

The Federal Crimes Watch Daily

When The FBI Comes Calling...*

Federal Criminal Defense Lawyers

Wednesday, December 7, 2011

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FBI Takes Major Step Toward Updating Narrow Definition Of Rape

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:24 AM December 7, 2011

Huffington Post on December 6, 2011 released the following:

"WASHINGTON — An FBI advisory board overwhelmingly voted to update the narrow, archaic way the agency defines rape on Tuesday, a move that women's rights advocates hailed as a long-overdue success.

Currently, the FBI defines rape as the "carnal knowledge of a female forcibly and against her will."

This definition, which has not been updated since 1929, is narrower than the one used by many police departments around the country, and women's rights advocates say it leads to the undercounting of thousands of sexual assaults each year.

At a meeting in Albuquerque, N.M. on Tuesday, the FBI's Criminal Justice Advisory Policy Board voted to change the definition of rape in its Uniform Crime Reporting (UCR) Summary Reporting System, following the recommendation of a lower panel in October. The new terminology says rape is "penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim." This new definition expands the old one

by taking out the requirement of a "forcible" assault and the restriction that the attack must be toward a woman. It also now includes non-vaginal/penile rape and rape by a blood relative.

"Although long overdue, we are pleased that the FBI has vetted this change extensively with its local and national law enforcement advisors and a clear consensus has emerged that a more accurate definition will better inform the public about the prevalence of serious sex crimes and will ultimately drive more resources to apprehend sex offenders," Carol E. Tracy, executive director of the Pennsylvania-based Women's Law

Project (WLP), said in a statement. WLP began the campaign to redefine rape in the UCR a decade ago.

The Feminist Majority Foundation also recently led a "Rape is Rape" campaign, calling on the public to pressure the FBI to update its definition. More than 160,000 emails were sent to the FBI in support. "It's a great victory," said Eleanor Smeal, president of Feminist Majority Foundation, in a statement. "This new definition will mean that, at long last, we will begin to see the full scope of this horrific violence, and that understanding will carry through to increased attention and resources for prevention and action." Although Tuesday's vote was "a very big deal," according to Tracy, the official definition is not yet changed. The recommendation — along with all the others agreed upon by the policy board at its meeting - now goes to FBI Director Robert Mueller for final sign-off, most likely in the new year.

The FBI's current narrow definition of rape has created complications for law enforcement agencies, which can't report all of the rapes they prosecute for inclusion in federal statistics if their state or locality has a broader definition. For example, in 2010, the Chicago Police

Department reported nearly 1,400 sexual

assaults. None of them, however, appeared in the federal crime report because they didn't fit the federal government's definition of rape. "We prosecute by one criteria, but we report by another criteria," Steve Anderson, chief of the Metropolitan Nashville Police Department, told The New York Times. "The only people who have a true picture of what's going on are

the people in the sex-crimes unit." According to the federal 2010 Uniform Crime Report, there were 84,767 sexual assaults reported in 2010, a 5 percent drop from the previous year.

In a recent survey by the Police Executive Research Forum, nearly 80 percent of the 306 police departments that participated said the federal definition of rape was outdated.

On Monday, Rep. Lucille Roybal-Allard (D-Calif.) wrote an op-ed in The Hill stating that changing the FBI's definition could critically affect her work on the House Appropriations Committee. "In the coming months, we face a tough fight to preserve funding for critical programs that aid victims and help put their assailants behind bars," wrote Roybal-Allard. "The UCR data plays a key role in the allocation of vital resources for prevention, treatment and enforcement. With so much hanging in the balance, it is imperative that the FBI move swiftly to adopt the proposed changes. By taking this simple step and updating the Bureau's definition to include all types of rape, we can make a real difference in the fight against this horrific crime.""

Douglas McNabb – McNabb Associates, P.C.'s

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Client of UBS and Swiss Cantonal Bank Indicted for Conspiracy to Defraud the IRS

(USDOJ: Justice News)

Fla., has returned an indictment charging Amir Zavieh of San Francisco with conspiring to defraud the Internal Revenue Service.

Stiff sentence appears likely for Blagojevich today

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 8:00 AM December 7, 2011

Rod Blagojevich

Chicago Tribune on December 7, 2011 released the following:

"By Bob Secter, Jeff Coen and John Chase

Tribune reporters

Two things were clear Tuesday by the close of the first day of Rod Blagojevich's sentencing hearing: The former governor was likely going to be hit with a stiff sentence, and his legal team had abandoned its early hope of him avoiding prison altogether.

