

Pro-Se Testifies to New York State Panel on Cattaraugus County District Attorney Corruption



On Tuesday August 4th, 2015 the Pro Se who has been exposing vast amounts of corruption in the Cattaraugus County District Attorneys and Court Clerks Office testified to the State Commission on Statewide Attorney Discipline. The Commission is conducting a comprehensive review of the state's attorney disciplinary system to determine what is working well and what can work better, and offer recommendations to enhance the efficiency and effectiveness of New York's attorney discipline process. **The Pro-Se had filed grievances against Rieman, Balcom and Ensell because of the criminal conduct. However Mary Davis, the 8th Judicial District 'investigator' (and we use the term loosely) for the attorney grievance committee claimed that the committee did not have the authority to look into the matter. This was a startling claim and the State Panel itself stated numerous times... that grievance committees have the authority to review, investigate and take action on corrupt DA's and ADA's.** So Mary Davis is nothing more than a cover up artist trying to protect the criminal activities of the Cattaraugus County District Attorney's office and because the Chief Counsel of the 8th Judicial District Attorney Grievance Committee, one Gregory Hueter also backed up Davis's claim he is nothing more than a cover up artist and criminal to.

The Pro-Se, after he was done with his testimony submitted an affidavit and evidence packet as proof of the criminal activity of Rieman, Balcom and the rest of her crew along with a copy of his testimony. His testimony is included in this article and is found below.

The images below are the letters the Pro-Se received from Mary Davis and Gregory Hueter.

Davis's letter attempts to claim that the committee has "no authority" to do anything, which the state panel (made up of the top law professors, judges and attorneys in the state) clearly stated numerous times committee's do have the power to go after DA's and ADA's.

However while she claims that she has no authority to act on the matter, she claims that she has the authority to forward copies of the complaint to Rieman, Ensell and Balcom. See how her twisted and evil

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mind works? We don't have any authority to do anything, but we will hand over your complaint and evidence to the very individual who can destroy your life.



Mary Davis Claiming Committee Has No Authority



Forwarded Copies of Complaint to the Criminals Rieman, Balcom and Ensell

Gregory Hueter, the chief counsel for the 4 department attorney grievance committee, basically Western New York, his response was even better. He claimed that the Pro-se did not offer any "proof". Over 40% of the evidence packet contained copies of the official paperwork of the District Attorney's Office, like a copy of Elizabeth Ensell's answer to the Pro-Se's omnibus Motion where she claimed (and swore to under penalties of perjury) that the Pro-Se was not allowed to file anymore motions because it was against ["Omnibus Motion, Article 55 of the Criminal Procedure Law"](#). A law that does not exist and is a complete fabrication and lie. In other words, she committed perjury, plain and simple. Also included in the evidence packet were Official Court transcripts and/or other official documents written/typed by their own hands and sworn to with their own signatures. Hueter appears to think this is not clear and convincing. I bet if it was you or I who committed these types of criminal acts and a DA produced the same type of evidence we would be sitting in jail right now.

Hueter would go on further and state that the Pro-Se could not file ANYMORE complaints and if he did they would be ignored. These are the types of criminals that we have here in Western New York. They must be routed out and removed from their positions of authority.



Hueter Claiming Committee Has No Authority



Hueter Claiming PRO-SE DID NOT OFFER ANY PROOF AND HE IS NOT ALLOWED TO FILE ANYMORE COMPLAINTS

Huether and Davis have some explaining to do.

Bill Bastuk, another victim of another criminally minded DA testified concerning what he went through when he was falsely accused of a crime and how the sheriff and the DA in that county tried to railroad this

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innocent man. He and his wife had to use their life savings of \$160,000.00 to defend himself against the criminal DA. He is one gentle soul, a very nice charming man.

He has founded the "it could happen to you" foundation (itcouldhappen2you.org) and is spearheading a bill in the legislator to create a committee specifically designed for District Attorney and Assistant District Attorney misconduct. The bill is gathering wide support. It is Senate Bill 6286 and Assembly Bill 863.

