

September 14, 2014

Vasily Grossman is Pickerhead's favorite Russian author. [National Review](#) notes the 50th anniversary of his death.

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[Stuart Taylor](#) made some news in his review of the "John Doe" investigation by a partisan Milwaukee District Attorney. Taylor quotes an assistant prosecutor who says the whole probe was a Democrat party operation. This article is long, but critical in understanding the scorched earth politics of today's Dems. This article was published just before proceedings in a Federal Appeal Court in Chicago. It looks like the federal court will kick the case back to state courts.

... Now a longtime Chisholm subordinate reveals for the first time in this article that the district attorney may have had personal motivations for his investigation. Chisholm told him and others that Chisholm's wife, Colleen, a teacher's union shop steward at St. Francis high school, a public school near Milwaukee, had been repeatedly moved to tears by Walker's anti-union policies in 2011, according to the former staff prosecutor in Chisholm's office. Chisholm said in the presence of the former prosecutor that his wife "frequently cried when discussing the topic of the union disbanding and the effect it would have on the people involved ... She took it personally."

Citing fear of retaliation, the former prosecutor declined to be identified and has not previously talked to reporters.

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Chisholm was referring to Gov. Walker's proposal — passed by the legislature in March 2011 — to require public employee unions to contribute to their retirement and health-care plans for the first time and to limit unions' ability to bargain for non-wage benefits.

Chisholm said his wife had joined teachers union demonstrations against Walker, said the former prosecutor. The 2011 political storm over public unions was unlike any previously seen in Wisconsin. Protestors crowded the State Capitol grounds and roared in the Rotunda. Picketers appeared outside of Walker's private home. There were threats of boycotts and even death to

Walker's supporters. Two members of the Wisconsin Supreme Court almost came to blows. Political ad spending set new records. Wisconsin was bitterly divided.

Still, Chisholm's private displays of partisan animus stunned the former prosecutor. "I admired him [Chisholm] greatly up until this whole thing started," the former prosecutor said. "But once this whole matter came up, it was surprising how almost hyper-partisan he became ... It was amazing ... to see this complete change."

The culture in the Milwaukee district attorney's office was stoutly Democratic, the former prosecutor said, and became more so during Gov. Walker's battle with the unions. Chisholm "had almost like an anti-Walker cabal of people in his office who were just fanatical about union activities and unionizing. And a lot of them went up and protested. They hung those blue fists on their office walls [to show solidarity with union protestors] ... At the same time, if you had some opposing viewpoints that you wished to express, it was absolutely not allowed." ...

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Flashing outrage at the investigators' pre-dawn raids by armed officers who carried off files and computers, cellphones, and more from the homes of conservative activists, Randa wrote that "attempts to purify the public square lead to ... the Guillotine and the Gulag."

In handing down his decision to temporarily halt the investigation, Judge Randa ruled that the prosecutors have no "reasonable expectation of obtaining a valid conviction."

Chisholm and his allies appealed to the federal Seventh Circuit in Chicago. The plaintiffs' high-powered, hard-charging Washington lawyer, David Rivkin and his team have squared off against the prosecutors' lawyers in their briefs and will do so in the oral argument today. ...

Kevin Williamson warns against dangers that often look benign. He makes the case that moose and honey bees have proven more dangerous than sharks. From that he suggests that many government actions will prove to be dangerous.

... The wolf, a staple of our fairy tales and films such as The Grey, is another creature that haunts our imagination, though North American wolf attacks are so incredibly rare that wolf scholars work with individual episodes rather than aggregate statistics. Domestic dogs, on the other hand, kill dozens of people each year. "What if there's bears?" may be the stuff of nightmares, but you are in fact more likely to be attacked by a moose. ...

... We certainly invent things to worry about when it comes to politics. Some of my more enthusiastic correspondents on the right send me missives about President Obama's secret plan to install himself as president-for-life and suspend the 2016 elections, ...

... Heavy debt, dysfunctional families, unfunded and unfundable liabilities, economic stagnation, official corruption, lawless government, overrun borders, social cohesion strained to the breaking point . . .

We're gonna need a bigger boat.

As an example of the dangers of government, **The NY Times** tells us that leftist governments have proved to be harmful to our health. Turns out people of the former East Germany are living longer since they have thrown off the communist yoke. *The life expectancy of East Germans has risen sharply since their state was reunified with the more prosperous West in 1990, a new study shows. Reunification added 6.2 years to the life of men in the former East and 4.2 years to their female counterparts, according to calculations by Tobias Vogt, of the Max Planck Institute for Demographic Research, that were published ahead of the 25th anniversary of the fall of the Berlin Wall this year. If East Germany still existed, boys born in 2011 could expect to live to the age of 70.9, while girls would have a life expectancy of 78.7 years, the study showed. But in a reunified Germany boys born in 2011 were forecast to live to 77.1, and girls to 82.9. Mr. Vogt cited improvements in medical treatment and an improved standard of living as the reason.*

PriceOnomics treats us to the story of the fake crying Indian.