At the same time, Blagojevich's lawyers went to lengths to portray their client as an extraordinarily devoted family man at heart as well as a sensitive, caring politician who deserves leniency. "Be merciful," Blagojevich's wife, Patti, wrote to U.S. District Judge James Zagel in excerpts from a letter read in court. "Be merciful," Blagojevich's lawyer Aaron Goldstein also repeated as he closed a lengthy argument that for the first time acknowledged wrongdoing by Blagojevich but also sought to minimize the damage it caused.

Blagojevich has yet to speak on his own behalf. That will come today before Zagel formally decides on how much time to give the ex-governor for convictions on 18 criminal counts involving the attempted sale of a U.S. Senate seat, illegal shakedowns for campaign cash and lying to federal agents.

Zagel made it clear that he plans to take a hard-line approach to interpreting sentencing guidelines, siding with prosecutors in their calculation that Blagojevich hoped to squeeze more than \$1.6 million in campaign cash from schemes on which he was convicted. Blagojevich's lawyers argued that the numbers weren't real because none of the money was paid and some of the shakedown targets testified they never had any intention of doing so.

The judge also said he did not buy defense arguments that the impeached governor was manipulated by aides and advisers into committing crimes. Zagel said he considered Blagojevich to be the ringleader of a criminal conspiracy, a designation that can lead to a significant increase in prison time under the guidelines.

Prosecutors are asking for a sentence of 15 to 20 years in prison for Blagojevich, and Zagel's comments suggest he could easily settle on something within that



range.

"I do believe that is absurd to contend that his staff and advisers would devise criminal schemes whose only aim was to benefit the defendant," the judge said. "He promised them nothing. He was interested in himself."

It was a deeply chastened and somber Blagojevich who appeared in court Tuesday, a stark contrast to the defendant who entered and left court with a swagger during his two criminal trials. Back then, he acted almost as if he was still in campaign mode, glad-handing supporters in and out of the courthouse, waving to cameras and often stopping to proclaim his innocence and attack prosecutors for persecuting him.

On Tuesday, Blagojevich went out of his way to avoid the limelight. He was ushered in and out of the Dirksen U.S. Courthouse through a passage not accessible to the public and away from the media glare.

Inside court, which was held in an oversize room usually reserved for public ceremonies, Blagojevich was subdued and even looked sullen on occasion. His wife sat on a spectator bench behind the lawyer's table, sometimes tearing up as her brother and sister consoled her.

On Wednesday, prosecutors will get their chance to explain why they think Blagojevich deserves a long prison term. While Blagojevich's lawyers disagree, they also backed off previous public statements suggesting he was a candidate for probation.

When Zagel flatly asked Goldstein if he sought probation for the former governor, the attorney avoided repeating the word and said only that the defense wanted "the lowest sentence possible."

In legal papers filed with Zagel last week, Blagojevich's legal team came close to suggesting that the former governor still considered himself a victim and did not accept the jury's finding. But in court, Goldstein and other Blagojevich lawyers repeatedly sought to backtrack on that, acknowledging for the first time that he committed crimes.

The marquee allegation in the case was that Blagojevich tried to sell the U.S. Senate seat held by Barack Obama before he went to the White House. And Sheldon Sorosky, another Blagojevich lawyer, said the former governor erred when he asked for a job in return for appointing Obama friend Valerie Jarrett.

"We accept the fact that's a crime, it's illegal, he should not have done it," Sorosky said. "That crime does not call for a 15-year jail sentence."

Likewise, Blagojevich sought campaign donations from supporters of U.S. Rep. Jesse Jackson Jr. in exchange for a Jackson appointment to the Senate seat, Sorosky said. He pointed to a 2008 undercover recording of Blagojevich telling his brother, Robert, then his campaign finance chief, that if he appointed Jackson, "some of this stuff has to start happening now."

"He's asking for a contribution here. And that's wrong and he's guilty, but I don't know that that's anywhere near selling a Senate seat for \$1.5 million," Sorosky said. "And once again this does not call for a sentence of 15 years in jail."

The defense repeatedly turned to Blagojevich's family to hit the most emotional notes of the hearing's first day. The lawyers said the family would be devastated if its husband and father is taken away for a decade or more.

