

Name _____

1st Test

1. The attached article titled “Entrepreneurs Eye A Piece of the Pot Pie,” states that “States may have bucked federal law, which considers marijuana illegal for any purpose, but they (states) have imposed their own complicated, lengthy lists of regulations meant to keep cannabis.....” Since federal law and state law are in conflict, which issue could become significant in the future for the entrepreneurs?
 - a. Equal Protection
 - b. Ex Post Facto
 - c. Preemption/Supremacy
 - d. Interstate Commerce Clause
 - e. Freedom of Unreasonable Search & Seizure
2. An administrative agency has determined that you, as an employee of Fisher Corp., and Fisher Corp. violated one of its agency regulations. Today at work, you received the violation in the mail. The violation indicates a fine of \$200,000 and a possibility of imprisonment of up to 80 days. You think that the agency is not correct. Fisher Corp. and you want to appeal. Indicate the correct answer.
 - a. You and Fisher Corp. have no right to a jury trial and the agency has the burden of proof in this case.
 - b. You and Fisher Corp. have the right to a jury trial and you and Fisher Corp. have the burden of proof in this case.
 - c. You and Fisher Corp. have no right to a jury trial and you and Fisher Corp. have the burden of proof in this case.
 - d. You and Fisher Corp. have the right to a jury trial and the agency has the burden of proof in this case.
 - e. You and Fisher Corp. have no due process right to appeal.
3. The article titled “Justice Dept. Plans to File Antitrust Charges Against Google in Coming Weeks” would involve which regulatory law that the Justice Department would use for this action?
 - a. Robinson Patman Antitrust Act
 - b. Clayton Antitrust Act
 - c. Sherman Antitrust Act
 - d. Federal Trade Commission Act
 - e. none of these
4. The term “exhaust administrative remedies” means that
 - a. parties to an agency action must be diligent in pursuing their case
 - b. parties to an administrative action must take their appeal to a court of law
 - c. parties to an administrative action can appeal to a court of law, only after the agency has made a final decision
 - d. administrative agencies tend to work very hard
 - e. none of these

5. The Uniform Commercial Code is which type of laws?
- common laws
 - statutes
 - administrative regulations
 - ordinances
 - none of these
6. The federal minimum wage requires that most workers be paid at least \$7.25 per hour. A governor of a small eastern state, in which the standard of living is considerably lower than national levels, perceives that more individuals would be willing to work if the rate of pay were lower. In order to increase the general welfare of the citizens of the state, the governor proposes to the legislature a bill lower the minimum wage to \$6.00 per hour, and the legislature passes this bill into law.
- This is a legitimate exercise of the state's "police power."
 - This is a protection of persons.
 - This violates the due process.
 - This involves a supremacy issue and makes the law illegal.
 - None of these
7. The article titled "Suspicious cop spurs Hilton drug charge," which is attached, indicated that a bundle of cocaine in a plastic bag fell out of Paris Hilton's purse in front of a motorcycle officer. Since the officer saw the cocaine, which is the legal issue the government can use to charge her with possession of an illegal substance?
- Fruit of the Poisonous Tree
 - Plain Feel Doctrine
 - Plain View Doctrine
 - Plain Deal Doctrine
 - Plain Source Doctrine
8. The attached article titled "Kinder-El Paso Merger to Face Antitrust Scrutiny," discusses the proposed acquisition by Kinder Morgan Inc. of another natural gas pipeline corporation, El Paso Corp. What gives the federal government the right to intervene in this merger?
- Sherman Antitrust Act
 - Clayton Antitrust Act
 - Robinson-Patman Antitrust Act
 - Commerce Clause Antitrust Act
 - Transportation Antitrust Act

9. The attached article titled “Temporary fix is found for controversial local mural” deals with which U.S. Constitutional issue or issues, if the tavern wants to keep the mural. The article mentions Mike Pence, former governor of Indiana, now vice president of the U.S., but the mural also shows a picture of beer, and the tavern sells beer. Provide the best answer.
- Political Free Speech
 - Commercial Free Speech
 - Due Process
 - Freedom of the Press
 - A and B
10. The attached article titled “Nation’s top court to hear Indy sewer case,” deals with government treating some homeowners differently from other homeowners, and this same principle of treating some businesses differently than other businesses can involve which U.S. Constitutional issue?
- Due Process
 - Ex Post Facto
 - Commerce Clause
 - Equal Protection
 - Cruel and Unusual Punishments
11. The requirement that individuals or corporations must first exhaust all administrative remedies, as stated in the attached article titled “ISP officer loses whistleblower appeal” is required
- Under the 4th Amendment illegal search and seizure requirement
 - Under the 14th Amendment equal protection requirement
 - Under the Freedom of Information Act
 - Under agency law
 - Under 1st Amendment free speech
12. The article titled “City should do better job of clearing sidewalks” is attached. It deals with the city of West Lafayette’s police officers giving warnings and tickets to property owners and tenants for not removing snow and ice from sidewalks. What gives a city the right to pass such an ordinance?
- Protection of Personal Action
 - Protection of Public Health, Safety and Morals
 - Protection of State
 - Enforcement of Intent
 - Protection from Exploitation, Fraud and Oppression

13. The article "Chocolate giants tied to price-fixing," which is attached, involved Nestle, Mars, and Hershey and only happened in Canada, not the United States. Under which law would this be prosecuted?
- Treaty of Rome
 - Robinson-Patman Act
 - Clayton Antitrust Act
 - Sherman Antitrust Act
 - None of these
14. The attached article titled "Court rejects dorm patrols," primarily deals with which Constitutional issue?
- Right to due Process
 - Freedom of Unreasonable Search and Seizure
 - Freedom from Self-incrimination
 - Right to a Speedy and Public Trial
 - Right to Confront Witnesses
15. The attached article titled "Red-light camera data kept from cops," mentions violating privacy rights, losing their freedoms, and a search warrant. All of this language deals with using images from cameras taken in public places, such as on streets and sidewalks.
- These images, since taken by government, are a violation of privacy under the 4th Amendment.
 - These images, since taken by government, are a violation of the 1st Amendment.
 - These images, since taken by government, are a violation of due process.
 - These images are not a violation of the Constitution, since there has never been an expectation of privacy in public.
 - A & C
16. A few years ago, I was building an addition to my home, and I was informed by a county building inspector that there had been a recent change in the county ordinance that required plastic to cover all of the insulation in the walls in newly built homes. I spoke with the inspector about the reason for this new change in the ordinance, and he explained that the plastic would reduce air blowing into a home, thus make the home more energy efficient. Because of the reason for the plastic, I spoke with him about one of the walls in the home, since it was completely underground and no air could blow through that wall. He said it didn't make any difference, that the ordinance (law) required it. If I didn't comply with the law, I could be fined, put in jail, and my home could be condemned. I also discussed with the inspector that I had taken out my permit to build the addition to my home before the ordinance (law) change, and he informed me that I still had to comply with this retroactive application of the ordinance (law). What would be my argument in a hearing to try to convince the judge or administrative hearing officer that I should not have to comply with the changes in this ordinance? Provide the best answer?

- a. Positive law
 - b. Ex Post Facto
 - c. Equity
 - d. a and b
 - e. b and c
17. The article titled “Couple booted from flight; dispute over T-shirt” involves American Airlines, a for profit private airlines. What U. S. Constitutional issue could the couple prevail under, in regard to their contention that the airline violated their constitutional rights?
- a. Free Speech
 - b. Unreasonable Search and Seizure
 - c. Contempt of Court
 - d. Freedom from Self-incrimination
 - e. None of these
18. My youngest son’s first and last name is on the federal government’s No-fly list, and we first became aware of this when my son was nine years old, and we were trying to fly out of Germany to the U.S., and we were not able to board the airplane. This happened the next year again, when my son was ten years old. We had tried to get his name off the No-fly list, but could not get a hearing. In order to avoid this problem, we included his middle name when we booked flights, and that took care of the problem. The U.S. government not providing a hearing could violate which U.S. Constitutional rights?
- a. Freedom from Self-incrimination
 - b. Freedom of Unreasonable Search and Seizure
 - c. Freedom of Speech
 - d. Right to Due Process
 - e. Right of People to Peaceable Assemble
19. The attached article titled “Warrantless search upheld locked glove box could hold gun, court rules,” primarily deals with which U.S. Constitutional issue.
- a. First Amendment Right to Peaceable Assemble
 - b. Fifth Amendment Due Process
 - c. Fifth Amendment Self-incrimination
 - d. Fourth Amendment Search and Seizure
 - e. Second Amendment Right to Bear Arms
20. The attached article titled “S&P Accuses U.S. of Suing To Avenge Rating Drop” allegedly deals with which Constitutional issue?
- a. Due Process
 - b. Right to Petition Government for Redress of Grievances
 - c. Unreasonable Search and Seizure
 - d. Freedom of Speech
 - e. Freedom from Self-incrimination

21. Organization of the Petroleum Exporting Countries (OPEC), which is made up of governments and controls a large portion of the worldwide oil supply and deals with which of the following?
- Violates U.S. laws, since it does horizontal price fixing
 - Violates U.S. laws, since it does vertical price fixing
 - Violates the Clayton Antitrust Act
 - Violates the Sherman Antitrust Act
 - None of these
22. The attached article titled "Open up: Public's business needs a spotlight," deals with meetings being required to be open to the public. Which U.S. federal law requires most meetings of major federal administrative agencies to be open to the public?
- U.S. Seizure Act
 - Freedom of Information Act
 - Sunshine Act
 - Administrative Agency Act
 - Uniform Commercial Code (UCC)
23. The state of California passed a statute that stated that no nuclear waste could be permanently stored or disposed of in California. What is the legal issue or issues involved in this law? Which of the following would be a legal issue or issues in this case?
- It deals with a violation of the Interstate Commerce clause.
 - It deals with Supremacy/Preemption of the federal government.
 - It deals with a violation of the 14th Amendment, involving Equal Protection.
 - It deals with the 5th Amendment, Due Process.
 - It deals with A, B & C
24. Which is the best answer in regard to the attached article titled "Arrests raise legal questions." It discusses due process, and involves what other Constitutional issue(s) that is (are) not discussed, but applies to this case?
- Freedom of Speech
 - Equal Protection
 - Right of People to Peaceable Assemble
 - All of these
 - None of these
25. The attached article titled "Google, Microsoft Spar on Antitrust" indicates that the Department of Justice sued to block Google's search partnership with Yahoo. Since Google and Yahoo are in the same industry, this activity is illegal:
- since it could be horizontal price fixing under the Sherman Antitrust Act.
 - since it could be vertical price fixing under the Sherman Antitrust Act.
 - since it would be predatory pricing, since it would be a marginal cost issue.
 - all of the above
 - none of these

