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Advocating within the limits

Ethics accusation against Bundy's lawyers should prompt look at rules

The complaint filed by Clatsop County District Attorney Josh Marquis is a fascinating skirmish in a long-running battle within the legal profession over the proper boundaries between acceptable advocacy for clients and unacceptable efforts to manipulate public opinion and trial outcomes.

It is Marquis' opinion that attorneys for Malheur National Wildlife Refuge militant Ammon Bundy are improperly seeking to prejudice future jurors in a pending federal prosecution.

Despite a common public perception that all lawyers do whatever it takes to win, the truth is that a majority of practicing attorneys are rather restrained in pushing ethical boundaries. Aside from personal integrity, most recognize there can be a steep professional price for being viewed by colleagues, judges and potential clients as unethical.

However, high-profile cases like the Bundy defense can entice lawyers to push the limits. Television viewers are being reminded of some of these tactics right now in the program "The People v. O.J. Simpson: American Crime Story." The mini-series and the 1994-95 trial on which it is based are something of a master class in using news and entertainment media to manipulate public attitudes. Even before the O.J. case, celeb-

rity lawyers like Gerry Spence were teaching courses in how to stack the deck for clients long before cases arrive in the courtroom.

Beyond aggressively working on behalf of clients, press exposure in the course of major cases can be a career-maker for attorneys. Particularly in a profession that only in the past couple decades has begun doing much paid advertising, the free publicity obtained by holding news conferences and sending out press releases is the gold standard of self-aggrandizement.

The lawyer who Bundy's lawyers have hired to defend them on the ethics complaint makes valid points. Oregon's rules set "a much higher bar than most other states before pretrial publicity is considered a threat to a fair trial." This will make it difficult for Marquis' complaint to prevail.

It's time for Oregon to take a harder look at this matter. It is easy to imagine lawyers increasingly testing the limits — for their clients' sakes, and for their own.

Come clean, Mrs. Clinton

It is virtually impossible to find humor in the presidential primary campaigns. But once in awhile someone captures that element. In a Feb. 10 *New Yorker* cartoon, David Sipress depicted a couple on a sofa watching a newscaster. Said the TV anchor: "Mr. Bloomberg released a statement saying that if the voters are forced to decide between a grumpy scold and an egomaniacal billionaire, they might as well vote for him, being both."

The candidate references, of course, are to Bernie Sanders and Donald Trump.

Longtime Republicans are squirming at the choice in front of them. But Democrats — other than true believers — lack an obvious choice. Sen. Sanders so far has run a narrowly focused campaign that does not display the broad competence necessary in a president.

While experienced, Secretary Hillary Clinton refuses to shed

her baggage. At issue most recently are the speeches which Clinton made behind closed doors to Wall Street interests. She will not release transcripts of those speeches.

In a Friday editorial on the topic ("Mrs. Clinton, Show Voters Those Transcripts"), *The New York Times* nailed it. In conclusion, the *Times* said: "Public interest in these speeches is legitimate, and it is the public — not the candidate — who decides how much disclosure is enough. By stonewalling on these transcripts Mrs. Clinton plays into the hands of those who say she's not trustworthy and makes her own rules. Most important, she is damaging her credibility among Democrats who are begging her to show them that she'd run an accountable and transparent White House."

If Mrs. Clinton hopes to dispel Democratic voters' fears about her, she needs to come clean.

While Obama fiddles ...

By CHARLES KRAUTHAMMER

Washington Post Writers Group

WASHINGTON — State of the world, Year Eight of Barack Obama:

(1) In the South China Sea, on a speck of land of disputed sovereignty far from its borders, China has just installed anti-aircraft batteries and stationed fighter jets. This after China landed planes on an artificial island it created on another disputed island chain (the Spratlys, claimed by the Philippines, Malaysia, Taiwan and Vietnam). These facilities now function as forward bases for Beijing to challenge seven decades of American naval dominance of the Pacific Rim.