On Earth Day, 1971, nonprofit organization Keep America Beautiful launched what the Ad Council would later call one of the "50 greatest commercials of all time." Dubbed "The Crying Indian," the one-minute PSA features a Native American man paddling down a junk-infested river, surrounded by smog, pollution, and trash; as he hauls his canoe onto the plastic-infested shore, a bag of rubbish is tossed from a car window, exploding at his feet. The camera then pans to the Indian's cheerless face just as a single tear rolls down his cheek.

The ad, which sought to combat pollution, was widely successful: It secured two Clio awards, incited a frenzy of community involvement, and helped reduce litter by 88% across 38 states. Its star performer, a man who went by the name "Iron Eyes Cody," subsequently became the "face of Native Indians," and was honored with a star on Hollywood's Walk of Fame. Advertisers estimate that his face, plastered on billboards, posters, and magazine ads, has been viewed 14 billion times, easily making him the most recognizable Native American figure of the century.

But while Hollywood trumpeted Iron Eyes Cody as a “true Native American” and profited from his ubiquitous image, the man himself harbored an unspoken secret: he was 100% Italian. ...

National Review

[Vasily Grossman's Forgotten Legacy](#)

He first saw that Nazism was evil, then realized that Communism was the other side of the coin.

By Reggie Gibbs

On September 14, 1964, Vasily Grossman — one of the pivotal journalists and novelists of the 20th century, although he was little known in the West — passed out of this world. An eyewitness to the brutality and suffering of the Battle of Stalingrad, Grossman would, as the Red Army pushed westward, eventually step through the gates of Treblinka and record what is perhaps the first, and is considered by many to be the most vivid, description of the atrocities that were the Nazi extermination camps. He set down his observations and thoughts in *The Hell of Treblinka*, an essay that would be disseminated at the Nuremberg Trials as prosecutorial evidence. The service that Grossman provided to humanity in documenting accurately the Soviet war effort on the eastern front (no small achievement for a journalist writing for the Red Army's *Krasnaya Zvezda*), and later the horrors of Hitler's Holocaust, would itself merit a tribute on the 50th anniversary of his death. Beyond these monumental historical contributions, however, lies an equally significant moral proclamation on the nature of politics and the state.



Grossman's masterpiece is his epic on the Battle of Stalingrad, *Life and Fate*. This novel, along with the much shorter but nonetheless poignant and politically devastating *Everything Flows* (**Forever Flowing**), was not published in the Soviet Union until a year before the regime

collapsed. Upon starting to read it, one will have no problem ascertaining why. The novel's geographical and character-laden breadth is in the tradition of the Russian grand epics. Grossman, in fact, intended *Life and Fate* to echo one of the best-known titles in the annals of Russian literature, *War and Peace*. Both novels, in graphic and realistic portrayals of their respective periods of warfare, justifiably praise and establish, with no room for doubt, the bravery and dedication of the Russian soldier engaged in an existential conflict. But whereas the result of Tolstoy's tour de force, through the depiction of a young Alexander I stoically leading his armies against the Napoleonic advance, was to glorify and elevate the state, the result of Grossman's was to emasculate it. And the unorthodox way in which he does this continues, even to this day, to be a feat of enormous philosophical and political honesty.

Soviet dissident literature leaned toward one of two tendencies. The first was to target the various mechanisms employed by the State to establish and maintain control. Censorship, suppression of the opposition, and human-rights abuses were most commonly singled out for criticism. However, in this first tendency, judgment of the overall Communist project was reserved; the problem was seen to be not Communism, but those who were implementing it. The second tendency was to attack the whole project itself. Critics in this school start with Marx, then move to Lenin, and, in a distinct break with the first group, link Lenin to Stalin. At this point in their analysis, since Stalin is universally recognized as one of the worst tyrants of the last hundred years, Communism is discredited as inevitably leading to mass murder and starvation.

Grossman, as it turns out, is difficult to place in either tendency. His disillusionment with the Soviet regime developed gradually as he witnessed first-hand the mechanisms of totalitarianism destroy the lives of his friends and family. But his wholesale renunciation of the Soviet regime, its ideology, and the means by which it was maintained originated from a different source, one that did not derive from a critical analysis of dialectical materialism, nor from the violent Kremlin-backed insurgencies sweeping the postwar world. Instead, his eventual condemnation of the regime came from the emergence on a very large scale of anti-Semitism at the state level. For Grossman, who was Jewish, to see this racial hatred emerge in his home country must have been truly horrifying. If his only experience had been of the Soviet government at that time, Grossman might have attributed this trend to Stalin himself. But as one who had witnessed and recorded in depth the horrors of the Nazi concentration camps just a few years earlier, Grossman arrived at a much more penetrating conclusion. Already losing faith in the Soviet regime as a result of its political oppression, Grossman found that the parallels between the Soviet Union and Hitler's Germany had become too clear for him to ignore. He came to believe that anti-Semitism was organic to both regimes, and that the political systems were, therefore, essentially two sides of the same coin.