26. The attached article titled “Justices throw out black man’s death sentence from white jurors” indicates that it is illegal to exclude jurors based on race. What is the only other illegal reason that a juror cannot be excluded?
- Occupation
 - If they wear glasses
 - National origin
 - Sex
 - Disability
27. In understanding differences between criminal law and civil law, the concept of burden of proof becomes extremely important. What is the burden of proof for criminal law and then civil law?
- beyond a reasonable doubt for criminal law and a preponderance of the evidence for civil law
 - preponderance of the evidence for criminal law and beyond a reasonable doubt for civil law
 - always 100% for criminal law and always 80% or more for civil law
 - always 99% or more for criminal law and always 70% or more for civil law
 - none of these
28. The attached article titled “New details emerge about Russian spies,” indicates that the FBI released the material to the Associated Press. What gives individuals and the media the right to request documents and records from federal administrative agencies?
- Administrative Procedure Act
 - Family Educational Rights and Privacy Act
 - Freedom of Information Act
 - Sunshine Act
 - Federal Register
29. The article titled “EU Fines 11 Carriers \$1.11 billion in Cartel Case,” deals with price fixing. The U.S. fines for \$1.6 billion would have been enforced under which laws?
- Sherman Antitrust Act
 - Clayton Antitrust Act
 - Robinson-Patman Antitrust Act
 - Treaty of Rome
 - Clinton Antitrust Act
30. See the article titled “Trump met with Apple CEO Cook over tariffs.” Imagine the federal government exempts Apple products manufactured in China from U.S. tariffs, but no other U.S. companies manufacturing goods are exempt. This could very likely violate which one of the below answers?
- Sherman Antitrust Act
 - Clayton Antitrust Act
 - Commercial Free Speech under the 1st Amendment
 - Equal Protection under the 14th Amendment
 - Ex Post Facto

31. In a Marion County case, the Indiana Court of Appeals granted a new trial to a black drug suspect after prosecutors struck all the blacks on the jury panel. This issue was discussed in the attached article titled "New trial OK'd after all blacks struck from jury." The legal process in which attorneys for the government, prosecutors, or attorneys for the defendant try to exclude potential jury members from a jury relates to:
- Discovery
 - Voir Dire
 - Preemptive Challenge
 - Summons and Complaint
 - Answer
32. "Illinois College wants Hoosiers" deals with the out-of-state tuition issue. Indicate which Constitutional issue charging out-of-state students more than in-state residents violates, if any.
- Interstate Commerce Clause
 - Ex Post Facto
 - Equal Protection
 - Enumeration of Rights Does Not Reduce Other Rights
 - None of these
33. See the attached article titled "Decade's major tax shifts aren't over." Indiana used to assess property with what was called a "true tax value" system. Using cost tables, assessors would base assessed values on what it might cost to replace the structure, not its actual market value. What area of law did the Indiana Supreme Court use in order to determine that the true tax value was unconstitutional?
- Positive Law
 - Stare Decisis
 - Uniform Commercial Code
 - Equity
 - Voir Dire
34. In regard to administrative agencies, a decision of an agency may cause substantial losses for a business by increasing the businesses operating costs and the businesses cost of hiring an attorney and discovery costs, if the business wants to fight the agencies ruling. If an agency acted in good faith in the exercise of its discretionary powers, yet the business prevails (wins) the legal action. The administrative agency
- must pay the business its reasonable attorney costs, but nothing else.
 - must pay the business its reasonable attorney costs, court costs, and discovery costs, but nothing else.
 - a and b, plus the business operating losses.
 - has no liability for any of the business costs or losses.
 - none of these

35. The article titled "AT&T can punish employees for wearing 'prisoner' T-shirts to work, a court rules." If this decision is appealed to the U.S. Supreme Court, the Supreme Court will overrule this decision based on which U.S. Constitutional principal?
- a. Due Process
 - b. Right to Petition the Government for Redress of Grievances
 - c. Freedom of Speech
 - d. Freedom of Press
 - e. none of these
36. The attached article titled "Founders' wisdom for the ages," states that "The Founders could not have anticipated what America of 2020 would look like." There are two views by the courts of the U.S. Constitution. The view that the Constitution is interpreted by the courts according to changing times, and not as to fundamental principles, is which?
- a. Bedrock view
 - b. Strict constructionist document view
 - c. Originalist document view
 - d. Living document view
 - e. None of these
37. Lafayette Irrigation and West Lafayette Pools are contemplating entering into a contract. They trust one another, but are realistic enough to want to provide for any potential legal difficulties that may be encountered in the future. Expensive court costs and long delays in resolution of a contract breach are of particular concern. What measures could these businesses provide in the contract to be a means of conflict settlement, other than going to court?
- a. Mock Trial
 - b. Moot
 - c. Judgment Notwithstanding the Verdict
 - d. Arbitration
 - e. Preemptive Challenge
38. The 1st Amendment to the United States Constitution deals with religion, speech, press, right to peaceable assembly and the right to petition our government. The U.S. Supreme Court has decided that commercial/business free speech is not provided as much protection as free speech. Which of the following attached articles involve commercial/business free speech under the courts interpretation of the U.S. Constitution?
- a. The article titled "Chants after Danish cartoon bring conviction."
 - b. "Maine gives beer label ban a swift kick."
 - c. "Story is barred from student paper."
 - d. All of these
 - e. None of these

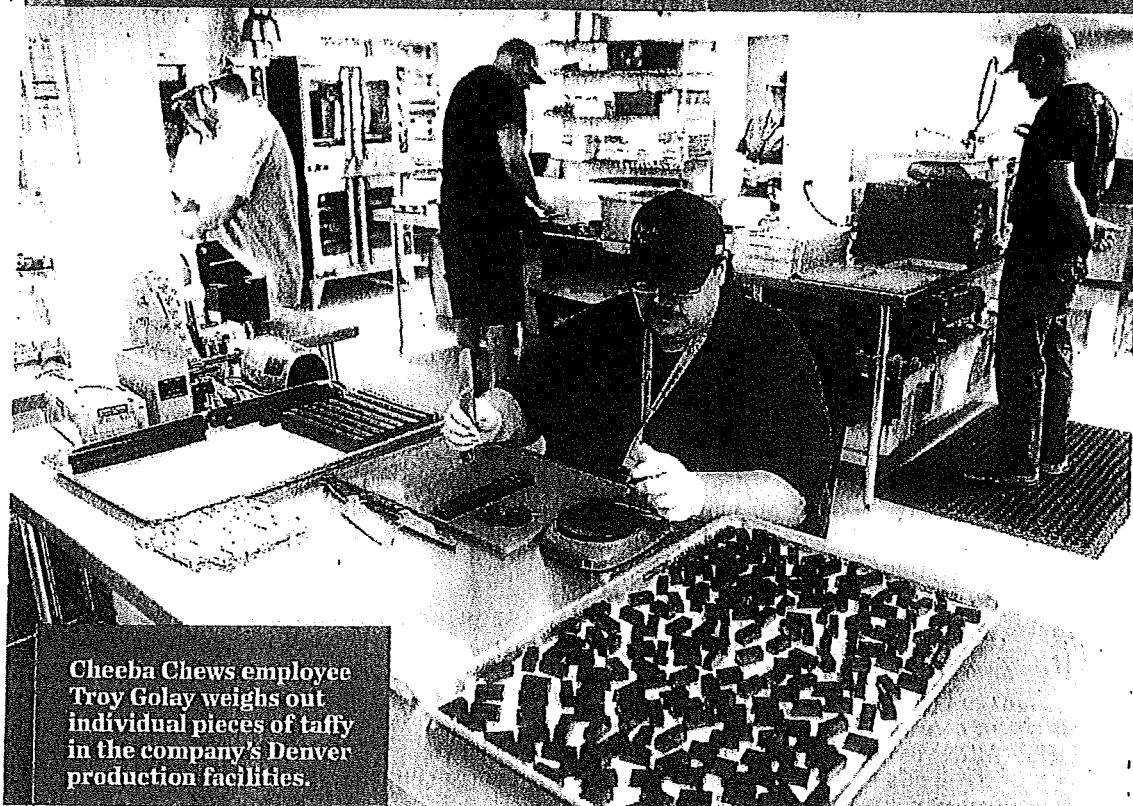
39. In the United States, if a police officer has probable cause to only stop a car that you are a passenger in, what areas of the vehicle may the police officer not search, without a warrant, if you and the owner do not give permission? Keep in mind this is a U.S. Constitutional issue under the Fourth Amendment.
- a. under the front seat
 - b. locked glove compartment
 - c. locked brief case on the floor in the back seat
 - d. locked trunk
 - e. B and D

40. Imagine that you heard about an individual named Rick Merit that was being audited by the Internal Revenue Service (IRS). Mr. Merit was aware that the IRS agent Jeff Skill was going to be driving a federal vehicle along the Kentucky side of the Ohio River to get to an audit appointment later that afternoon. Mr. Merit had slipped and admitted things that morning to Mr. Skill during the audit, that could cause Mr. Merit to go to prison for up to forty years. The more Mr. Merit thought about it, the more he thought he could create the perfect crime. Mr. Merit took out a high powered rifle and waited on Hanover Beach in Indiana, until he saw Mr. Skill's federal government vehicle cross over the bridge above the Ohio River, and the vehicle, with Mr. Skill in it was in Kentucky—then Mr. Merit shot a bullet across the Ohio River and the bullet killed Mr. Skill. The noise of the rifle caused three residents on Hanover Beach to come out of their homes and they saw Mr. Merit as he was putting his rifle into his trunk. Mr. Merit is apprehended by a county deputy sheriff and taken to jail. The state of Indiana, the state of Kentucky, and the federal government all want to charge Mr. Merit with murder.

Which governments can bring Mr. Merit to trial for murder, without violating double jeopardy?

- a. only Indiana, since Mr. Merit was in Indiana when he killed the government employee
- b. only Kentucky, since the government employee was in Kentucky when he was shot
- c. only the federal government, since it was the governments employee
- d. only Indiana and Kentucky
- e. Indiana, Kentucky, and the federal government

MARIJUANA INDUSTRY



Cheeba Chews employee Troy Golay weighs out individual pieces of taffy in the company's Denver production facilities.

PHOTOS BY MARC PISCOTTY FOR USA TODAY

ENTREPRENEURS EYE A PIECE OF THE POT PIE

Donna Leinwand Leger
USA TODAY

When James Howler created his marijuana-infused taffy in 2009, the Colorado entrepreneur had trouble finding an accountant willing to keep the books of a company making legally fuzzy medical marijuana candy.

Now, five years later, venture capitalists from New York City want to shower him with money for a stake in his Cheeba Chews and a foothold in a \$2.6 billion marijuana industry now operating in nearly half the country.

With medical marijuana legal in 23 states and Washington, D.C., and recreational marijuana legal in Colorado and Washington state, the market for weed is ripe with potential, and the people in pinstripes have taken note. As the marijuana companies grow more sophisticated — and profitable — they are attracting the attention of investors and corporations.

Tapping into the green revolution, however, brings unique challenges for entrepreneurs and corporate honchos alike. States

**'You have
to be agile'
to navigate
varying
state laws
on marijuana**



Cheeba Chews, which produces 12,000 pieces of taffy each week, has been working to expand its business.

may have bucked federal law, which considers marijuana illegal for any purpose, but they have imposed their own complicated, lengthy lists of regulations meant to keep cannabis tightly under control and, in some cases, keep the corporate behemoths out.

But with so much money at stake, industry experts say, it's only a matter of time before corporate giants, already eyeing the market, grab their share, too.

"If leaders of these companies are not looking at the cannabis space, then they are not doing their jobs," says Chris Walsh, editor of *Marijuana Business Daily*, a trade publication based in Denver. "No seasoned business executive is going to overlook a billion-dollar industry."