"Your honor, I ask you humbly with the life of my husband and the childhood of my daughters in your hands, be merciful," Patti Blagojevich wrote to Zagel in a letter from which Goldstein quoted.

Goldstein also read messages that Blagojevich wrote several years ago to his now-teenage daughter, Amy, when she was on a school trip. Amy was coming home the next day, and Blagojevich described how he couldn't wait to see her.

The attorney also read passages to the judge from a letter Amy wrote recently about her father. In a message to the court prepared as part of the defense presentation, Amy said one of the few good things about her father's criminal case has been that he has been home a lot with her.

"He's been here to help me with my

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Thirteen Alleged Latin King Members Indicted on Federal Racketeering Charges (RICO)

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 6:17 AM December 7, 2011

The Federal Bureau of Investigation (FBI) on December 6, 2011 released the following:

"Defendants Allegedly Conspired to Commit Murders, Assaults, Robberies, Kidnappings, and Arson

GREENSBORO, NC— Thirteen alleged members of the Almighty Latin King and Queen Nation (Latin Kings) have been indicted by a federal grand jury in Greensboro, N.C. for allegedly conspiring to participate in a racketeering enterprise, announced Assistant Attorney General for the Criminal Division Lanny A. Breuer and United States Attorney for the Middle District of North Carolina Ripley Rand. The indictment was returned under seal on November 29, 2011, and unsealed today after 12 of the defendants were arrested or placed under detainer while in custody on other charges.

According to the indictment, the defendants are members of the Latin Kings, a violent street gang with members operating in North Carolina since at least 2005. The traditional power centers of the Latin Kings are the Chicago and New York metropolitan areas, with thousands of members scattered across the United States and overseas.

"The indictment unsealed today alleges a pattern of violent criminal activity by Latin Kings members in North Carolina," said Assistant Attorney General Lanny A. Breuer. "Criminal street gangs like the Latin Kings endanger communities across the country. We are working hard with our federal, state and local law enforcement partners to bring gang members and their associates to justice."

"We have no tolerance for violent crime in North Carolina," said U.S. Attorney Rand. "The investigation in this case is part of a coordinated effort between federal, state, and local law enforcement to combat violent street gang activity. We will continue to work together to keep our neighborhoods safe, and we will not allow violent street gangs to dictate what happens in our communities."

According to the indictment, the Latin Kings were allegedly formed in North Carolina by JORGE PETER CORNELL, a/k/a "King Jay," who allegedly became a member of the Latin Kings while he was residing in New York City. When CORNELL moved to the Middle District of North Carolina, he allegedly formed a tribe and became the "Inca" for the entire state of North Carolina. It is alleged that,

through violence, threats of violence, and coercion, CORNELL gained control of all of the Latin Kings tribes in North Carolina, including chapters in Greensboro, Charlotte, Durham, and Raleigh.

The unsealed indictment also sets forth allegations that CORNELL, in an attempt to disguise the criminal activities of the Latin Kings and frustrate law enforcement attempts to investigate and prosecute Latin Kings members, orchestrated a public relations campaign to falsely portray the Latin Kings as a public service organization. It is also alleged that CORNELL made public statements for peace between Greensboro street gangs and regularly held media events with community leaders to publicly advocate for the dissolution of Greensboro Police Department's gang unit during the same period of time that he allegedly plotted to murder or assault rival gang members (including other Latin Kings) and was involved in other gang-related criminal activities.

"These arrests today are an outstanding example of the tireless work of the Safe Streets Task Force. The gang's attempt to portray the Latin Kings as a public service organization did not deter the FBI and our law enforcement partners from uncovering their scheme," said Chris Briese, the Special Agent in Charge of the FBI Charlotte Division.

The indictment charges the following defendants with conspiracy to participate in the racketeering activities of the Latin Kings:

- JORGE PETER CORNELL, a/k/a "King Jay," age 35;
- RUSSELL LLOYD KILFOIL, a/k/a "King Peaceful" and "Jonathan Hernandez," age 25;
- RANDOLPH LEIF KILFOIL, a/k/a "King Paul," age 26;
- JASON PAUL YATES, a/k/a "King Squirrel," age 31;
- LUIS ALBERTO ROSA, a/k/a "King Speechless," age 24
- WESLEY ANDERSON WILLIAMS, a/k/a "King Bam," age 19;
- STEAPHAN ACENCIO-VASQUEZ, a/k/a "King Leo," age 20;
- MARCELO YSRAEL PEREZ, a/k/a "King Lyrix" and "King Sacrifice," age 26:
- SAMUEL ISAAC VELASQUEZ, a/k/a "King Hype," age 22;
- CHARLES LAWRENCE MOORE, a/k/ a "King Toasty," age 26;
- RICHARD LEE ROBINSON, a/k/a "King Focus," age 22;

- IRVIN VASQUEZ, a/k/a "King Dice," age 22; and
- CARLOS COLEMAN, a/k/a "King Spanky," age 19.