In *Life and Fate*, the reader is given early clues as to the philosophical direction in which the novel will steer. At the outset, we see one of the main characters, Viktor Shtrum (based on Grossman himself), mourning the fact that, in the face of a German onslaught, he was unable to evacuate his mother from her small village in western Ukraine. Shtrum's mother, like Grossman's in real life, became a victim of the ensuing genocide. Later in Part I, we see Sofya Levinton, a Jewish Red Army doctor and prisoner of war, being shoved into a train car destined for Auschwitz. Though Levinton makes only two appearances in *Life and Fate*, they are among the most memorable of the book. Through her, Grossman is able to meditate on the plight of one who is headed to certain death. A range of emotions and thoughts are probed until we witness Levinton discover her destiny, that of becoming a surrogate mother to a boy on the train who has already lost his parents. In this, her fate, she finds courage in purpose and is able to comfort the boy throughout their ordeal of being huddled into a gas chamber and put to death.

But to concentrate solely on the fate of the various Jewish characters in *Life and Fate* would be to only partially grasp the full meaning of Grossman's work. Indeed, as a result of the novel's early accounts of Nazi war crimes and the extent to which Grossman sets out to describe them, one might be tempted to say that perhaps *Life and Fate* climaxes early. But in the book's first half Grossman is not just providing personal and graphic insights into one of history's greatest crimes. He is also providing a lead-in to a more complex moral and political warning, one that, if not heeded, could have existential consequences for all who breathe.

The transition from Jewish tragedy to all-encompassing human tragedy is abruptly made in Part II, Chapter 14. Here, Grossman has an old Bolshevik, who is now a political prisoner in a German POW camp, engage in a conversation with the camp's SS representative. The Bolshevik expects to be interrogated by a mechanical SS officer, but instead faces an intelligent, unapologetic man who has, as a result of extensive contemplation, come to believe that National Socialism and Communism are indeed one and the same. Although the Bolshevik is loath to admit it, as the SS officer speaks — intermittently weaving in, not coincidentally, references to both Hegel and Spengler — the Bolshevik eventually comes to recognize himself in the Nazi sitting across the table as the latter concludes: "When we look one another in the face, we're neither of us just looking at a face we hate — no, we're gazing into a mirror. . . . Do you really not recognize yourselves in us — yourselves and the strength of your will? Isn't it true that for you too the world *is* your will?"

Grossman has now let the cat out of the bag as to what he is really up to. The crimes against the novel's Jews end up being, in the grand scheme of the plot, merely a logical beginning and entry point for other great atrocities to inevitably follow. And by the time *Life and Fate* is wrapping up the Battle of Stalingrad in Part III, these new crimes against humanity, crucially, are committed not by the now-defeated German army, but by the newly empowered Soviet state. Thus, near the novel's end, we see Shtrum fighting for the continued employment of his Jewish colleagues, only to find out that he himself has been targeted as an enemy of the state, while the non-Jewish characters, including decorated military officers and commissars, discover that they too have somehow inexplicably fallen afoul of their political superiors and now face interrogation and eventual exile to labor camps. In shifting the crimes from the Nazis to the Soviets in the wake of the formers' defeat, Grossman has drawn a direct parallel between the two ideologies and systems; systems held together by fear, oppression, ideological enforcement, and, in the words of the SS officer, the "strength of will."

The Hungarian Nobel laureate Imre Kertész, himself a survivor of the concentration camps, once said: "I regard as kitsch any representation of the Holocaust that is incapable of understanding or unwilling to understand the organic connection between our own deformed mode of life and the very possibility of the Holocaust." In *Life and Fate*, Grossman achieved this difficult task. His masterpiece is not, to use Kertész's word, a "kitsch" depiction of the Holocaust. It is a philosophical, political, and personal exploration of the mechanisms and conditions under which man has the potential to kill millions. There is no record of Grossman writing conversely about an ideal society or government, and no record of him attempting to flee the Soviet Union for the West. To claim Grossman politically as anything other than an opponent of totalitarianism, or as a man brave enough to publicly recognize the Soviet Union and Nazi Germany as being essentially one and the same, is to stretch the bounds of honest deduction. But Grossman clearly recognized that, under totalitarian regimes, holocausts of any variety are possible, while in regimes that would, for instance, welcome the publishing of a book such as *Life and Fate*, they are not. It is not dishonest to claim he yearned for the latter.

American Media Institute

[District attorney's wife drove case against Wis. Gov. Walker, insider says](#)

by Stuart Taylor, Jr.

CHICAGO – The future of the Wisconsin's governor's race could hang on a federal appeals court in Chicago hearing a potentially explosive case today.

Depending on how the three-judge panel of the U.S. Court of Appeals for the Seventh Circuit decides, the ruling will have major impact on the scope of political speech, the role of voter's donations in politics, and the fate of Wisconsin Gov. Scott Walker, a 2016 Republican presidential hopeful.

The governor's race is virtually tied, according to recent polls, and the court's ruling may move undecided voters. The investigation, critics say, has paralyzed conservative advocacy in Wisconsin, giving an advantage to unions when Gov. Walker is locked in a tight re-election race against Democrat Mary Burke.

Gov. Walker, a Republican, is at the center of a sweeping and secretive four-year criminal investigation by Milwaukee District Attorney John Chisholm, a Democrat, and other prosecutors, that is now focused on alleged "illegal coordination" of campaign funding by the governor and 29 independent nonprofits — virtually the entire conservative movement in Wisconsin.