CORPORATE GIANTS

If the crowd of 200 executives at the marijuana panel at the Wine & Spirits Summit on June 5 in Denver is any indication, the alcohol industry is watching.

"Some see it as a threat, and some are interested in being part

multiple sclerosis.

If some corporate giants are snuffing around these emerging markets, they haven't entered it in any public way.

It's not that they don't want to, Walsh says. "It's because there are several big barriers keeping them from doing so."

Federal law and regulations that differ not only by state but from town to town make it inefficient, not to mention potentially illegal, for big business to enter the market, he says.

Some states don't allow non-residents to open or have equity investments in the marijuana businesses.

Colorado, which has more than 1,300 licensed marijuana businesses, requires marijuana investors to have lived in the state for at least two years. The owner, operator and employees must all be residents of the state. Non-state residents can lend money but can't have an equity interest, says Colorado Department of Revenue spokeswoman Natriece Bryant. The state enacted those regulations specifically to keep the giant multinationals out, Bryant says.

"We wanted to make sure it was a closed system that we could really wrap our heads and hands around," says Colorado Rep. Jonathan Singer, a Democrat from Longmont who sat on the task force that devised the regulations. Most federally insured banks have opted to stay away from the industry because of legal uncertainty.

ban. The company took legal action in 2010 to lay claim to two domain names, AltriaCannabis.com and AltriaMarijuana.com, from someone unrelated to the company who had purchased the names. May says it was to protect its trademark.

R.J. Reynolds Tobacco also says it isn't interested in marijuana.

But tobacco giant Japan Tobacco International entered into a deal in December 2011 with Ploom, the San Francisco-based maker of a pocket-size smoking device that heats tobacco, vaporizing nicotine and flavor without producing smoke, to commercialize the product outside the United States. Although the company maintains its device is for tobacco, the latest version, called Pax, is popular among pot users.

At least two pharmaceutical firms, AbbVie and GW Pharmaceuticals, produce medicines that contain active ingredients from cannabis. GW says it is a traditional pharmaceutical company that won't be dabbling in "artisanal" medical marijuana business. The company manufactures Sativex, a cannabinoid medicine for the treatment of spasticity due to

of the industry," says Emily Pennington, editor of *Wine & Spirits Daily*, an online trade publication that hosted the summit.

Brown-Forman, the company that owns Jack Daniel's Tennessee Whiskey and Finlandia Vodka, mentioned marijuana legalization in its 2014 annual report as a potential threat to its market share. The company noted that consumer preferences may shift because of a number of factors, including "the potential legalization of marijuana use on a more widespread basis."

FAR AFIELD OF TOBACCO

Most major tobacco companies, which explored the possibilities of marijuana in the 1970s, when federal legalization seemed possible, now deny any interest.

"Marijuana remains illegal under federal law, and Altria's companies have no plans to sell marijuana-based products," says Brian May, spokesman for Altria, the company that owns tobacco company Philip Morris America. He said he could not speculate on what the company might do if the federal government lifted its

tainty about whether transactions for marijuana businesses could be considered money laundering. That means marijuana businesses have little access to small business loans or even pay-roll accounts.

Most of the financial backing for growth in the marijuana industry has come from venture capital, angel investors and private loans.

GROWING CREATIVELY

Boulder-based Cheeba Chews is still a small business, producing 12,000 pieces each week of its hand-cut and -wrapped taffy, which retails for about \$12 each, says marketing director Eric Leslie. After a few years in the business, the company developed nationwide recognition and wanted to expand. So far, Cheeba Chews has opted for slow and steady growth without investors or bank loans, Leslie says.

A manufacturer of almost any other product could simply ramp up production, create a distribution plan and ship its orders around the country.

Not marijuana. Since pot remains illegal under federal law, a cannabis product cannot be transported over state lines. So Cheeba Chews had to get creative. It grew by licensing its brand to manufacturers already licensed to operate in California and Washington.

"You have to be agile enough to meet the standards in every

state," Leslie says.

Ultimately, once corporate America thinks the industry is safe, well-established marijuana companies will be targets for acquisition, says Steve Berg, chief financial officer of OpenVAPE, which specializes in extracting purified cannabis oil from marijuana and produces a vape pen that allows the oil to be inhaled.

Trip Keber, who four years ago founded Dixie Elixirs to make marijuana-infused drinks, chocolates and lotions, says he has had inquiries from investment bankers, hedge funds and venture capitalists. And at conferences, he has fielded questions from alcohol industry executives.

One of the biggest signs the industry has matured is the influx of top-notch professionals — lawyers, accountants, advertising executives — willing to take jobs at the marijuana companies, Berg says.

Keber, a former dotcom entrepreneur who sold his company and moved to Colorado in 2002, began exploring possibilities in the pot industry seven years ago.

"I went to these clandestine meetings because people didn't want you to know where their marijuana cultivation was. No one understood what was legal, illegal. Those were clearly the Wild West days," he says. "One thing I understood ... if we took traditional business practices and applied it to this disorganized community, it would transform it."



Justice Dept. Plans to File Antitrust Charges Against Google in Coming Weeks

Katie Benner and Cecilia Kang 4 days ago

f t w e

WASHINGTON — The Justice Department plans to bring an antitrust case against Google as soon as this month, after Attorney General William P. Barr overruled career lawyers who said they needed more time to build a strong case against one of the world's wealthiest, most formidable technology companies, according to five people briefed on internal department conversations.



© Anna Moneymaker for The New York Times Attorney General William P. Barr, a former telecom industry executive who argued an antitrust case in front of the Supreme Court, has shown great interest in the Google case.

Justice Department officials told lawyers involved in the antitrust inquiry into Alphabet, the parent company of Google and YouTube, to wrap up their work by the end of September, according to three of the people. Most of the 40-odd lawyers who had been working on the investigation opposed the deadline. Some said they would not sign the complaint, and several of them left the case this summer.

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Some argued this summer in a memo that ran hundreds of pages that they could bring a strong case but needed more time, according to people who described the document. Disagreement persisted among the team over how broad the complaint should be and what Google could do to resolve the problems the government uncovered. The lawyers viewed the deadline as arbitrary.

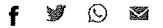
While there were disagreements about tactics, career lawyers also expressed concerns that Mr. Barr wanted to announce the case in September to take credit for action against a powerful tech company under the Trump administration.

But Mr. Barr felt that the department had moved too slowly and that the deadline was not unreasonable, according to a senior Justice Department official.

A former telecom industry executive who argued an antitrust matter before the Supreme Court, Mr. Barr has shown a deep interest in the Google investigation. He has requested regular briefings on the department's case, taking thick binders of

When Mr. Barr imposed a deadline on the investigation, some lawyers feared that the move was in keeping with his

 **Justice Dept. Plans to File Antitrust Charges Against Google in Coming Weeks**



accused Google of bias against him.

The Google case could also give Mr. Trump and Mr. Barr an election-season achievement on an issue that both Democrats and Republicans see as a major problem: the influence of the biggest tech companies over consumers and the possibility that their business practices have stifled new competitors and hobbled legacy industries like telecom and media.

A coalition of 50 states and territories support antitrust action against Google, a reflection of the broad bipartisan support that a Justice Department case might have. But state attorneys general conducting their own investigations into the company are split on how to move forward, with Democrats perceived by Republicans as slow-walking the work so that cases can be brought under a potential Biden administration, and Democrats accusing Republicans of rushing it out under Mr. Trump. That disagreement could limit the number of states that join a Justice Department lawsuit and imperil the bipartisan nature of the investigation.

Some lawyers in the department worry that Mr. Barr's determination to bring a complaint this month could weaken their case and ultimately strengthen Google's hand, according to interviews with 15 lawyers who worked on the case or were briefed on the department's strategy. They asked not to be named for fear of retribution.

Brianna Herlihy, a Justice Department spokeswoman, declined to comment on the continuing investigation. Jose Castaneda, a spokesman for Google, said that the company would "continue to engage with ongoing investigations" and that its business practices enabled "increased choice and competition."

When the Justice Department opened its inquiry into Alphabet in June 2019, career lawyers in the antitrust division were eager to take part. Some within the division described it as the case of the century, on par with the breakup of Standard Oil after the Gilded Age. It also offered a chance for the United States to catch up to European regulators who had been aggressive watchdogs of the technology sector.

Alphabet was an obvious antitrust target. Through YouTube, Google search, Google Maps and a suite of online advertising products, consumers interact with the company nearly every time they search for information, watch a video, hail a ride, order delivery in an app or see an ad online. Alphabet then improves its products based on the information it gleans from every user interaction, making its technology even more dominant.

For nearly a year, dozens of Justice Department lawyers and other staff members worked in two groups, each overseeing a separate line of inquiry: Google's dominance in search and its control over many aspects of the ecosystem for online advertising.

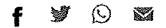
Google controls about 90 percent of web searches globally, and rivals have complained that the company extended its dominance by making its search and browsing tools defaults on phones with its Android operating system. Google also captures about one-third of every dollar spent on online advertising, and its ad tools are used to supply and auction ads that appear across the internet.

The Justice Department amassed powerful evidence of anticompetitive practices, three people said.

But the lawyers also described internal politics that at times slowed down the department's work or drove a wedge among members of the team.

but was recused from the case because he represented the company in a 2007 acquisition that helped it to dominate the online advertising market.

Justice Dept. Plans to File Antitrust Charges Against Google in Coming Weeks



In an unusual move, Mr. Barr placed the investigation under Jeffrey A. Rosen, the deputy attorney general, whose office would not typically oversee an antitrust case. Mr. Barr and Mr. Delrahim also disagreed on how to approach the investigation, and Mr. Barr had told aides that the antitrust division had been asleep at the switch for decades, particularly in scrutinizing the technology industry.

Mr. Rosen does have a tech background: He was the lead counsel for Netscape Communications when it filed an antitrust complaint against Microsoft in 2002.

In October, Mr. Rosen hired Ryan Shores, a veteran antitrust lawyer, to lead the review and vowed to “vigorously seek to remedy any violations of law, if any are found.”

Mr. Barr also had a counselor from his own office, Lauren Willard, join the team as his liaison. She met with staff members and requested information about the investigation. She also issued directives and made proposals about next steps.

The case seemed to have two leaders who were not always in sync about who was in charge, and one of them sat in the office of the attorney general.

As debates among the team arose over how best to move forward against Google — primarily over whether to file a complaint that included both the search and advertising elements, or to focus on one line of attack — lawyers wondered who would have the last word. Mr. Barr stepped in this spring to clarify that Mr. Shores was in charge. Ms. Willard still had a hand in Google, but she stepped back from the case to focus on other assignments.

State attorneys general also disagreed on whether to bring a narrow case that could be filed during Mr. Trump’s presidency or to take more time to file a broader complaint. Attorney General Phil Weiser of Colorado, a Democrat who worked in the Obama Justice Department, drove the effort to bring a broad lawsuit, three people with knowledge of his plans said. But Attorney General Ken Paxton of Texas, a Republican, was in the advanced stages of a case focused on Google’s advertising technology and felt that it could be brought quickly.

A spokesman for Mr. Weiser declined to comment. A spokeswoman for Mr. Paxton did not immediately respond to a request for comment.

When the Justice Department this summer shared a potential approach to the case, several state attorneys general viewed it as too narrow for them to support, said one person who was familiar with the presentation.