The indictment also charges PEREZ with a violent crime in aid of racketeering and using a firearm during the commission of a violent crime. The indictment alleges that Latin Kings members committed a wide range of crimes in order to further their racketeering scheme, including armed robberies, kidnappings, arson, and assaults

Initial appearances for the six defendants arrested today in North Carolina will be held in Greensboro federal court at 4 p.m. before P. Trevor Sharp, United States Magistrate Judge. Defendant Wesley Williams was arrested in Las Vegas, Nevada and is expected to appear in federal court there today.

PEREZ is the only defendant not in custody and the FBI Safe Streets Task Force, Guilford County Sheriff's Deputies and the Greensboro Police Department are searching for him. Call the FBI Charlotte Field Office at 704-672-6100 or the Greensboro-Guilford County Crime Stoppers at 336-373-1000 if you have any information on the whereabouts of PEREZ.

The case is being prosecuted by the United States Attorney's Office for the Middle District of North Carolina and the Criminal Division's Organized Crime and Gang Unit. The case is being investigated by the Federal Bureau of Investigation, the Guilford County Sheriff's Department, and the Greensboro Police Department. Each of the defendants faces a maximum sentence of life in prison. An indictment is not evidence of guilt. All defendants are presumed innocent until proven guilty beyond a reasonable doubt in a court of law."

Douglas McNabb – McNabb Associates, P.C.'s

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Barry Bonds' lawyers seek home confinement

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 8:32 AM December 7, 2011

San Francisco Chronicle on December 7, 2011 released the following:

"Bob Egelko, Chronicle Staff Writer Barry Bonds' lawyers asked a federal judge Tuesday to sentence him to home confinement for obstruction of justice in his testimony about steroids, saying Bonds has a laudable but little-known record of public service and should be sentenced no more severely than other sports figures.

The former Giants star, baseball's alltime home run leader, was convicted in April of trying to thwart an investigation into steroid distribution by giving evasive answers to a federal grand jury in 2003. The jury deadlocked on three charges that Bonds committed perjury in denying he had knowingly used steroids, and prosecutors have decided not to retry him. Defense lawyers plan to appeal the conviction. In the meantime, U.S. District Judge Susan Illston of San Francisco is scheduled to sentence Bonds on Dec. 16 and could send him to prison for a year or more - but is unlikely to do so, based on her sentencing in earlier cases.

For example, as Bonds' lawyers noted Tuesday, Illston sentenced former cycling champion Tammy Thomas to six months of house arrest for four convictions of lying about steroids. The judge gave track coach Trevor Graham a year of home confinement for a perjury conviction after evidence that he had supplied drugs to athletes.

A court-appointed probation officer has recommended that Bonds be given probation and home confinement for some period below six months, and Illston should follow that proposal, defense

THIRTEEN

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The author of this blog is Douglas McNabb. Please feel free to contact him directly at

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lawyer Allen Ruby said. He did not specify the recommended period and said the officer's report was confidential. "Mr. Bonds does not dispute that he was convicted of a serious offense," Ruby said. But he cited the probation officer's conclusion that his conviction appears to be "an aberration when taken in context of his entire life."

Prosecutors have not yet submitted their sentencing recommendation.

Bonds, 47, was charged with lying to and misleading the grand jury that was investigating steroid distribution to athletes by BALCO, the Bay Area Laboratory Co-Operative in Burlingame. His longtime friend and former trainer, Greg Anderson, refused to testify against him and spent more than a year in prison for contempt of court, preventing prosecutors from tying Bonds to BALCO tests showing steroid use.

He was convicted of obstructing justice by replying to a question about whether Anderson had ever given him injectable drugs with an answer that discussed their friendship, Bonds' childhood and other subjects but never saying yes or no. Bonds' lawyers said he later answered the question truthfully with a denial, but Illston upheld the conviction.