Those conservatives say that the long-running criminal investigation has unconstitutionally prevented them and their allies from participating in politics and tilted the political field to favor Democrats, whose campaign practices are almost identical to the Republicans' but largely ignored by the prosecutors. The probe, conservatives say, has forced them to pay hundreds of thousands of dollars in legal bills and harassed some of them with pre-dawn raids on their suburban homes that seized cell phones and computers of all family members, including a child's iPad. Prosecutors imposed "gag orders" to prevent the investigation's targets from publicly complaining.

Wisconsin Republicans, and some Democrats in Washington, contend that the Democratic district attorney is distorting campaign finance laws to criminalize ordinary politics.

The district attorney and some campaign-finance experts say that Wisconsin has long had some of the nation's toughest campaign-finance laws and those laws bar outside groups from working together with a candidate's campaign.

A federal judge in Milwaukee recently halted the district attorney's investigation, finding that the conduct of Gov. Walker's political allies is actually legal. U.S. District Court Judge Rudolph Randa found that the investigation is contrary to both Wisconsin law and the U.S. Constitution's First Amendment.

The prosecutors' appeal of judge Randa's ruling will be heard today. This marathon legal battle may well end up at the U.S. Supreme Court.

The case began in 2009 when then-Milwaukee County Executive Walker's staff uncovered that \$11,242.24 had apparently been embezzled from a county charity. Walker's staff asked the district attorney for a criminal investigation.

While the thief was ultimately convicted, District Attorney Chisholm took the opportunity to focus his investigation mainly on Walker's personal staff.

Walker's team would not learn of the secret investigation for more than a year, when Walker was first campaigning for governor in 2010. Walker's then-chief of staff, the late Tom Nardelli, learned that Chisholm's staff had won a court order in May 2010 to start a secretive "John Doe" probe into the "origin" of the allegedly embezzled \$11,242.24.

A "John Doe" is a legal proceeding under Wisconsin law that allows prosecutors, with a judge's approval, to require complete secrecy from any one involved. This "gag order" provision, almost unique in American law, effectively disables targets or witnesses from publicly defending themselves or responding to damaging leaks.

Nardelli wrote a letter to Chisholm in 2010, evincing suspicion of the investigation. The "origin" of the missing money was already known – the question was where had it gone — and the case seemed like small potatoes for a John Doe proceeding. "Again, John, why is this a secret John Doe?" wrote Nardelli. Noting that Walker's office had requested an ordinary investigation of the apparent theft, he added: "Why are you going this route? What is the motive?"

Nardelli's implication was that Chisholm's people were improperly digging for dirt on Walker or his staff in an election year. Chisholm denied this.

Meanwhile, Walker became a national figure in 2011, when his "Budget Repair" bill cut state spending and sharply curbed public employee unions — perhaps the biggest reversal of public union power in U.S. history. Conservatives were delighted and liberals alarmed.

Now a longtime Chisholm subordinate reveals for the first time in this article that the district attorney may have had personal motivations for his investigation. Chisholm told him and others that Chisholm's wife, Colleen, a teacher's union shop steward at St. Francis high school, a public school near Milwaukee, had been repeatedly moved to tears by Walker's anti-union policies in 2011, according to the former staff prosecutor in Chisholm's office. Chisholm said in the presence of the former prosecutor that his wife "frequently cried when discussing the topic of the union disbanding and the effect it would have on the people involved ... She took it personally."

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Walker's supporters. Two members of the Wisconsin Supreme Court almost came to blows. Political ad spending set new records. Wisconsin was bitterly divided.

Still, Chisholm's private displays of partisan animus stunned the former prosecutor. "I admired him [Chisholm] greatly up until this whole thing started," the former prosecutor said. "But once this whole matter came up, it was surprising how almost hyper-partisan he became ... It was amazing ... to see this complete change."

The culture in the Milwaukee district attorney's office was stoutly Democratic, the former prosecutor said, and became more so during Gov. Walker's battle with the unions. Chisholm "had almost like an anti-Walker cabal of people in his office who were just fanatical about union activities and unionizing. And a lot of them went up and protested. They hung those blue fists on their office walls [to show solidarity with union protestors] ... At the same time, if you had some opposing viewpoints that you wished to express, it was absolutely not allowed."

Asked to respond to the former prosecutor's allegations, Samuel Leib, Chisholm's private lawyer, said that they amount to a "baseless character assault" that "is inaccurate in a number of critical ways." He provided no specifics. He added that "John Chisholm's integrity is beyond reproach" and sent a 2012 article signed by a Republican retired judge and six others expressing confidence in Chisholm's impartiality and honesty.

As the governor's showdown with public unions wound down, Chisholm's probe grew. Prosecutors successfully petitioned the "John Doe judge," Barbara Kluka, some 18 times to enlarge the investigation's scope, as Chisholm's assistants kept citing new leads for potential offenses ranging from bid-rigging to sexual misconduct.

This first John Doe investigation of Walker led to convictions of six people for what federal judge later called "a variety of minor offenses" that did not implicate Walker. A second investigation, focusing on campaign finance, began in August 2012.