Google’s lawyers hope to seize on Mr. Trump’s politicization of the matter should the Justice Department sue the company. Republican lawmakers like Senator Ted Cruz of Texas and Representative Jim Jordan of Ohio, the top Republican on the House Judiciary Committee, have accused platforms like YouTube and Facebook of censoring conservative voices.

Data from the companies undermine their claims, showing that Republicans are among the most visible figures on their services. And few figures have as much reach on social media as Mr. Trump himself.

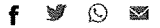
But the president had made the accusations personal. In 2018, he said that when searching for “Trump News,” Google’s search engine turned up only reports from news organizations that he said were biased against him.

“Google search results for ‘Trump News’ shows only the viewing/reporting of Fake News Media,” he said on Twitter. “In other words, they have it RIGGED, for me & others.” He also said Google had potentially violated the law.

restricting the spread of conservative views.



Justice Dept. Plans to File Antitrust Charges Against Google in Coming Weeks



administration, considered the evidence solid that Google's search and advertising businesses violated antitrust law. But some told associates that Mr. Barr was forcing them to come up with "half-baked" cases so he could unveil a complaint by Sept. 30, according to three people with knowledge of the discussions.

Some lawyers who felt they needed more time laid out their concerns in the memo and left the case; about 20 lawyers remain on the team. Department lawyers said that Mr. Shores planned to slim down the team this summer. Some people also left because the coronavirus pandemic had made it hard for them to dedicate time to the case. A lawyer in the department's civil division joined the remaining members of Mr. Shores's team.

The department approached litigators from at least three outside law firms to take on a potential case, according to two people with knowledge of the talks. But they all declined, citing conflicts of interest and other logistical obstacles created by the pandemic.

David McCabe contributed reporting.

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Suspicious cop spurs Hilton drug charge

By Ken Ritter

Associated Press

LAS VEGAS — Smoke wafting from a Cadillac Escalade on the Las Vegas Strip ignited Paris Hilton's latest legal troubles late Friday, when a motorcycle officer who suspected the smell was marijuana stopped the vehicle, and police say a bag of cocaine fell out of the 29-year-old socialite's purse.

It's the second time this year Hilton has been arrested on drug possession allegations, although authorities in South Africa dropped marijuana charges earlier this summer. In 2007, Hilton pleaded no contest to alcohol-related reckless driving and was sentenced to 45 days in jail.

This time, the hotel heiress was with her boyfriend, Las Vegas nightclub mogul Cy Waits, who manages a club inside the Wynn Las Vegas and was driving the black SUV that the officer stopped nearby at 11:22 p.m. Friday.

The officer "followed the vapor trail and the odor of marijuana to the Escalade," police Sgt. John Sheahan said.



Paris Hilton

As other police arrived and a crowd gathered on the busy neon-lit Strip, Hilton asked to go into the Wynn resort for privacy, Sheahan said.

"Miss Hilton pulled out a tube of lip balm," Sheahan said. "At the same time ... a bundle of cocaine in a plastic bag came out of her purse" view of police in the room.

Police officer Marcus Martin characterized the cocaine as a "small amount" or a package of the size usually associated with personal use. Police would not specify the weight of the cocaine or whether any marijuana was confiscated.

Hilton was arrested on suspicion of felony cocaine possession. If convicted of the low-grade felony, she would get probation, but any violation of that probation would be punishable by up to one to four years in Nevada state prison.

Waits, 34, was arrested on suspicion of misdemeanor driving under the influence of alcohol or drugs. Misdemeanors are punishable by up to a year in county jail. Police said he owned the 2009 Cadillac.

Hilton and Waits were booked into the Clark County jail, where Sheahan said Hilton was kept handcuffed on a booking room bench, fingerprinted, photographed and released without bail about 2:45 a.m. Saturday.

Waits' lawyer, Richard Schonfeld, said Waits posted \$2,000 bail Saturday. Waits was released Saturday afternoon.

While most famous for her tabloid exploits and reality TV series "The Simple Life," Hilton has appeared in the films "Bottoms Up," "The Hot Chick" and "House of Wax."

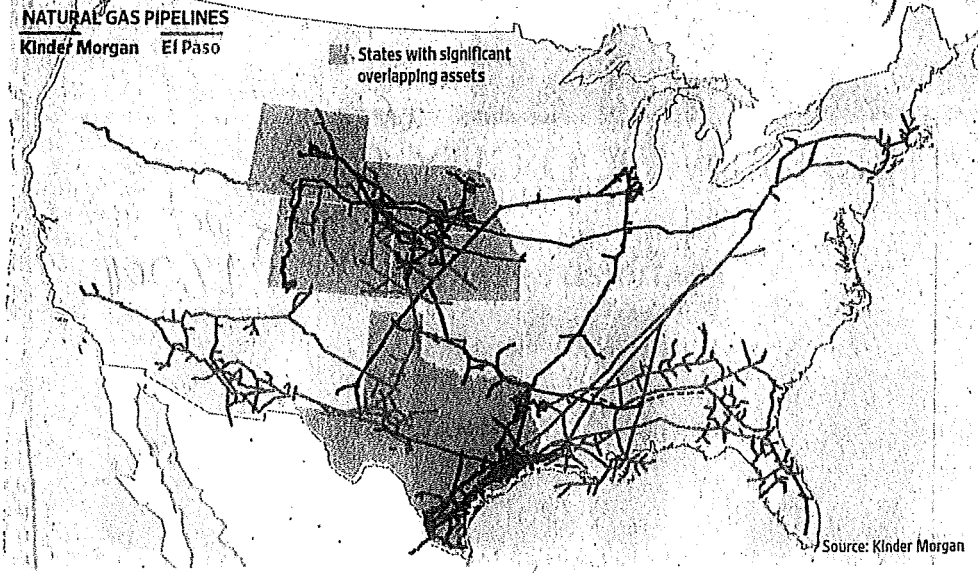
In the Pipeline

Kinder Morgan and El Paso will likely have to sell off overlapping assets to get the merger deal approved.

NATURAL GAS PIPELINES

Kinder Morgan El Paso

States with significant overlapping assets



Kinder-El Paso Merger To Face Antitrust Scrutiny

BY THOMAS CATAN
AND RYAN DEZEMBER

WASHINGTON—Kinder Morgan Inc.'s \$21.1 billion proposed acquisition of El Paso Corp. to create the U.S.'s largest natural gas pipeline network will face close and extended antitrust scrutiny, lawyers with experience in the field say.

To get the deal done, they say, the companies will likely have to sell significant assets, especially in regions where they overlap. But it is unlikely the deal would be blocked outright, the lawyers said.

"There's no question that, for the transaction to go through, they may have to give up some assets to address localized competitive concerns," said Mary Anne Mason, an antitrust attorney at Hogan Lovells who specializes in energy issues.

The deal, announced on Sunday, is set to be reviewed by the Federal Trade Commission, according to people familiar with the matter.

The FTC declined to comment.

The FTC has intervened in a previous El Paso merger. In 2001, the agency forced El Paso Energy Corp.—as the company was then known—and Coastal Corp. to divest their interests in 11 natural gas pipeline systems spanning some 2,500 miles before allowing them to complete

their deal.

The deal between Kinder and El Paso would create a company that would control 67,000 miles of natural-gas pipelines linking nearly every major production region with markets.

Kinder Chief Executive Richard Kinder said in an interview on Sunday that the two companies' networks have little overlap. He said his company would do "whatever it takes" to get the merger past regulators, including shedding assets if need be. He expects the deal to close next spring.

The area most likely to pose antitrust concern is in the center of the U.S., in a stretch between the Rocky Mountains and the Midwest. The two companies' pipeline systems are most tangled in eastern Colorado, western Kansas, Nebraska and Wyoming, a booming area for drilling where producers target the prolific Niobrara Shale formation.

"The one area where we do have some overlap is in the Rockies ... and we'll just have to work with the regulators to see what we need to do in that respect," Mr. Kinder told company employees in a speech Monday, adding that he didn't expect the issue to derail the deal.

"They're signaling that they're willing to solve those issues," said Andrew Gavil, antitrust law professor at Howard University. "But the question is

whether or not those divestitures that might be proposed at a local level will solve all of the competitive problems."

In addition to ensuring that competition is robust in local markets, the FTC is also likely to look at how much control the combined company would have nationally, antitrust lawyers said.

One factor working in the companies' favor is that the pipeline network is regulated by the Federal Energy Regulatory Commission. The two companies could argue that the combined company won't be able to raise rates or shut down competing pipelines easily because it would need approval first.

FTC lawyers are expected to begin their investigation by asking major natural gas customers, such as power stations, whether they have alternate supply routes if the two companies are combined, according to antitrust lawyers.

The companies, meanwhile, will likely argue that the merger will cut costs by eliminating duplication in pipelines and other assets, antitrust lawyers say. The savings could be passed on to consumers.

FTC investigators, however, are likely to seek evidence that the company will have an economic incentive to pass those savings on to consumers, they added.

Temporary fix is found for controversial local mural

BY JULIAN ELLISON
Assistant Features Editor

Controversy has swirled around The Spot Tavern of downtown Lafayette but is now finding a half-hearted, to a clever cover-up.

What began as a petition regarding two pieces of art on a mural on the side of the bar quickly became the talk of the town, resulting in a crackdown from the Lafayette police for graffiti.

According to the Lafayette police, long, scrawls complained that the content of a mural in the 400 block of South Fourth Street was offensive. The Spot is located at 409 South Fourth Street in Lafayette.

"It's definitely unethical," said Zech Baumhauer, proprietor for The

Spot Tavern. "It started as something, which was the Solomon of Lafayette, forming a petition because she thought it was offensive to kids because it is across from the Bessie Coleman Center."

Lafayette Police Chief Patrick Flannery said in an Indianapolis Star article that the complaint resulting in a citation was not from the Solomon. Solomon pleaded guilty earlier this month to a misdemeanor charge of failure to report a dead body.

Baumhauer said the wall isn't graffiti, but instead is a mural. The Spot Tavern commissioned artists out of Indianapolis to paint the mural over the summer.

"We knew that it could be offensive, but we were really surprised of how long it took anyone to say any-

thing," said Baumhauer. "It has been there since the middle of summer and we all just thought that it was cool."

Solomon played the advocate for local, different artists through her efforts for the pieces in the mural to be removed.

"The kids must walk past a 6-foot penis and a 9-foot naked woman tied to a deadwood tree on their way to school and when they play at the playground this is what the kids must look at if they do not want the school machines in their eyes," said Solomon in an online petition. "This adult artwork needs covered up or removed."

After reviewing the issues, the city's legal department found that the mural didn't meet the requirement for

As of Monday, the petition had a total of 18 signatures. After joining press traction from the local news outlet, Paul Baldwin, the owner of The Spot Tavern, knew Baumhauer didn't have to edit it but it was simply a compromise in efforts to make everyone happy.

"Once the penis head deteriorates, we will probably just leave it as it is," said Baumhauer. "We talked about changing it but I don't want to and I know the artists really well and they deal with this stuff all of the time. So I don't think it is necessary. People are just going to have to grow up. When Paul set down to discuss it with the city, they didn't want to get into what exactly art is and what isn't. This is just a compromise to please everyone."

