed, no matter what happens in court, so as not to let an offender walk away to ruin the lives of other innocent women.

The current problem with our judicial system is not too many prosecutions but too few; simply put, the vast majority of rapists get away with it.

Then, too, bringing those cases rather than burying them is the first step in educating juries, and that is the first step in educating society.

Avoiding the tough case rather than seeking justice for a courageous victim of a likely sexual assault is dereliction of duty. Right now, almost all those who commit sexual assaults—over 99 percent, according to RAINN — are walking free on the streets.

That will never change so long as the "justice" system bends over backwards to protect them, rather than have courage enough to finally confront the issue of sexual assault head-on.