The purpose of this legislation is to create a commission on prosecutor misconduct, to serve as a disciplinary entity designated specifically to review complaints of prosecutor misconduct in New York State, to enforce the obligation of prosecutors to ensure they observe acceptable standards of conduct, and to establish reasonable accountability for the conduct of prosecutors during the performance of their functions, powers and duties as prosecutors. The commission on prosecutorial misconduct is modeled after legislation that established the state commission on judicial conduct.

Call your Representatives NOW and demand they support the Senate and Assembly Bill to remove criminal DA's and ADA's like Lori Rieman and William Preston Marshall!

- [Contact your assembly members here](#)
- [Contact your senators here](#)

The Pro-se's Testimony;

The law profession should be considered one of the most Nobel of all professions in American society.

Each lawyer, when they take on a client, literally becomes responsible for the life of that client, whether it be a public corporation, or private natural person, and depending on their clients status in society the clients families, friends and society itself can be greatly effected by the quality of the attorney's representation.

Further, when an Attorney takes on a client, that is all they should have to worry about, however this is not the case. The honest attorney is bound by an unwritten code of economics, that code being;

...do not challenge the thin black line or the status quo, for if you do, your career could be ruined and you, as well as your family may suffer the consequences.

The only example I need to point too is former [Erie County Assistant District Attorney Mark Sacha](#). (1) (2) (3)

The Attorney Grievance Committee is looked at as nothing more than the fox guarding the hen house.

What occurred concerning my complaint is a prime example of that. Further if you talk to any average citizen who has had any dealings with these types of oversight committees, most feel that they are ineffective and a complete waste of time.

The damage from this train of thought can easily be seen in the exodus of people from this state, which is one of the highest in the nation.

Not something that any of us should be proud about in this once great state.

As I have reviewed the four departments and their procedures in filing a complaint and what is to occur thereafter, all vary in one degree or another, as to the procedures and flow, for filing complaints. I have created many websites throughout my career, my first one in 1995, so I know what I am talking about.

Some of the grievance committee pages for the departments do not appear to have been updated for quite some time, for example; the 3rd departments' page on nycourts.org reminds me of my first website I designed in 1995. Of all of the departments this one lacks the most.

The grievance procedures for all of the departments are on the same website, so they should all provide for a uniformed designed and flow, as well as procedural guidelines, so the average layman can easily find and file the documents needed for the committee to review and investigate, and render a proper decision.

Why is it called the unified court system if it is not unified?

Further all of the rights of citizen/taxpayer, as a complainant, should be clearly spelled out, and be easily found on the official website, as well as the pages of the various committees and departments.

Our rights as citizens and taxpayers should not be hidden through the art of words and voluminous amount of laws that only the most skilled of researchers, spending long hours on subject, have the ability to uncover.

I can give a recent example of the difficulty of locating these rights; I only discovered last week that I, as a complainant, would have had a right to a copy of the response the attorney provided against my complaint, pursuant to 22 NYCRR 1022, however it took hours to locate this right.

Presently the law provides that the ALL attorneys, that have a complaint filed against them, are provided a copy of complaint, and if the attorney is required to respond to it, the complainant, who for the most part is a citizen/taxpayer, is ONLY allowed a copy of the attorney's response upon the approval of the staff attorneys of the committee.

This is not fair, if a response is filed, the complainant should have every right to a copy of the response if they so wish. It should not be left at the discretion of the staff attorneys. That can easily be seen as a conflict of interest, especially when the complainant is not an attorney.

Another important issue this committee needs to address is the claim that the grievance committee's do not have jurisdiction over the conduct for attorney's acting in an official capacity as a [DA](#) or [ADA](#).

