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## Who's to Blame?

By George A. Torres, MBA

Over the years complaints about some of the most absurd decisions handed down by the courts have increased. Some have been so moronic that even a person with limited formal education and an abundance of common sense is stunned. Some are just controversial. Take the recent decision by the U.S. Supreme Court supporting the seizure of private property by the federal government for non-public use. Students of the U.S. Constitution are very critical of this decision and protest that it violates the 5<sup>th</sup> amendment. I happen to agree. With this and many other court decisions you hear the chorus, "How does this happen?" Who is to blame?

There is enough blame to go around. An obvious source to blame is liberal activist judges who impose their agenda on a public that will not support it through the vote. Then there are bad decisions handed down by judges who simply want to be remembered for a landmark case. The less obvious is the significant number of "bad" decisions resulting from incompetence. "What do you mean?" you ask.

Protest about "bad" judicial decisions is constantly expressed by law enforcement. Are protests accurate, or self-serving? Let's take a simplistic look at the process. Officers take action on criminal activity and document the event in a report. If the perpetrator is prosecuted there is a trial. Trials commonly start with judges making decisions on various pre-trial motions. Deficient reports often result in exclusion of evidence or prevent cases from proceeding beyond this stage. If there is a trial and a conviction, it is often followed by appeals. Herein lies one of the factors of bad judicial decisions. Often police reports are of such poor quality that they do not accurately depict the events, support the evidence or testimony. This often results in bad judicial decisions or bad case law.

Public education has become so inadequate that graduates of many high schools and colleges cannot read or write proficiently. Due to substandard education, too many officers are incapable of writing reports that are clear, concise, grammatically correct or accurately depict events. Or, they are just too lazy. This can cause acquittals by trial courts or reversals by the appellate court, which creates bad case law. Appellate judges review the entire case. Deficient police reports can create a lack of clarity, contradict trial court testimony or evidence; raise issues of credibility or the officer's ability to interpret law or follow established procedures. All are factors that can cause bad judicial decisions.

This phenomenon is not limited to law enforcement. As an example, government agencies and private companies often complain about the reinstatement of delinquent employees, resulting in lost capital due to retroactive pay. In a significant number of these "bad" decisions one will surely find poor documentation. Decisions to terminate supported by boxes checked on forms and poorly written sentences that only confuse the issues. So, who are to blame for questionable judicial decisions? Seems like there is plenty of blame to go around. Improved education and training with better documentation of events would definitely have an impact on at least one of the factors causing poor judicial decisions.