After reviewing the issues, the city's legal department found that the mural didn't meet the requirement for

graffiti under the ordinance violation, Flannery said in an article by the city star, so the police won't be involved further.

Baumhauer said that The Spot Tavern didn't have to edit it but it was simply a compromise in efforts to make everyone happy.

"Once the penis head deteriorates, we will probably just leave it as it is," said Baumhauer. "We talked about changing it but I don't want to and I know the artists really well and they deal with this stuff all of the time. So I don't think it is necessary. People are just going to have to grow up. When Paul set down to discuss it with the city, they didn't want to get into what exactly art is and what isn't. This is just a compromise to please everyone."



This mural, featured on the side of The Spot Tavern 409 S. Fourth St., Lafayette, is at the center of a controversy regarding the images depicted in the art.
Alex Kumar | Staff Photographer

Nation's top court to hear Indy sewer case

Homeowners who paid in
full say they were penalized

By Jon Murray and Bill McCleery

jon.murray@indystar.com

The nation's highest court agreed Monday to wade into a 6-year-old fight over Indianapolis sewer hook-ups that has left some homeowners feeling punished for paying fees promptly.

They shelled out more than \$9,000 in a single payment for new sewers in the Northwest side's Northern Estates neighborhood — and then watched, slack-jawed, just a few years later as officials forgave the debts owed by residents who had opted for installment plans and refunded nothing to those who had paid in full.

The changes came as the city revamped its sewer expansion program to slash the cost of converting neighborhoods on septic tanks to sewers.

The question for the U.S. Supreme Court: Did the city violate the U.S. Constitution's when it treated the two groups of Northern Estates residents differently?

The answer might seem obvious, but a legal expert said the case is tricky because courts often defer to such decisions by local governments. Taxpayer-rights groups are watching the Indianapolis case closely.

"We do have examples where some people get treated differently than other people," such as in tax amnesty programs, said David Orentlicher, a professor at the Indiana University School of Law-Indianapolis. "The question is, if you're going to say this is unacceptable, why is this (instance) unacceptable when the other ones are acceptable?"

He added: "The court is going to have to draw some lines here."

+ INSIDE: The Supreme Court agrees to rule on the health-care overhaul. A3

ISP officer loses whistleblower appeal

Dave Stafford November 2, 2016 KEYWORDS COURT OPINIONS, COURTS, GOVERNMENT, INDIANA COURT OF APPEALS, RETALIATION, LABOR AND EMPLOYMENT, POLICE

PRINT

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State workers alleging retaliation for whistleblower activities must first exhaust all administrative remedies before suing, the Indiana Court of Appeals held Wednesday, affirming a trial court ruling against a 27-year Indiana State Police officer.

Ronald Shoemaker had climbed the ISP ranks to major, in part on the basis of his whistleblower report in 2008 that alleged problems such as ghost employment, overtime, and possible misrepresentations to court officers by law enforcement officers in the Drug Enforcement Section of the Criminal Investigation Division.

But after Gov. Mike Pence appointed Doug Carter as ISP superintendent in 2013, Carter demoted Shoemaker to sergeant and reassigned three officers former Superintendent Paul Whitesell had removed from the CID after Shoemaker's whistleblower report.

Shoemaker appealed to the State Employee Appeals Commission more than nine months after his demotion, which resulted in a reduction in pay and in his last merit rank. Appeals must be filed within 30 days, but Shoemaker argued the statute of limitations should have been equitably tolled due to fraudulent concealment.

In July 2014, an administrative law judge entered the commission's final order dismissing Shoemaker's appeal, finding it was untimely filed and that he could seek judicial review within 30 days. Instead of doing that, Shoemaker filed the instant breach of contract action based on ISP's alleged violation of the Whistleblower Law, I.C. 4-15-10-4.

Writing for the panel, Judge Robert Altice noted caselaw rejecting attempts to raise a common law claim for wrongful discharge under the whistleblower law. The also panel rejected Shoemaker's arguments that due to futility, inadequacy of process and judicial estoppel, he should be excused from following the administrative procedure set out in the act.

Shoemaker cited *Whinery v. Roberson*, 819 N.E.2d 465 (Ind. Ct. App. 2006), in which Department of Natural Resources employees were permitted to directly sue the State Personnel Department in a class-action wage dispute.

"We find *Whinery* distinguishable. The statute at issue in this case -- the WBL -- does not address anything along the lines of remuneration or tenure. More importantly, the WBL provides an express remedy for an alleged violation of the statute through an SEAC administrative appeal," Altice wrote. "We do not agree with Shoemaker that *Whinery* provides him with the right to avoid the administrative steps and turn directly to the courts by filing a breach of contract claim based on an alleged violation of the WBL.

"We hold that a state employee seeking redress for an employment action allegedly taken in retaliation for whistleblowing activity must proceed with, and only with, the remedy expressly provided in the WBL. Shoemaker began his administrative appeal with the SEAC but did not seek judicial review of the ALJ's determination that the administrative appeal was untimely filed. Accordingly, the trial court properly granted ISP's motion for summary judgment in this separate breach of contract action filed by Shoemaker."

The case is *Ron Shoemaker v. Indiana State Police Department*, 49A02-1604-PL-879.

City should do better job of clearing sidewalks

After reading the article in the paper about the police department issuing warnings to students for not removing snow and ice, I became pretty frustrated. Rick Walker, the code enforcement supervisor, must live in West Lafayette, because apparently he hasn't driven across any of the bridges over the Wabash River and seen the ice and snow covering the sidewalks there. He must not walk around the dorm areas and see the substantial amounts of ice on the sidewalks there. I mean I can understand when it comes time to make bank, the police reach out to college youth and all their money. I do not understand, however, that the Code Enforcement Super, Rick Walker can honestly not care about people living in Lafayette who walk and bike across that bridge every day. I personally fear for my life every time I ride my bike down that slippery-slope bridge every night. I never know when Rick Walker will be barreling down behind me, seeking to take me out.

Anthony Wurl
Sophomore in the College of
Engineering

Chocolate giants tied to price-fixing

By CHARMMAINE NORONHA
The Associated Press

TORONTO — Newly released court documents allege that the Canadian divisions of Nestle, Mars, Hershey and others teamed up in a price-fixing scheme in the multibillion-dollar Canadian chocolate bar market.

Court documents in the case, unsealed by an Ottawa judge Friday, allege that senior executives at Hershey Canada Inc., Mars Canada Inc. and Nestle Canada Inc. met secretly in coffee shops, restaurants and at industry conventions to set prices.

The allegations are contained in two search warrants granted last month to Canada's federal Competition Bureau as part of an investigation into the chocolate industry. The warrants authorized officials to seize thousands of corporate documents and computer files from Hershey, Mars, Nestle and TFWA Ltd., a major food distributor. No charges have been filed.

The documents allege the chief executive of Nestle Canada handed envelopes stuffed with pricing information to a competitor, instructing the person not to be seen picking up the materials from his office. TFWA's

president also allegedly sent regular updates to participants.

Representatives of Canada's Hershey, Cadbury and Nestle confirmed to The Associated Press on Nov. 28 that the companies were served papers and were cooperating with the investigation. Officials from the chocolate companies could not be reached for comment Saturday.

The alleged collusion is reported to have begun in February 2002, and continued until a few weeks ago.

In the United States, Nestle USA and Mars Inc. said this week they will cooperate with a separate Justice Department inquiry into the pricing.

practices of several chocolate makers in the U.S.

Alice Nathanson, a spokeswoman for Mars Inc., said the company has been contacted by the department's antitrust division "regarding their inquiry concerning pricing practices in the U.S." She said the company will cooperate if the department initiates a formal investigation.

Mars makes Snickers, Twix, M&M's and other candies, as well as pet food.

Laurie McDonald, a spokeswoman for Nestle USA, said the company "is aware of a preliminary investigation" and will cooperate fully.

Court rejects dorm patrols

Hallways are private, ruling says

BY SHAWN VESTAL

Staff writer

Washington State University's police officers have no legal authority to conduct random patrols of dormitory hallways, the state Court of Appeals has ruled - arguing that, constitutionally, a dorm hallway is like the inside of a private home.

Now WSU and the state's other universities must consider what to do in light of the June 26 ruling, because they all conduct regular patrols of dorm hallways. WSU went so far as to rewrite its regulations to allow the patrols after it lost the case in Whitman County Superior Court in spring 2006 - which defense attorney Tim Esser argues was an attempt to circumvent the Constitution.

"You would think that an institution of higher learning would be dedicated to the rule of law," Esser said. "For WSU to think it can rewrite some regulations to get around the Fourth Amendment

is bizarre."

WSU will review the ruling and its policies before fall classes begin. The university said in a prepared statement that its top priority is students' safety; the statement notes that the court's ruling mentions the WSU revision but doesn't indicate how it might be affected.

"That being said, we have been in the process of reviewing our policies regarding the police presence in the residence halls and will continue to do so in the light of this ruling," according to the WSU statement.

Whitman County prosecutor Byron Bedirian, who argued the state's side of the case, did not return a call seeking comment.

The case at the center of the ruling was one of two thrown out by Whitman County Superior Court Judge David Frazier on the basis that a campus police officer had overstepped his bounds by roaming the hallways and listening and sniffing at students' doors.

The officer, Matthew Kuhrt, was investigating a burglary in the east tower of the Stephenson dorm complex in the early morning of Feb. 11, 2006. Searching the dorm floors, he stopped at a sixth-floor door when he heard music and voices.

He first tried what the appeals court called a "ruse" to draw the suspects into the hall - covering the peephole, knocking and say-

ing, "Let me in, this is Mart." He eventually identified himself as an officer, and a student, Jacob Houvener, opened the door. The stolen property - a laptop and a guitar - were found in the room, and Houvener was charged with burglary.

Frazier dismissed the charges, ruling that Houvener had a reasonable expectation of privacy in the hallways of his residence hall. He noted that students on a dorm floor share bathroom facilities and other common areas, and that public access is limited to residents and guests.

WSU halted its random dorm patrols after those rulings, at least long enough to rewrite its regulations. Officials said access to the dorm hallways by police was important for student safety and criminal investigations, and the patrols have continued.

The appeals court agreed with Frazier's "thoughtful" ruling, arguing that "the residents of the sixth-floor share a study area and a bathroom, and they are viewed as a living group independent of residents of other floors. ... Because of the intimate nature of activities in the hallway - most remarkably, towel-clad residents navigating the hallway to and from the shared shower facilities - it is reasonable to hold that this area is protected."

The ruling by the three-judge panel was unanimous. However, Appellate Judge Stephen M. Brown wrote a concurring opi-

nion in which he disagreed that campus police lack the legal authority to enter dorm hallways but agreed that the officer in this case overstepped by eavesdropping and ordering Houvener to open the door without a warrant.

But the main ruling defined the issue more broadly - not only did Kuhrt overstep in the Houvener case, but students in his situation have a constitutional expectation of privacy in dorm hallways.

"The sixth-floor student residents have a right to privacy in the hallway they share," the court wrote.

The officer "had no greater right, absent a warrant or consent, than a private citizen to act in the manner that they did."

It's not clear whether WSU or the prosecutor's office would seek a review by the state Supreme Court or how the ruling might play out at the state's colleges. Campus police at WSU, the University of Washington, and Central and Eastern Washington universities all have conducted such dorm patrols, officials have said.