"China is clearly militarizing the South China Sea," the commander of the U.S. Pacific Command told Congress on Tuesday. Its goal? "Hegemony in East Asia."

(2) Syria. Russian intervention has turned the tide of war. Having rescued the Bashar al-Assad regime from collapse, relentless Russian bombing is destroying the rebel stronghold of Aleppo, Syria's largest city, creating a massive new wave of refugees and demonstrating to the entire Middle East what a Great Power can achieve when it acts seriously.

The U.S. response? Repeated pathetic attempts by Secretary of State John Kerry to propitiate Russia (and its ally, Iran) in one collapsed peace conference after another. On Sunday, he stepped out to announce yet another "provisional agreement in principle" on "a cessation of hostilities" that the CIA director, the defense secretary and the chairman of the Joint Chiefs deem little more than a ruse.

(3) Ukraine. Having swallowed Crimea so thoroughly that no one even talks about it anymore, Russia continues to trample with impunity on the Minsk cease-fire agreements. Vladimir Putin is now again stirring the pot, intensifying the fighting, advancing his remorseless campaign to fracture and subordinate the Ukrainian state. Meanwhile, Obama still refuses to send the Ukrainians even defensive weapons.

(4) Iran. Last Thursday, Iran received its first shipment of S-300 anti-aircraft batteries from Russia, a major advance in developing immunity to any attack



Charles Krauthammer



Rick Wilson/AP Photo

President Barack Obama greets supporters on the tarmac after arriving on Air Force One at Cecil Airport in Jacksonville, Fla., Friday, to visit Saft America factory, which opened in 2011 with help from federal money from economic stimulus package he pushed through Congress in 2009.

on its nuclear facilities. And it is negotiating an \$8 billion arms deal with Russia that includes sophisticated combat aircraft. Like its ballistic missile tests, this conventional weapons shopping spree is a blatant violation of U.N. Security Council prohibitions. It was also a predictable — and predicted — consequence of the Iran nuclear deal that granted Iran \$100 billion and normalized its relations with the world.

The U.S. response? Words.

Unlike gravitational waves, today's strategic situation is not hard to discern. Three major have-not powers are seeking to overturn the post-Cold War status quo: Russia in Eastern Europe, China in East Asia, Iran in the Middle East. All are on the march.

To say nothing of the Islamic State, now extending its reach from Afghanistan to West Africa. The international order built over decades by the United States is crumbling.

In the face of which, what does Obama do? Go to Cuba.

Yes, Cuba. A supreme strategic irrelevance so dear to Obama's anti-anti-communist heart.

Is he at least going to celebrate progress in human rights and democracy — which Obama established last year as a precondition for any presidential visit? Of course not. When has Obama ever held to a red line? Indeed, since Obama began his "historic" normalization with Cuba, the repression has gotten worse. Last month, the regime arrested 1,414

Obama sticks to his cherished concerns: Cuba, Guantanamo and, of course, climate change.

political dissidents, the second-most ever recorded.

No matter. Amid global disarray and American decline, Obama sticks to his cherished concerns: Cuba, Guantanamo (about which he gave a rare televised address this week) and, of course, climate change.

Obama could not bestir himself to go to Paris in response to the various jihadi atrocities — sending

Kerry instead "to share a big hug with Paris" (as Kerry explained) with James Taylor singing "You've Got a Friend" — but he did make an ostentatious three-day visit there for climate change.

So why not go to Havana? Sure, the barbarians are at the gates and pushing hard knowing they will enjoy but 11 more months of minimal American resistance. But our passive president genuinely believes that such advances don't really matter — that these disruptors are so on the wrong side of history, that their reaches for territory, power, victory are so 20th century.

Of course, it mattered greatly to the quarter-million slaughtered in Syria and the millions more exiled. It feels all quite real to a dissolving Europe, an expanding China, a rising Iran, a metastasizing jihadism.

Not to the visionary Obama, however. He sees far beyond such ephemera. He knows what really matters: climate change, Gitmo and Cuba.