One of the biggest champions of Walker's legislation curbing public unions was 59-year-old Eric O'Keefe. He said Walker's budget laws are "the most important state reform in this country because it revives local control of local government, undoing half a century of centralization."

So O'Keefe threw himself into the battle as chief strategist and fundraiser for the Wisconsin Club for Growth, a nonprofit advocacy group. The Club raised \$12 million in 2011 and \$8 million in 2012, spending about half of those sums on "issue ads" supporting the budget bill and giving the rest to allied groups, some of which O'Keefe says aired their own issue ads.

Chisholm's raids on Walker's office – one of them on the eve of the November 2010 election in which he won the governorship – and other investigative moves put into the hands of the Democratic district attorney thousands of pages of sensitive communications between Walker, his staff, Republican leaders, activists and contributors. Some of those documents soon appeared in the press.

After the anti-union legislation became law, unions pushed for recall elections to unseat several state senators in 2011 and 2012, and ultimately to oust Walker himself. He ended up being the first governor in U.S. history to win a recall election, on June 5, 2012.

Two months later, Chisholm's assistant district attorneys drew on the trove of confidential information collected in the first John Doe investigation of Walker to launch a second, larger one, this time into suspected campaign-finance violations before and during Walker's 2012 recall campaign.

They obtained sweeping subpoenas for records from at least eight phone companies and records from every major private email provider including Google and Yahoo, ultimately amassing hundreds of thousands of pages on the activities of every major conservative group in Wisconsin and many around the country, as well as of Walker and his team. They seized documents from people's offices and homes.

Armed officers raided the homes of Walker's supporters across the state, using bright floodlights to illuminate the targets' homes. Deputies executed the search warrants, seizing business papers, computer equipment, phones, and other devices, while their targets were restrained under police supervision and were denied the ability to contact their lawyers.

At other times, the prosecutors jailed at least two witnesses "who did not possess the information they sought" and "blanketed conservative activists nationwide with [more than 100] invasive subpoenas," according to court filings.

In the process, Chisholm began targeting the governor's outside supporters, including O'Keefe and the Club. They counterattacked with a federal civil rights lawsuit in February 2014, claiming that Chisholm's probe was pretext for an "open-ended fishing expedition into Walker's office" and "a political vendetta."

O'Keefe filed suit against the wishes of Gov. Walker's camp, which feared negative publicity during the governor's campaign, according to a source with knowledge of the exchange.

While O'Keefe stresses that he is an "issues guy," not loyal to any political party, he does not deny that his ads were helpful to Walker and other GOP candidates.

The effect of Chisholm's aggressive tactics, including the gag orders, say the Club and O'Keefe in court papers, has "virtually silenced one half of policy debate in Wisconsin" by paralyzing their targets' fundraising and political speech.

This, say the plaintiffs, has been the prosecutors' goal from the start, and explains their "harassment" of and threats to imprison conservative activists for "illegal coordination."

The plaintiffs add that "[l]iberal groups involved in the Wisconsin recall campaigns conducted precisely the same activities that [the prosecutors] have identified as justifying an investigation into conservative groups, but there is no John Doe investigation into these groups."

The prosecutors point out that the investigators are not all Democrats and have been assisted by a unanimous vote of the state's nonpartisan, six-member Government Accountability Board.

The prosecutors also point out that two Republican district attorneys opened related John Doe proceedings to help Chisholm enlarge his investigation's territorial scope and that of Francis Schmitz, a politically independent former federal terrorism prosecutor who was made Special Prosecutor and titular head of the investigation in August 2013, largely to counter conservative cries that it was a partisan vendetta.

Rivkin and other critics say that the Republican district attorneys have done little more than show professional courtesy to Chisholm; that he brought in Schmitz “to provide a veneer of impartiality,” with no legal expertise in campaign-finance law; and that Chisholm still effectively runs the show.

Prosecutors ran into trouble in November when the longtime “John Doe” judge supervising the investigation suddenly recused herself, citing an undisclosed conflict of interest. Judge Kluka had approved every petition, subpoena, and search warrant the prosecutors sought over the past few years.

Kluka was replaced by retired Wisconsin Court of Appeals Judge Gregory Peterson, who in January quashed a number of subpoenas for failing to show “probable cause that [the targets] committed any violations of the campaign finance laws.”

Prosecutors have appealed Judge Peterson’s ruling to Wisconsin’s appellate courts, which have not yet ruled. If Peterson’s decision stands, the judge said, it would effectively end the five-year investigation.

Moving on a parallel track in federal courts, O’Keefe and the Wisconsin Club for Growth launched their so-far successful federal civil rights suit against District Attorney Chisholm, his assistants Bruce Landgraf and David Robles, and Special Prosecutor Francis Schmitz. Their court papers accuse Chisholm and the others of using a frivolous and unconstitutional theory of “illegal coordination” to target and “silence political speech [they do] not like.”

Chisholm and his colleagues lost that case in May, when Judge Randa issued his surprisingly strong opinion, rejecting the prosecutors’ legal theory that conservative activists had illegally coordinated with Walker’s 2012 campaign as “simply wrong.”