Esser said that if colleges proceed with the patrols, they risk having important criminal cases thrown out of court.

"If you are a resident at WSU," he said, "that hallway is part of your home."

Red-light camera data kept from cops

King County prosecutor seeking to modify 2005 law

Associated Press

SEATTLE - Police across the nation are using footage from red light cameras to help them solve crimes, but not in Washington.

Washington state law prohibits police from using images from the cameras for anything other than traffic enforcement.

The King County prosecutor wants the Legislature to reconsider that law, in case the cameras could provide vital clues in some unsolved killings.

Washington is among the few states that bar police from using images from red-light cameras in criminal investigations, the Seattle Times reported Sunday.

The way the 2005 law is tail-

ored, even if a homicide, abduction or any other serious crime occurs within full view of the cameras, the images cannot be used by police, King County Senior Deputy Prosecutor Don Raz said.

The tight restriction was written into the law to ease concerns about the bill's author, Sen. Mary Margaret Haugen, D-Camano Island.

"Everybody is always afraid of Big Brother," she said. "You always have that. People are afraid of it, and I understand that."

In other states, footage from red-light cameras has been used to solve a variety of crimes.

In Polk County, Fla., police arrested suspected cattle rustlers last year after their pickup was photographed running a red light by a camera, according to a report in a Lakeland, Fla., newspaper.

A red-light camera in Tempe, Ariz., captured images of a 21-year-old college student being dragged to her death when a drive-by purse snatcher caught the student's hands in the purse strings. Police traced the car to its owner through the camera footage, according to published reports.

King County Prosecutor Dan Satterberg believes it's time for the Legislature to revisit the law and allow footage to be used for non-traffic investigations.

There should not be a bar to criminal investigations looking for the movement of cars on public streets," Satterberg wrote in an email. "We will work to fix this problem for police investigators in the next legislative session."

While Haugen said she has never heard discussions about allowing law enforcement to access red light footage to solve crimes, she agrees it should be allowed.

"For police purposes, there ought to be a way for them to get the information and go through court. Maybe it's something that should be looked at this session," Haugen said.

Doug Honig, spokesman for

the American Civil Liberties Union of Washington, disagrees. He fears that changing the law to allow use of the images for criminal investigations could lead to even more intrusive use of the photos, calling it "a classic example of mission creep."

Seattle police Assistant Chief Jim Pugel said he first became aware of the limitations of Washington's red-light-camera law after the Oct. 31, 2009, slaying of police Officer Timothy Brenton. The gunman who killed Brenton and wounded his partner in their patrol car opened fire from another vehicle that then sped off. Detectives wanted to review red-light-camera footage with the hope of seeing the fleeing vehicle. However, police found a suspect without the footage.

Couple booted from flight, dispute over T-shirt

■ Miami

A couple returning home from a Costa Rican vacation was ejected from an American Airlines flight because the man was wearing a T-shirt depicting a bare breast.

Oscar Arela and his girlfriend were removed from Flight 952 on Saturday after he refused to change the shirt or turn it inside out at Miami International Airport.

The couple, who were making a connecting flight, said nobody on their earlier flight objected to the shirt and claimed the airline violated their constitutional

"It's a picture of a man and woman, and the woman's breast is showing," said his girlfriend, Tala Tow. "The flight attendant basically walked up to us and yelled, 'You have to take off that shirt right now.'"

American spokesman Tim Wagner said Sunday that crew members acted properly, and he said the shirt was more graphic than the couple described. The airline gave them a refund, he said.

WARRANTLESS SEARCH UPHELD

Locked glove box could hold gun, court rules

Associated Press

The Indiana Court of Appeals ruled Tuesday that police making a traffic stop have the right to search a car's glove box for weapons, even if it is locked.

The 2-1 decision upheld a Fort Wayne man's 2009 murder conviction after a gun seized during a traffic stop search was found to have been used in a killing. Anthony Parish is serving an 86-year prison sentence for murder, robbery and carrying a handgun without a license.

Parish initially was released with a minor citation after Fort Wayne police officers stopped him for not using his turn signal on Sept. 3, 2008, and seized a handgun, marijuana and scales they found in the locked glove box of his car.

Ballistics tests later linked the gun to the killing nine days earlier of Antoine Woods, who had been shot to death in the front seat of his car near a bar.

Parish argued that the warrantless search that turned up the gun in his car was unconstitutional because the weapon posed no threat to officers while it was in the locked glove box, and he was handcuffed outside the car.

But the three-judge panel noted that police were on high alert and that Parish was armed and a suspect in several shootings.

The decision said that federal courts have found such searches by officers concerned about their safety

"We think it goes without saying that a glove box is a place where a weapon could easily be placed or hidden," Judge Paul D. Matthias wrote in the 15-page ruling. The key is whether it is accessible, and the ruling noted that suspects could get guns out of glove boxes when police allow them to return to the car.

"Although we may question why the police allowed Parish to leave the stop with only a minor traffic citation despite discovery of marijuana, scales and a handgun in the locked glove box, this, does not change our ultimate conclusion that the protective search of that glove box was permissible

S&P Accuses U.S. of Suing to Retaliate for Ratings Drop

By JEANNETTE NEUMANN

Standard & Poor's Ratings Services escalated its legal battle with the U.S. Justice Department, accusing it of filing its \$5 billion lawsuit against S&P in "retaliation" for the company's downgrade of America's debt in 2011.

S&P's defense, made in a court filing on Tuesday, shows that the world's largest credit-rating company is digging in as it fights the Justice Department's Feb. 4 lawsuit, which accused S&P of misrepresenting its rating process in the years before the financial crisis.

The Justice Department said that federally insured banks and credit unions bought debt deals rated highly by S&P because they thought such top-notch ratings indicated there was less risk than lower-rated securities. But behind the scenes, the government alleged, S&P was assigning

S&P Accuses U.S. of Suing to Retaliate for Ratings Drop

Continued from Page One

high ratings to deals in order to please bankers and other clients. S&P has said such claims are "meritless."

S&P has previously indicated that it believes the U.S. lawsuit was politically motivated, but the language in Tuesday's court filing is its strongest to date.

The Justice Department "commenced this action in retaliation for [S&P's] exercise... with re-

spect to the creditworthiness of the United States of America," documents filed Tuesday in the U.S. District Court for the Central District of California.

A Justice Department spokeswoman said in a statement that "the allegation is preposterous." S&P referred questions back to its Tuesday response to the U.S. lawsuit.

The civil complaint against S&P is a high-stakes lawsuit for the Justice Department, which seeks to demonstrate that it is holding institutions accountable for the financial crisis.

The stakes are even higher for S&P, a unit of McGraw Hill Financial Inc. The government has said it is suing S&P to recover \$5 billion in losses allegedly suffered by federally insured banks and credit unions that bought complex mortgage-backed securities that S&P rated.

S&P has said the government hasn't laid out in enough detail how it arrived at that \$5 billion figure. That amount is roughly equal to six years of operating profit for the rating company.

The language of its Tuesday filing indicates that the rating company is turning to the political payback argument as a key defense.

S&P stripped the U.S. of its triple-A rating in August 2011, the first downgrade of the country by a rating company in decades and a move that drew attention to heightened political infighting that S&P said had hamstringing Capitol Hill's ability to address a growing debt load.

The move sent capital markets into turmoil. The Dow Jones Industrial Average closed out July 2011 at 12,143 just days before the downgrade, but Oct. 4, it had slid more than 14%, before the stock market started to recover.

S&P said Tuesday that rating decisions are "options that are protected by the U.S. Constitution."

tion

for S&P and other credit-rating companies, S&P said the Justice Department's lawsuit was "unconstitutional" because it was retaliatory.

United States Constitution and the retaliation, causing and embodied in the commencement of this impermissibly selective, punitive and meritless litigation, is unconstitutional. The credit-rating company said in Tuesday's filing.

The U.S. is suing to recover \$5 billion in alleged losses by federally insured banks and credit unions that bought complex securities S&P rated.

day's filings. S&P argued in the filings that the Justice Department singled it out because it was the only rating company to strip the U.S. of its triple-A rating.

At a news conference on Feb. 5, the day after the Justice Department filed the lawsuit, then-Acting Associate Attorney General Tony West said there was no connection between the

U.S. downgrade and the lawsuit.

S&P "did what they did, assessing what the creditworthiness was of this nation," he said at the time. "We looked at the facts, the law, and the investigation that these great prosecutors and civil lawyers put together and made a determination that the filing of these lawsuits was appropriate."

Mr. West noted that the investigation into S&P started in November 2008. Mr. West was recently confirmed as associate

time of defense doesn't hold water.

S&P has said in recent court filings that it wants the Justice Department to hand over documents detailing its reasons for filing a lawsuit against the company, and not against its competitors, as part of the discovery process.

"It's either fraud or it isn't," said Samuel Buel, a former federal prosecutor who now is a law professor at Duke University. "Why [the Justice Department] charged fraud doesn't go to the issue of whether there was fraud."

Mr. Buel and other lawyers also said that proving retaliation will be difficult for S&P. It will be an uphill battle to prove that there was direct communication between different government agencies and to indicate any such goal, as of the alleged retaliation by the government, the lawyers said.

The retaliation argument is one of 19 defenses that S&P laid out in Tuesday's court filing. Another defense S&P wasn't alone in underestimating the magnitude of the financial crisis. The credit-rating company said Federal Reserve Chairman Ben Bernanke and then-

tary Henry Paulson also didn't anticipate the depth of the crisis at the time.

S&P said in Tuesday's filing that when Mr. Bernanke "stated in March 2007 that the central scenario that housing will stabilize sometime during the middle of the year remains intact, his views (and those of other Governors) were similar to those of S&P Ratings."

It isn't clear if S&P will seek to depose Mr. Bernanke. In August, the Justice Department asked a federal appeals court to throw out a ruling directing Mr. Bernanke to testify under oath about the government's 2008 decision to bail out American International Group Inc.

In previous court filings, S&P focused on the Justice Department's allegations that the rating company was fraudulently misrepresenting its rating process as independent and objective.

S&P's lawyers have argued that while its ratings are independent, statements about the objectivity of the rating process are "mere puffery" and not intended to be taken at face value by investors or debt issuers and cannot form the basis of a fraud

Open up: Public's business needs a spotlight

It's often been said that the easiest form of government is a dictatorship.

A dictator doesn't have to worry about nettlesome open meetings, or the inconvenience of handing over his records to citizens for review. The dictator doesn't have to worry about conducting those sometimes-raucous public hearings.

That makes things oh so easy. And oh so wrong. Dictators operate secretly, out of view of the public and the media because that's the only way they can stay in power.

Our form of open government may not be easy or as ruthlessly efficient as a dictatorship. But it's kept us free and it's kept us proud.

I think of that as I look over a list of proposed legislation in front of me, most of which is designed to ensure government bodies continue to operate in ways that are wholly accountable to the people they serve. Chief among them is a bill that would close a

loophole that allows public bodies to deliberate in private what should be discussed in public. Instead of an open meeting with the required quorum present, some bodies meet in "serial meetings," a series of non-quorum meetings conducted behind closed doors.

Technically, the decision-makers do not violate our open door law because, they can claim, they didn't conduct an official meeting (one in which a full quorum was present).