With time running out, he wants these to be his legacy. Indeed, they will be.

The governing cancer of our time

By DAVID BROOKS

New York Times News Service

We live in a big, diverse society. There are essentially two ways to maintain order and get things done in such a society — politics or some form of dictatorship. Either through compromise or brute force. Our founding fathers chose politics.

Politics is an activity in which you recognize the simultaneous existence of different groups, interests and opinions.

You try to find some way to balance or reconcile or compromise those interests, or at least a majority of them. You follow a set of rules, enshrined in a constitution or in custom, to help you reach these compromises in a way everybody considers legitimate.

The downside of politics is that people never really get everything they want. It's messy, limited and no issue is ever really settled. Politics is a muddled activity in which people have to recognize restraints and settle for less than they want. Disappointment is normal.

But that's sort of the beauty of politics, too. It involves an endless conversation in which we learn about other people and see things from their vantage point and try to balance their needs against our own. Plus, it's better than the alternative: rule by some authoritarian tyrant who tries to govern by clobbering everyone in his way.

As Bernard Crick wrote in his book, *In Defence of Politics*, "Politics is a way of ruling divided societies without undue violence."

Over the past generation we have seen the rise of a group of people who are against politics. These groups — best exemplified by the Tea Party but not exclusive to the right — want to

elect people who have no political experience. They want "outsiders." They delegitimize compromise and deal-making. They're willing to trample the customs and rules that give legitimacy to legislative decision-making if it helps them gain power.

Ultimately, they don't recognize other people. They suffer from a form of political narcissism, in which they don't accept the legitimacy of other interests and opinions. They don't recognize restraints. They want total victories for themselves and their doctrine.

This antipolitics tendency has had a wretched effect on our democracy. It has led to a series of overlapping downward spirals:

The antipolitics people elect legislators who have no political skills or experience. That incompetence leads to dysfunctional government, which leads to more disgust with government, which leads to a demand for even more outsiders.

The antipolitics people don't accept that politics is a limited activity. They make soaring promises and raise ridiculous expectations. When those expectations are not met, voters grow cynical and, disgusted, turn even further in the direction of antipolitics.

The antipolitics people refuse compromise and so block the legislative process. The absence of accomplishment destroys public trust. The decline in trust makes dealmaking harder.

We're now at a point where the Senate says it won't even hold hearings on a presidential Supreme Court nominee, in clear defiance of custom and the Constitution. We're now at a point in which politicians live in fear if they try to compromise and legislate. We're now at a point in which normal politi-



David Brooks

cal conversation has broken down. People feel unheard, which makes them shout even louder, which further destroys conversation.

And in walks Donald Trump. People say that Trump is an unconventional candidate and that he represents a break from politics as usual. That's not true.

Trump is the culmination of the trends we have been seeing for the last 30 years: the desire for outsiders; the bashing style of rhetoric that makes conversation impossible; the decline of coherent political parties; the declining importance of policy; the tendency to fight cultural battles and identity wars through political means.

Trump represents the path the founders rejected. There is a hint of violence undergirding his campaign. There is always a whiff, and sometimes more than a whiff, of "I'd like to punch him in the face."

I printed out a *New York Times* list of the insults Trump has hurled on Twitter. The list took up 33 pages. Trump's style is bashing and pummeling. Everyone who opposes or disagrees with him is an idiot, a moron or a loser. The implied promise of his campaign is that he will come to Washington and bully his way through.

Trump's supporters aren't looking for a political process to address their needs. They are looking for a superhero. As political scientist Matthew MacWilliams found, the one trait that best predicts whether you're a Trump supporter is how high you score on tests that measure authoritarianism.

This isn't just an American phenomenon. Politics is in retreat and authoritarianism is on the rise worldwide. It's acknowledging other people exist. It's taking pleasure in that difference and hammering out workable arrangements. As Harold Laski put it, "We shall make the basis of our state consent to disagreement. Therein shall we ensure its deepest harmony."

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