22 NYCRR, part 1200, does not delineate between attorneys acting in a public or private capacity, therefore it demands that all attorneys are mandated to abide by the code of professional conduct. Furthermore, the American bar association clearly shows that all attorneys, and I repeat ALL attorneys, are governed by the rules of professional conduct.

http://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/court_officers.html

The news is full of examples of DA's & ADA's who acted in questionable manners concerning questionable conduct of other public officials. This inevitably leads to accusations of cover-ups and distrust of the very system that is meant to protect us, that is "we the people".

It is very evident that the law is not clear on whether or not a person can file a grievance against a DA or [ADA](#). You talk, or write, to one public official versed in the law, their response is "yes you can", then you talk or write to another, who is also versed in the law, their response is the exact opposite.

The most disturbing response I have received concerning this matter of authority is that a committee will not act unless there is a "judicial finding of professional misconduct".

With this response they admitted that the committee has the authority to review, investigate and act upon complaints, however they won't do so until there has been a "judicial finding of professional misconduct".

I can find no law to support that claim and if it is indeed a requirement, what is the purpose of these committees in the first place? They should be other more viable solutions implemented.

James I. Meyerson, an attorney for the Staten Island Branch of the NAACP wrote in a recent article 78 proceeding, that there was a "disturbing proposition" that a district attorney was ;

["free to do almost anything—maybe everything—with impunity and without review or oversight of that attorney's conduct except the prosecutor-attorney's own self-oversight."](#)

This thought is a prime example of a conflict of interest and why people no longer trust the system.

This statement was made against the 2nd, 11th and 13th judicial district committees concerning the Eric Gardner matter. These committees claimed it was not the proper forum to raise issues of misconduct.

If this issue, of not the proper forum, is indeed fact, the law must be changed to ensure that it clearly authorizes the committees to review and investigate [DA's](#) or [ADA's](#) and to act, if the evidences warrants it...and the powers of the committees must be clearly and thoroughly documented so that all can understand it, including, but not limited to, the committees themselves.

To this day I have not received a clear, precise answer as to whether or not grievance committees have the jurisdiction over questions of misconduct of [DA's](#) & [ADA's](#). As such, these committees now appear to actually shield [DA's](#) & [ADA's](#) from such allegations as echoed in Mr. Meyerson's statement.

This is exactly what happened in my matter. I alleged serious acts of misconduct by the DA and ADA's and the 8th judicial district response was, that while they didn't have authority to act on the matter, they had the authority to forward a copy of my complaint to the very DA and ADA's I complained about. If they don't have jurisdiction to act upon complaints, they should not be allowed to forward a copy of the complaint.

By providing a copy of the complaint to the very [DA](#) and [ADA's](#) I complained about, the committee added fuel to the fire which can easily act a catalyst for them to engage in further unethical behavior because they believe they are untouchable. This is especially worrisome when this same [DA is presently subject to a lawsuit because of substantially similar misconduct in another matter.](#)

Others obviously share my concern, there appears to be a bill right now pending before the state legislature, its purpose appears to be for forming a committee to look into prosecutorial misconduct. It did not just mysteriously appear, it is there for a reason.

If the New York State Commission on Judicial Conduct can take action and remove a judge from the bench for misconduct, then the attorney grievance committee should be able to do the same to a [DA](#) or [ADA](#).

However if the committees do actually have that power now, will they exercise the standard kitchen sink approach that the New York State Commission on Judicial Conduct constantly utilizes?;

...that approach being that the official in question is immune because they have a "broad range of discretion"

No District Attorney, Assistant District Attorney, or Judge for that matter, has discretion if they are acting

outside of their legal authority and/or procedural/professional guidelines...