In Tuesday's filing, Ruby said Bonds

Virginia Man Pleads Guilty in Scheme to Conceal Pakistan Government Funding for His U.S. Lobbying Efforts

(USDOJ: Justice News)

Submitted at 12:08 PM December 7, 2011

Syed Ghulam Nabi Fai, 62, a U.S. citizen and resident of Fairfax, Va., pleaded guilty today to conspiracy and tax violations in connection with a decadeslong scheme to conceal the transfer of at least \$3.5 million from the government of Pakistan to fund his lobbying efforts in America related to Kashmir.

should be given credit for "charitable and civic contributions" that "have taken place away from the public eye."

He quoted a letter to the court from a nurse at UCSF Children's Hospital, where a new family playroom bears Bonds' name.

Bonds has made numerous "unannounced and unpublicized visits" and is "always unfailingly kind and attentive to the many young children who flock to his side," the nurse said. "Frequently he will go to the bedside of a particularly ill child and gently give him/her words of encouragement to 'never give up.' ""

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Statement of Acting Assistant Attorney General Sharis A. Pozen Before the House Judiciary Subcommittee on Intellectual Property, Competition and the Internet

(USDOJ: Justice News)

Submitted at 9:52 AM December 7, 2011

"The pillars of the division's work are civil merger and non-merger enforcement, criminal enforcement, competition advocacy, and international activities and we have been active in all those areas," said Acting Assistant Attorney General Pozen.

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STIFF

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homework," she wrote. "He's been here to teach me life lessons.'

She, too, asked the court for mercy, describing how her life has been turned on its head and how a long sentence would make it worse.

"It's too drastic a change. I need my father," she wrote. "I need him there for my high school graduation. I'll need him there if I don't get into college. "I'll need him when my heart gets broken."

Goldstein rattled through a litany of other public corruption cases that Blagojevich contends were far worse but still yielded lighter sentences. Many involved public officials who directly pocketed bribes in exchange for government action, while Blagojevich was asking only for campaign donations, got no money and ultimately didn't use his power to punish those who didn't give to him.

"It wasn't cash in an envelope," said Carolyn Gurland, another Blagojevich

Even the added element of Blagojevich's

nonstop publicity campaigns railing against prosecutors has been seen before – and not produced a sentence like the one the government is now seeking, the defense said.

Don Siegelman, a former governor of Alabama, was charged in a corruption case and repeatedly painted himself as the victim of a government conspiracy, Goldstein said. He received a little more than seven years in prison.

Gurland asked Zagel not to sentence Blagojevich to a stiff term in order to send a broader message to other politicians. Blagojevich shouldn't feel the brunt of a government effort to get ever-tougher prison terms for politicians who seemingly never learn not to illegally selfdeal, she said.

Punishing Blagojevich for the wrongs of figures such as former Gov. George Ryan, Blagojevich's predecessor who is now in prison, would be "demonstrably unfair to Mr. Blagojevich," Gurland said.'

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FBI Raids Valley Indian Reservation

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

ted at 8:58 AM December 7, 2011

KSEE News on December 6, 2011 released the following:

"A valley Indian Tribe is being investigated by the FBI. Tuesday federal agents raided the Mono tribe headquarters in North Fork.

Federal officers took over the tribe's headquarters at the North Fork Rancheria and another office down the street. Officers left with bags and boxes of possible evidence. Geri Renfro is a general council member of the Mono Tribe. She says, "Other tribes are getting money. These guys aren't giving us ours. We don't know where it going.' Renfo went on to say tribal leaders aren't

being honest with money. She says, "Something fishy is going on. I really believe so. I started a petition a week ago to remove them for abuse of power and not following the custom of taking care of elders and children."

The Mono Tribe has spent the last few years trying to build a casino in Madera County. The Department of the Interior has already approved the project.

John Maier is the lawyer representing the Mono Tribe. In a statement he says, "The investigation apparently concerns the use and disclosure of the limited funds advanced to the Tribe for its proposed casino project.... This information is routinely made available to tribal citizens in considerable detail... The Tribe therefore does not understand the basis for the investigation, and is dismayed that information which the Tribe would have been more than willing to provide is instead being secured with a search warrant."

The FBI has not released any details about the investigation."

Douglas McNabb – McNabb Associates, P.C.'s

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