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In handing down his decision to temporarily halt the investigation, Judge Randa ruled that the prosecutors have no “reasonable expectation of obtaining a valid conviction.”

Chisholm and his allies appealed to the federal Seventh Circuit in Chicago. The plaintiffs’ high-powered, hard-charging Washington lawyer, David Rivkin and his team have squared off against the prosecutors’ lawyers in their briefs and will do so in the oral argument today.

The prosecutors have argued in court papers that Randa's view of the law would allow candidates to exercise "direct control over millions of dollars of undisclosed corporate and individual contributions without limitation [and to urge allied nonprofit groups] to run overwhelming and negative advertising, while the candidate remains above the fray."

"At no time was such conduct illegal," attorney Rivkin responds in court papers. "And, if it were, perhaps the majority of politicians in Wisconsin and across the nation would be at risk of prosecution and conviction."

Indeed, Rivkin notes, in February 2012, "President Barack Obama's official campaign committee threw its support behind Priorities USA Action, a 'super PAC' supporting Democratic candidates ... [T]op campaign staff and even some cabinet members [would] appear at super PAC events, and they helped Priorities USA Action raise millions that it spent in support of Democratic candidates."

The outcome of the prosecutors' appeal is uncertain because the law in this area is still somewhat unsettled.

The vague rules of some states barring "illegal coordination" between candidates and independent groups are in tension with the U.S. Supreme Court's repeated emphasis that donors forfeit free-speech protections only if their ads are essentially campaign contributions, such as running television spots specifically endorsing a candidate or allowing the candidate to dictate content and timing.

The prosecutors vigorously defend their theory of illegal coordination, but do not deny the plaintiffs' assertion that "after years of investigation, [the prosecutors] have been unable to identify a single advertisement by the Club so much as referencing Governor Walker when he was a candidate."

And that fact alone may spell defeat for the prosecutors if the U.S. Supreme Court hears the case. Five of the justices have repeatedly found restrictions on issue ads offensive to free speech rights.

Champions of tough campaign finance restrictions are worried that a U.S. Supreme Court decision affirming Judge Randa would "eviscerate contribution limits and disclosure, leaving governments vulnerable to quid pro quo corruption," in the words of a friend-of-the-court brief filed with the Seventh Circuit by the liberal Brennan Center for Justice.

Bob Bauer, one of the nation's leading election law experts, counters that however valid the reformers' concerns may be, the Wisconsin investigation raises important constitutional and policy issues. "There are serious problems with the effort to prohibit or limit issue ad coordination," Bauer said. "I'm very wary of using the criminal law to enforce them."

Punishing coordination, Bauer said, would "drive apart natural allies who should be free to collaborate on common political goals." As an example, he suggested that Planned Parenthood and the 2016 Democratic presidential nominee might want to pair their fundraising and ads for maximum effect, if it would help defeat an anti-abortion Republican candidate in 2016.

Since Bauer served as President Obama's White House Counsel, he cannot be discounted as a conservative partisan.

Urging donors to make large, anonymous, unregulated contributions to allied nonprofits that fund ads helpful to Republicans, as Gov. Walker has done, is too often presented by the press as scandalous, according to O’Keefe and other supporters of the governor.

When some secret court filings were unsealed on June 19, almost all major news outlets trumpeted the prosecutors’ theory that Walker was at the center of a “criminal scheme” to channel big contributions through conservative groups to help him win his 2012 recall vote. They also headlined subsequently unsealed documents revealing that Gov. Walker had personally solicited wealthy donors, such as Donald Trump and Sheldon Adelson, to give large sums to the Club for television ads that would also benefit his own campaign.

The New York Times ran a front-page article highlighting prosecutors’ claims of “an elaborate effort to illegally coordinate fundraising and spending between [Walker’s] campaign and conservative groups.” Buried in paragraphs 10 and 11 was the fact that both a federal judge and a state judge had ruled that the investigation should be shut down as legally groundless.

Amid the debate over whether it is Gov. Walker and conservative activists like O’Keefe – or Chisholm and his fellow prosecutors – who are corrupting Wisconsin politics, one issue emerges: Campaign finance laws designed by reformers to stop the corruption of American politics can take a toll on the freedom of speech. The question that the federal courts will decide is whether the benefits are worth the costs.

National Review

Consider the Moose

In politics as with animal attacks, we fear the fantastic while the mundane threatens.

By Kevin D. Williamson

Next summer will mark the fortieth anniversary of the release of the film *Jaws*, a truly terrifying piece of cinema, the theme music from which pops into my head, if only briefly, every time I set foot in the ocean. The film is famous for its visual inventiveness and for the late Roy Scheider’s performance, improvising what turned out to be the film’s most memorable [line](#): “You’re gonna need a bigger boat.”

In the real world, shark attacks in American waters are vanishingly rare, averaging fewer than one fatality per year out of a nation of 300 million and a great deal of coastline. But there still is something uniquely terrifying about sharks — they attack from our blind spot, and they are physiologically and socially alien to us. There is no common point of reference with a shark, and so we dread them, even though we rarely encounter them. The wolf, a staple of our fairy tales and films such as *The Grey*, is another creature that haunts our imagination, though North American wolf attacks are so incredibly rare that wolf scholars work with individual episodes rather than aggregate statistics. Domestic dogs, on the other hand, kill dozens of people each year. “[What if there’s bears?](#)” may be the stuff of nightmares, but you are in fact more likely to be attacked by a moose.