Convenient and easier for them, but like a dictatorship, it's just plain wrong. State Sen. Bev Gard, a Greenfield Republican, has sponsored legislation in the Senate that would eliminate such practices. Last year the bill passed the Senate on a 48-2 vote, an impressive support of openness.

But the legislation didn't get a hearing in the House.

Things are looking up this year. Last week the House Government and Regulatory Reform Committee approved an anti-serial meetings bill by an 8-1 vote. The House legislation was brought up by Rep. Russell Stilwell, a Boonville Democrat. It's co-authored by Rep. Jim Buck, R-Kokomo, House Speaker Pat Bauer, D-South Bend, and Rep. Dale Grubb, D-Covington.

This is the kind of legislation that you'd think would have no significant opposition. But there's always somebody who insists they just can't do the public's business without closing the door.

Tell that to all of those conscientious public servants who find a way to make decisions in full accord not only with the letter of the law, but the spirit of the law as well.

Among other open-government items on the list before me is a proposal to increase the budget for Indiana's public access counselor. That office was established in 1998. It's a small office with just a couple of staff. Yet it has a big job, responding to hundreds of questions, and requests for rulings on whether an official document should be made public, or whether some group should be meeting in public.

You might think that most of those questions and requests come from the media. But it's the public that makes the most use of the public access counselor. The next largest user? Public officials themselves, seeking clarifications of the law. The media come in third.

The office is hard-pressed to keep up with demands for its services. A tiny budget increase would provide a big boost to the cause of open government. This should be a no-brainer for lawmakers.

...if you happen to see a lawmaker during the next couple of weeks, let them know you know there are measures afoot to improve government operations in Indiana, and that you are expecting lawmakers to provide their full support.

Thanks for reading The Indianapolis Star, and by the way, go Colts!

Arrests raise legal questions

BY JIM CAMDEN

Staff writer

The arrest of 17 protesters Wednesday poses a series of legal questions that may play out in local courts in coming months, lawyers said Thursday. Especially: Can the protesters be convicted of trespassing in one of the city's most public places - Riverfront Park - during Independence Day festivities?

Aaron Caplan, a staff attorney for the American Civil Liberties Union of Washington State, said trespassing is usually a charge used for private property. Although it is possible to trespass on public property, in most cases police would have to prove they complied with the protesters' due process, following all rules that govern the use of the park and applying them fairly.

"If it's just a police officer deciding who gets to remain, who gets to stay, that's a due process problem," said Caplan, who added he didn't know any of the specifics of the Riverfront Park case. "There are not a lot of cases about orders to leave a park."

The protesters are also charged with failure to disperse, which presents another legal question because other people in the area were not told to leave.

"Usually with an order to disperse, you close down the park, everybody leaves ... to cool down the whole situation," Caplan said. Telling just the protesters to leave sets up a situation of the police picking and choosing, he said.

City Attorney Jim Craven said the city trespassing ordinance has a key phrase that says trespassing can occur if a person "remains unlawfully" in a place, which would apply to the protesters if they refused an order to disperse. Although that ordinance talks about the "premises of another," that can be public property as well as private, Craven said.

Rules and regulations governing conduct in the park are set by the Park Board, Craven said. There may also be provisions that govern area activities in the lease obtained by Clear Channel Com-

munications, which had planned some entertainment on a stage near the protesters.

Although he hasn't studied all of those rules that might come into play with these arrests, "I've got to believe there's a bunch of them," Craven said. "We'll be looking at all of these things."

The city has a pending case involving a protest in a public place, said Breann Beggs, of the Center for Justice. It concerns a protest in a National Guard recruiting office, but the underlying issue is the same, he said: "In a public space, can they just tell you to leave?"

Beggs said he didn't know anything about the specifics of Wednesday's arrests and didn't know if the center will be involved in the case. The group's main interest right now is "for free speech venues to be open."

Cases involving protests and the arrest of demonstrators have gone all the way to the state and U.S. Supreme Courts.

"If it were black and white, we wouldn't have all these cases," Craven said.

Google, Microsoft Spar on Antitrust

By THOMAS CATAN
AND JESSICA E. VASCILLARO

Seeking \$335,000 in unpaid advertising bills, Google Inc. filed suit against a small Internet site in Ohio in October. The complaint was so routine it was just two sentences long.

Google never expected the response it got. Last month, the small Internet site countered with a 24-page antitrust lawsuit against Google, accusing the search-engine giant of a litany of monopolistic abuses.

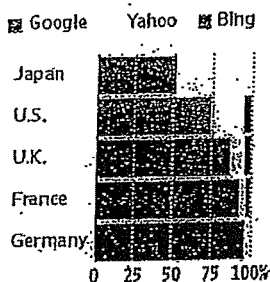
But what really caught Google's attention was the Internet site's legal counsel: It was Charles "Rick" Rule, long the chief outside counsel on competition issues for Google archival Microsoft Corp.

"My reaction was, 'What the heck is this?'" says Mark Sheriff, an Ohio attorney who represents Google, speaking of the involvement of Mr. Rule and his powerhouse law firm, Cadwalader, Wickersham & Taft LLP, whose antitrust practice is based in Washington, D.C. "It's not every day that a big D.C. law firm like Cadwalader gets involved in a collections lawsuit in Ohio."

Mr. Rule also represents another small Internet firm that has brought an antitrust suit against Google. Meanwhile, in Europe, following complaints about Google that came from, among others, a Microsoft subsidiary in Germany, the European Commission has opened a preliminary antitrust inquiry into the search giant.

Global Clout

Search-advertising market share for the fourth quarter 2009



Source: Efficient Frontier

Under Scrutiny

2007: Federal Trade Commission reviews Google's acquisition of ad company DoubleClick; clears the deal.

DoubleClick

YAHOO!

2008: Department of Justice says it would sue to block Google's search partnership with Yahoo. Companies abandon deal.

2009: DOJ opens an investigation into Google's settlement with authors and publishers that would allow Google to distribute digital books. Investigation is ongoing.

FTC opens inquiry into overlapping directors on Google and Apple boards. Google CEO Eric Schmidt resigns Apple board.



admob

FTC reviews Google's attempt to acquire mobile ad company, AdMob. Review is ongoing.

2010: European Commission opens a preliminary antitrust inquiry into the search giant, following three complaints from European Web sites.

Total R&D expenditures in billions



Source: Center for Responsive Politics

Justices throw out black man's death sentence from white jurors

The Supreme Court ruled 7 to 1 that prosecutors improperly kept African Americans off the jury that convicted Timothy Tyrone Foster of killing a white woman.

By Robert Barnes

New details emerge about Russian spies

Members of ring busted last year passed along information, cash while leading ordinary lives

By Douglas Birch and Pete Vest

Associated Press

WASHINGTON — Unaware the FBI has her under surveillance, Russian spy Anna Chapman buys leggings and tries on hats at Macy's. A few months later, cameras watch her in a New York coffee shop, where she meets with someone she thinks is her Russian handler. It's really an undercover FBI agent.

Tapes, documents and photos released Monday describe and sometimes show how Chapman, now a celebrity back in Russia, and other members of a ring of sleeper spies passed instructions, information and cash. The ring was shut down in June 2010 after a decade-long counterintelligence probe that led to the biggest spy swap since the Cold War. The FBI released the material to The Associated Press in response.

The investigation

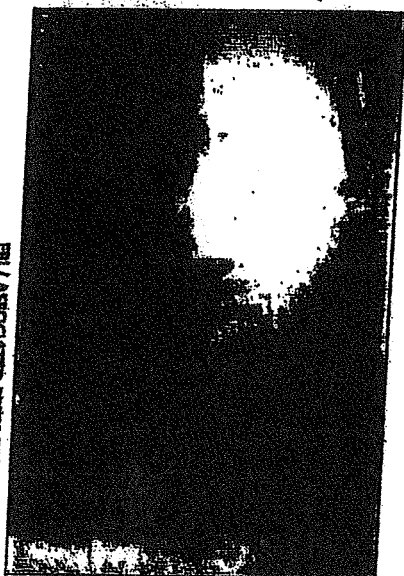
tion was code-named "Ghost Stories," the release of documents on Halloween a coincidence.

Although the deep-cover agents didn't steal any secrets, an FBI counterintelligence official told the AP they were making progress.

They "were getting very close to penetrating U.S. policymaking circles" through a friend of a U.S. Cabinet official, said C. Frank Pizzuzi, FBI assistant director for counterintelligence.

He did not name names, but Russian spy Cynthia Murphy, Montclair, N.J., provided financial planning for venture capitalist Alan Patricof, a political fundraiser with close ties to former President Bill Clinton and his wife, Secretary of State Hillary Rodham Clinton.

The lineup in cracking the case, apparently, was Col. Alexander Poteyev, a highly placed



FBI / ASSOCIATED PRESS 2010 FILE PHOTO

U.S. mole in Russian foreign intelligence, who betrayed the spy ring even as he ran it.

He abruptly fled Moscow days before the FBI rolled up the operation. Poteyev's role emerged when a Russian military court convicted him in absentia for high treason and desertion.

The materials released Monday show Chapman and the other members of Moscow's 11-member ring of sleeper spies—deep-cover agents assigned to blend into American society—shop-

FBI surveillance footage shows Anna Chapman in New York. She was among Russians arrested for spying last year in the U.S. and has since become a celebrity back in Russia.

ping in New York City, sightseeing, hanging around coffee shops or apparently just out for a stroll. While she shops at one department store, a Russian diplomat waits outside.

The FBI says seemingly mundane pursuits often served as cover for the exchange of encrypted messages or the transfer of cash, all with the long-range goal of penetrating the highest levels of U.S. policymaking.

What appears to be a family photo of one spy, Donald Heath-

field, Cambridge, Mass., shows him graduating from Harvard's John F. Kennedy School of Government in 2000. The school later revoked the degree.

Other spies are seen in video and photos meeting on Brooklyn street corners and at a pay phone in Queens.

Called "illegals" because they took civilian jobs instead of operating with diplomatic immunity inside Russian embassies and military missions, the spies settled into quiet lives in middle-class neighborhoods and set about trying to network their way into the worlds of finance, technology and government.

The operation's code name, Ghost Stories, stems from a number of the spies taking the identities of people who have died.

The U.S. traded the 10 spies arrested by federal agents for four Russians imprisoned for spying for the West.

Since her return to Moscow, Chapman has become a model corporate spokeswoman and television personality.

THE WALL STREET JOURNAL.

◆ AIRLINE INDUSTRY

**EU Fines 11 Carriers
\$1.1 Billion in Cartel Case**

The European Union's antitrust body on Tuesday fined 11 airlines a total of €799 million (\$1.1 billion) for forming a global cartel to fix air-freight tariffs, mainly fuel surcharges, ending an investigation that dragged on for years with the fourth-largest fine in a cartel case.

Air France-KLM SA received the largest fine with €340 million, including the three different

carriers that are now part of the group—Air France, KLM and Netherlands-based Martinair. British Airways PLC was fined €104 million.

Many countries around the world, from South Africa to New Zealand, have been investigating issues related to price-fixing in air cargo. In the U.S., total fines of more than \$1.6 billion were levied against airlines that acknowledged fixing fuel surcharges, and 18 airlines have been charged.

According to the European Commission, the airlines colluded on some surcharges between December 1999 and February 2006.