I will provide you with a clear recent example of acting outside of legal authority, where action should have been taken, but it was not. In my case I provided a verified complaint with a corresponding evidence packet that was, in the words of the chief counsel "voluminous". In this packet and affidavit I proved that the DA had no authority to prosecute. [Of the four charges, three were not verified and the fourth clearly showed I was well within my rights. It Was a charge of Obstruction of Government Administration 2nd for remaining silent](#)

Their conduct in my matter is one for the history books. **One has to wonder if the three simplified traffic informations, which are presently not verified well after the alleged arraignment occurred, will they mysteriously appear in the file with a signature upon them. I would not put anything past the DA and ADA in my matter. I have videotaped the contents of the court file many times to ensure that if this happens I have proof that they were unsigned up to and well past the alleged arraignment.**

[Author Note: The Cattaraugus County Court Clerks Office now claims its illegal to document what is in your file.](#)

Over 40% of the documents in the evidence packet were copies of documents created by the very attorney's I filed the complaints against, or other public officials involved in the matter, in their own words, sworn to with their own signatures, as well as the certified court transcripts, and so forth, yet I was told I did not offer any proof.

In one specific example I provided, [I showed that an ADA claimed that I was not allowed to file anymore motions pursuant the "Omnibus Motion rule, of article 55, of the criminal procedure law", a law that does not exist and is a complete fabrication and false statement by that attorney.](#) The ADA swore to this allegation. This is perjury, plain and simple.

I provided a copy of the sworn to statement to the attorney grievance committee and again, I am told by the Chief Counsel that I did not offer any proof.

What more proof does one need then the documents created, sworn to, and signed by the attorney themselves ?

Further there is even case law on the subject;

See MATTER OF DALLAL 31 A.D.2d 442 (N.Y. App. Div. 1969), see also Matter of Wilson, 248 App Div 388

False statements and perjury are clearly acting outside of the law and the rules of professional conduct, specifically;

PART 1200 of the RULES OF PROFESSIONAL CONDUCT Rule 3.3 (a) (1).

This rule is very clear;

A lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.

Making a false statement is not an act of 'discretion', it is a gross violation of the rules of professional conduct and the law, and the attorney who committed such act must be held responsible for their conduct, whether done in a private or public capacity, especially when it effects, or can effect any rights of a citizen.

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Another weapon of injustice DA's and ADA's use is the 730.30 motion, which has occurred in my case. When I would not capitulate to their questionable conduct, the ADA in my matter motioned the court for a 730.30 motion to have me mentally evaluated for defending myself. So the State of New York now appears to be sending the message that you must be mentally unstable because you are defending yourself.

This is the same ADA who's conduct was deemed illegal by a superior court judge, which is now the cause of a 4 million dollar lawsuit against a southern tier county and District Attorney herself.

I have run my own business for over 15 years, I am presently assisting one of the companies I represent in their expansion efforts into Asia. I am as well working on other projects that could bring employment to western New York. Further I have successfully defended myself in the past in court. Does that sound like someone who is mentally unstable?

Those acting in a public capacity should be held to the highest standard of all, for they wield a majority of the power to have individuals incarnated, or even sentenced to death.

When a complaint is rejected by a committee, appealing to a higher authority is a must have requirement. Upon the rejection of a complaint the complainant should have other remedies available to them. After all, an attorney is an officer of the court, it does not matter if they are acting in a public or private capacity, they are a public official.

The solution should be that when a complaint is dismissed against an attorney acting as a DA or ADA, a clear procedure should be made available to allow a complainant to present their evidence to a lawfully empaneled grand jury which is fully versed in the application of their powers.

[The New York State grand jury system is one of the best in the country](#), however its citizens severely lack the fundamental knowledge of its powers and how to utilize them. By having a clearly laid out procedure and educated grand jury, it would allow the average citizen the ability to bring their grievances before a grand jury and provide not only the average citizen the empowerment which is reserved for them in article I of the New York State Constitution, it will also act to limit, or eliminate unsubstantiated claims.

Further, it will act as a deterrent for unscrupulous attorneys. This would also help keep the process itself, from beginning to end, free from the mere appearance of corruption and/or inaction that causes the average citizens to lose faith in our government.