But who has nightmares about Bullwinkle?

In June 2012, the academic journal *Wilderness and Environmental Medicine* published a survey titled “Fatalities from Venomous and Nonvenomous Animals in the United States (1999–2007),” and the results are about what you’d expect if you’re relying on your neocortex rather than your limbic system. The most common way for an animal to kill you is for it to be in the way while you’re speeding down the highway in your Prius, and that animal is most likely to be a cow or a horse. Crocodiles and alligators killed nine people during the years studied; wasps, hornets, and bees killed 509.

Sharks get John Williams’s terrifying two-note *Jaws* theme. But the real killers get Nikolai Rimsky-Korsakov’s whimsical chromatic workout: “Flight of the Bumblebee.”

“Little Red Riding Hood” will always be with us.

But the rational man fears the moose.

It may be the case that we invent exotic and unlikely monsters to fear as a way of keeping our minds off of that which we really should fear. You can do something about great white sharks: Don’t go in the water. But bees? I once came near to serious injury as the result of a bee sting, not because I’m allergic but because I was riding a motorcycle at the time and the damned thing flew into my vest. (In fairness, I ran into it more than it ran into me.) I was startled by the sting (I’d never been stung before) and jerked just a little, which, on a motorcycle, can be enough to get you hurt. That didn’t happen in this case, though I imagine that many passing motorists were wondering why the guy on the motorcycle was punching himself in the chest. Bee stings hurt, as it turns out.

We certainly invent things to worry about when it comes to politics. Some of my more *enthusiastic* correspondents on the right send me missives about President Obama's secret plan to install himself as president-for-life and suspend the 2016 elections, while political obsessions originating on the left are a staple of popular culture: *Waterworld*, *Bladerunner* and other corporate dystopias, Godzilla. The enduring popularity of conspiracy theories is almost certainly rooted in our refusal to look squarely at the quotidian horrors of the 21st century: Islamic State beheadings and Ebola abroad, failing institutions and a corrosive culture at home. If things go well and truly wrong — and they always do, eventually — it won't be the Illuminati or genetically modified crops that get us. But we'd rather worry about Godzilla's atomic breath than about Iran's atomic ayatollahs.

Heavy debt, dysfunctional families, unfunded and unfundable liabilities, economic stagnation, official corruption, lawless government, overrun borders, social cohesion strained to the breaking point . . .

We're gonna need a bigger boat.

NY Times

[Germany: Life Expectancy Has Risen in East Since Reunification, Study Says](#)

The life expectancy of East Germans has risen sharply since their state was reunified with the more prosperous West in 1990, a new study shows. Reunification added 6.2 years to the life of men in the former East and 4.2 years to their female counterparts, according to calculations by Tobias Vogt, of the Max Planck Institute for Demographic Research, that were published ahead of the 25th anniversary of the fall of the Berlin Wall this year. If East Germany still existed, boys born in 2011 could expect to live to the age of 70.9, while girls would have a life expectancy of 78.7 years, the study showed. But in a reunified Germany boys born in 2011 were forecast to live to 77.1, and girls to 82.9. Mr. Vogt cited improvements in medical treatment and an improved standard of living as the reason.

PriceOnomics

The True Story of 'The Crying Indian'

by Zachary Crockett



On Earth Day, 1971, nonprofit organization Keep America Beautiful launched what the [Ad Council](#) would later call one of the “50 greatest commercials of all time.” Dubbed “The Crying Indian,” the one-minute PSA features a Native American man paddling down a junk-infested river, surrounded by smog, pollution, and trash; as he hauls his canoe onto the plastic-infested shore, a bag of rubbish is tossed from a car window, exploding at his feet. The camera then pans to the Indian’s cheerless face just as a single tear rolls down his cheek.

The ad, which sought to combat pollution, was widely successful: It secured two Clio awards, incited a frenzy of community involvement, and helped reduce litter by [88%](#) across 38 states. Its star performer, a man who went by the name “Iron Eyes Cody,” subsequently became the “face

of Native Indians,” and was honored with a star on Hollywood’s Walk of Fame. Advertisers estimate that his face, plastered on billboards, posters, and magazine ads, has been [viewed](#) 14 billion times, easily making him the most recognizable Native American figure of the century.

But while Hollywood trumpeted Iron Eyes Cody as a “true Native American” and profited from his ubiquitous image, the man himself harbored an unspoken secret: he was 100% Italian.

America's Favorite Indian



Long before his fame in the 1970s, Iron Eyes Cody had carved out a niche for himself in Hollywood’s Western film community as “the noble Indian.” With his striking, “indigenous” looks, he perfectly fit the bill for what producers were looking for -- and his story correlated. Until the late 1990s, Iron Eyes’ personal history (provided solely by himself) was that he’d descended from a Cherokee father and a Cree mother, and had been born under the name “Little Eagle.” An old archived [article](#) filed in the Glendale Special Collections library elaborates on his account:

“Iron Eyes learned much of his Indian lore in the days when, as a youth, he toured the country with his father, Thomas Long Plume, in a wild west show. During his travels, he taught himself the sign language of other tribes of Indians.”