Trump met with Apple CEO Cook over tariffs

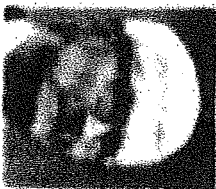
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Tim Cook

President Donald Trump and Apple CEO Tim Cook sat down recently to discuss how U.S. tariffs on Chinese goods affect the iPhone giant, putting it at a disadvantage relative to the Korean tech giant Samsung.

That's according to remarks made by Trump himself on Sunday as he departed Morristown, New Jersey, not far from his private golf club in Bedminster. The Republican president told reporters that he had a "very good meeting with Tim Cook," adding that he has "a lot of respect" for the tech exec.

"I thought he made a very compelling argument," Trump told reporters at Morristown Municipal Airport in New Jersey before getting on Air Force One. "It's tough for Apple to pay tariffs if it's competing with a very good company that's not," Trump said.

This comes after Trump last week

said he would delay tariffs on Chinese goods for three months on certain tech goods and apparel. In July, Trump said that Apple wouldn't be exempt from tariffs if the company continues to produce goods in China.

Now Trump is "thinking about" whether he'll exempt Apple from tariffs, he said over the weekend. On Friday, he seemed optimistic about the proposed meeting, tweeting, "Having dinner tonight with Tim Cook of Apple. They will be spending vast sums of money in the U.S. Great!"

Apple has not yet responded to a request for comment.

Apple's popular MacBook laptops and iPhones are exempt from levies until December, while many of the companies' other offerings including Apple Watches, AirPods and the HomePod would be subject to added tariffs as early as September. In June, Apple sent an open letter to the Trump administration saying that tariffs would decrease the tech giant's contribution to the American economy and "weigh on Apple's global competitiveness."

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New trial OK'd after all blacks struck from jury

The Indiana Court of Appeals has granted a new trial to a black drug suspect after prosecutors struck all the blacks on the jury panel.

Edward Killebrew's attorney argued that Marion County prosecutors discriminated even though they gave other reasons for not allowing the five jurors to serve.

Killebrew was convicted at his March 2009 trial of felony cocaine dealing and misdemeanor resisting law enforcement. A judge sentenced him to 11 years in prison.

The judges said Tuesday that in at least one case, the reason given for striking a black person from the panel applied equally to two white jurors who were allowed to serve.

Killebrew objected to the jury strikes as discriminatory but the trial judge overruled him.

However, the appeals court ruled that Killebrew had proven that at least one strike was discriminatory.

"Although there is no indication that Marion County prosecutors systematically exclude minorities from juries, courts must be vigilant in ensuring that the jury selection process in criminal cases is free from any hint of bias," Judge Michael P. Barnes wrote in the 2-1 ruling.

A spokeswoman for the Marion County prosecutor's office did not immediately return a phone call seeking comment.

Decade's major tax shifts aren't over

By MERANDA WATLING
mwatling@icpfline.com

A decade of major property tax reforms — the most substantial since the 1970s — left taxpayers and local governments asking for one more thing: stability.

After a 1998 Indiana Supreme Court decision deemed Indiana's property tax assessment system unconstitutional, state and local officials spent the 2000s designing a new system based on market values — and then working out the kinks.

The assessment changes sent homeowner taxes up at first, de-



layed bills, and led to a backlash and new calls for property tax reform.

That came in 2008, when the state took over paying school general funds, gave new deductions to homeowners and started in motion property tax caps that in November may go before voters for possible inclusion in the Indiana

Constitution.

Larry DeBoer, an agricultural economist at Purdue University and local government finance expert, said the story of the decade has been "trying to deal with the consequences of that court decision" in 1998.

DeBoer said he believes the property tax reform of 2008 was probably the culmination of a major shift away from property taxes to other funding sources.

"What's in place now probably will be what we're working on in the future," DeBoer said.

"What we'll spend the next decade working out is who has won

and who has lost in the tax changes."

Assessment changes

Indiana used to assess property with what was called a "true tax value" system. Using cost tables, assessors would base assessed values on what it might cost to replace the structure, not its actual market value.

Ruling on a case out of Lake County, the Indiana Supreme Court in 1998 said true tax value wasn't an equitable measure of property value.

THE INDIANAPOLIS STAR

» ILLINOIS COLLEGE WANTS HOOSIERS

In the fall, Southern Illinois University will tackle its languishing student numbers head-on. The school will begin offering in-state tuition to first-year students from Indiana, Missouri and Kentucky. It's the latest shot in a nationwide bidding war of sorts that has developed over prospective students seeking bargains in a bad economy. Now, out-of-state tuition at Southern Illinois is 2.5 times the in-state price of \$6,975.

The Switch

AT&T can punish employees for wearing 'prisoner' T-shirts to work, a court rules

By Brian Fung July 10

AT&T didn't break the law when it forbade its technicians and other public-facing employees from wearing T-shirts emblazoned with the words "Inmate" and "Prisoner of AT&T," a federal appeals court ruled Friday.

The ruling overturns a decision by the National Labor Relations Board and permits AT&T to ban the donning of negative T-shirts under an exception to the nation's labor laws.

The case began when AT&T suspended 183 Connecticut workers who refused to take off the offending shirts. The union that represents AT&T employees, the Communications Workers of America, accused the company of unfair labor practices.

Writing for the court, Judge Brett Kavanaugh of the D.C. Circuit Court of Appeals said that it was "common sense" for AT&T to want to avoid having customers see their employees walking around with those shirts on.

AT&T argued that "the shirts could alarm or confuse customers, could cause customers to believe that AT&T employees were actually convicts, or could harm the company's public image more generally," Kavanaugh wrote in the decision.

Under the National Labor Relations Act, Kavanaugh added, employers are not allowed to prevent their workers from wearing union clothes — unless the company "reasonably believes" the attire would "harm its relationship with customers or its public image."

AT&T has convinced the court that the Inmate/Prisoner shirts would have done just that.

"We're pleased with Court's common sense approval of our apparel policies," said AT&T spokesman Marty Richter. "While we respect our employees' right to express their opinions, it is our policy to require appropriate dress for employees in customer-facing positions."

A spokesperson for the Communications Workers of America declined to comment.

Founders' wisdom for the ages

The new House Republican leadership is smart to inaugurate their return to power by reading aloud the U.S. Constitution on the House floor. Recalling America's founding principles is never a bad idea. To some on the left, though, the Constitution doesn't mean what it says, but is to be interpreted by judges and politicians. To liberals, this means the document is useful only when it advances a "progressive" economic, political and social agenda. Otherwise, it must be considered a relic of a bygone era.

The Emancipation Proclamation and constitutional amendments redressed grievances, such as slavery and voting rights for women. These came not because the Constitution was flawed, but because succeeding generations realized we had failed to live up to its noble precepts, which included the preamble and its philosophical foundation, the Declaration of Independence. Our rights do not originate with government, but they are to be "secured" by government.

It is a given that the courts interpret the Constitution for a modern age. The Founders could not have anticipated what the America of 2011 would look like. They set down certain principles that could guide us into the future. These principles — like limited government — transcend eras.

House Republicans may not get far with their promise to require any new legislation to be justified by constitutional language, but the public will get a history lesson about the intentions of the Founders that will remind a new generation how wise the Founders were.

That portion of the public that has clamored for change from what they regard as the Obama administration's brand of socialism must not be content with congressional hearings broadcast on the Internet, or legislation posted on a website several days before members cast votes. Those who want smaller and less costly government must do more to take charge of their own lives. This means investing wisely for one's own retirement and maintaining a healthy lifestyle to lessen the need for hospitals and medicines.

Cynics believe, based on past failed reform efforts, that lobbyists and lawyers have the power to quell any true reform movement. Are they right? If they are this could be the last chance for at least a generation to return America to original constitutional principles. If that happens, American decline will be more than a fear; it will quickly become reality.

Maine gives beer label ban a swift kick

Associated Press

PORTLAND, Maine — It's a bit late for the holidays, but the state's beer sellers are now free to let Santa's Butt Winter Porter sit on their shelves.

The Maine Bureau of Liquor Enforcement had blocked a beer importer from selling the brew, along with two beers with labels depicting bare-breasted women. Those decisions were reversed after the state attorney general's office determined the company probably would win a lawsuit the American Civil Liberties Union filed on its behalf last month.

State officials had barred the English-made Santa's Butt out of concern its label might appeal to children. It depicts a rear

view of a beer-drinking Santa sitting on a "butt," a large barrel brewers once used to store beer.

The other previously banned beers feature paintings of bare-breasted women on their labels. One of the paintings hangs in the Louvre — Eugene Delacroix's "Liberty Leading the People" — and the other was commissioned by the importer, Belcher-town, Mass.-based Shelton Brothers.

Owner Dan Shelton, whose company has challenged similar bans in other states, said Thursday he has no plans to drop his lawsuit, because state law still allows officials to deny applications for beer labels that contain "undignified or improper" illustrations.

Story is barred from student paper

Noblesville superintendent calls article on oral sex inappropriate for high schoolers

By Andy Gamnall

andy.gamnall@indystar.com

Noblesville Schools decided this week to block student journalists from publishing a controversial story on oral sex that had been planned for today's edition of Noblesville High School's Mill Stream newspaper.

Superintendent Lynn Lehman said he decided the story as not right for high school students, noting that some students at the school were as young as 15.

"It's really boiled down to a simple fact . . . that it's not an article that's appropriate to be published in a high school newspaper in Noblesville, Indiana," he said.

Students, however, were baffled by Lehman's decision, said Gingery, editor of the newspaper. They are planning an appeal to the School Board, and contacted lawyers that assist student journalists.

Lehman said it made no sense for their adviser and principal to approve the story but the superintendent overruled them. The page had already been printed Wednesday.

"The whole situation's kind of piling to me," Gingery said. "It's gone through more than any story in years. It's gone through tons of hands. It's really very well-

School Board's policy is a final decision to be

made by the building principal, but principals report to the superintendent.

Gingery and writer Kristine May have said the story is designed to educate students about the medical and psychological dangers of oral sex.

Lehman said he didn't disagree with the premise of the story and described the statistics about the number of teenagers who engage in oral sex as "chilling." But students already learn about those aspects in middle-school sex education classes, he said.

He cited the School Board's policy to prohibit student newspaper stories that have material "deemed to be harmful to impressionable students."

Jack Dvorak, an Indiana University professor and director of the college's High School Journalism Institute, said courts have ruled the school can block publication only in narrow instances.

Dvorak said he hadn't seen the story but trusts adviser Teresa White, who works as an occasional instructor at the institute, to ensure students stay within bounds.

"It probably does come down to a matter of public image for the district," he said. "That certainly is not a valid reason for censorship. They can censor only for a valid educational purpose."

THE INDIANAPOLIS STAR

Chants after Danish cartoon bring incitement conviction

London — A British Muslim who led an angry crowd in chants of

"Bomb, bomb, Denmark, bomb, bomb USA" during protests of cartoons of the Prophet Muhammad was found guilty Friday of incitement to murder.

Umaran Javed, 27, was a leader of a Feb. 3 rally held outside the Danish Embassy in London, prosecutor David Perry said.

Javed was caught after police videotaped him speaking into a loudspeaker at the protest of about 250 people.

Javed told the jury he was disappointed with himself and had been caught up in the emotion of the moment.

"They were just slogans, sound bites," he testified.