From 1930 to the late 1980s, Iron Eyes [starred](#) in a variety of Western films alongside the likes of John Wayne, Steve McQueen, and Ronald Reagan. Clad in headdresses and traditional garb, he portrayed Crazy Horse in *Sitting Bull* (1954), galloped through the plains in *The Great Sioux Massacre* (1965), and appeared in over 100 television programs. When major motion picture houses needed to verify the authenticity of tribal dances and attire, Iron Eyes was

brought in as a consultant. He even provided the “ancestral chanting” on Joni Mitchell’s 1988 album, *Chalk Mark in a Rainstorm*.

By all accounts, he was Hollywood’s -- and America’s -- [favorite](#) Native American.

But several (real) Native American actors soon came to doubt Iron Eyes’ authenticity. Jay Silverheels, the Indian actor who played “Tonto” in *The Lone Ranger*, pointed out inaccuracies in Iron Eyes’ story; Running Deer, a Native American stuntman, agreed that there was something strangely off-putting about the man’s heritage. It wasn’t until years later that these doubts were affirmed.

The Italian Cherokee

In 1996, a journalist with *The New Orleans Times-Picayune* ventured to Gueydan, Louisiana, the small town Iron Eyes had allegedly grown up in, and sought out his heritage. Here, it was [revealed](#) that “America’s favorite Indian” was actually a second-generation Italian.

“He just left,” [recalled](#) his sister, Mae Abshire Duhon, “and the next thing we heard was that he had turned Indian.”

At first, residents of Gueydan were reticent to reveal Iron Eyes’ true story -- simply because they were proud he’d hailed from there, and didn’t want his image tarnished. Hollywood, along with the ad agencies that had profited from his image, was wary to accept the man’s tale as fabricated. The story didn’t hit the newswires and was slow to gain steam, but *The Crying Indian*’s cover was eventually blown.

Iron Eyes Cody, or “Espera Oscar de Corti,” was born in a rural southwestern Louisiana town on April 3, 1904, the second of four children. His parents, Antonio de Corti and Francesca Salpietra had both emigrated from Sicily, Italy just a few years prior.

Five years later, Antonio abandoned the family and left for Texas, taking with him Oscar and his two brothers. It was here, in the windswept deserts, that Oscar was exposed to Western films, and developed an affinity for Native American culture. In 1919, film producers visited the area to shoot a silent film, “Back to God’s Country;” Oscar was cast as a Native American child. The experience impacted him greatly, and, following his father’s death in 1924, he migrated to California to forge a career as an actor.

Once in Hollywood, he’d changed his name to “Cody” and, to attract the attention of producers looking for authenticity, had begun acting under the moniker “Iron Eyes.”

Legacy

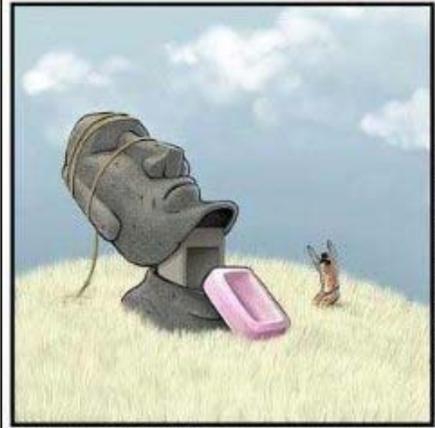
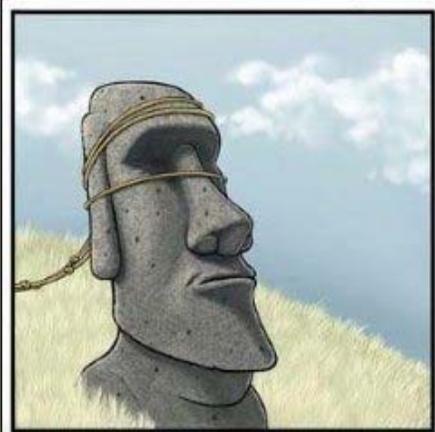


Even after his history was revealed, Iron Eyes Cody refused to admit the truth behind it. He continued to wear his braided wig, headdress, and moccasins, and was unrelenting in supporting the Native American community.

He [toured](#) on a lecture circuit, reminding Indians of their traditions, and admonishing them against gambling and the use of alcohol. "Nearly all my life, it has been my policy to help those less fortunate than myself," he later [told](#) the press. "My foremost endeavors have been with the help of the Great Spirit to dignify my People's image through humility and love of my country. If I have done that, then I have done all I need to do."

Iron Eyes Cody peacefully passed away in 1999, at the age of 94, leaving behind a poetic homage to the culture he believed in. "Make me ready to stand before you with clean and straight eyes," he [wrote](#). "When Life fades, as the fading sunset, may our spirits stand before you without shame."

If you liked this blog post, you'll be mildly amused by our book → [Everything Is Bullshit](#).



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SO I'M ACTING
ON MY OWN.



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