

On November 15, 2007, Lawyers for Burners appeared in US District Court in Reno, Nevada for the second arraignment calendar of Participants who received citations at the 2007 Burning Man Event. Unlike in October, the Court and courthouse staff was cordial and accommodating of our effort to provide legal support to Participants. The US Bureau of Land Management (BLM), the federal agency which issued the citations, however, remained obstinate and hostile.

We had hoped that the BLM would acknowledge (or at least listen to) the accounts and data we collected from Participants in response to our online survey forms. Those survey responses described gross violations of basic civil rights. At court, Lawyers for Burners approached the BLM and asked them to sit down with us and discuss the various constitutional issues raised by the cases currently before the Court. We tried to inform the BLM about the unlawful searches by its rangers and predicted that that the Court is likely to suppress the illegally obtained evidence or dismiss the charge outright. We invited the BLM to discuss compromises with each Participant and spare everyone, including the government, of a full blown trial in federal court.

Lawyers for Burners was formed as an independent organization, separate from Burning Man, to provide Participants with legal resources to challenge this unlawful conduct by the BLM rangers. We also ensure that, if the BLM would not dismiss improper charges, all Participants who received illegal citations from the BLM would have the resources and legal representation to take their cases to trial, in the hope and expectation that we will win motions to suppress evidence and get the citations dismissed, or win after trial.

If the BLM was seriously interested in resolving these matters and ensuring that correct citation and arrest procedures were utilized, the BLM would have discussed with our team of lawyers the information we had concerning the constitutional and legal problems with the BLM citations. The BLM, however, refused to listen or compromise. Accordingly, we insisted that all the citations -- more than 20 -- be set for trial. It was a beautiful sight, seeing every single participant who received a citation stand up and plead not guilty and ask for a trial date. The trials will start on December 4, 2007 and continue through April 2008. (The trial in federal court on December 4th will be for "speeding" even though the speed limit on the Playa is set by Burning Man for the purpose of keeping down the dust).

The conduct by the BLM at the November 15 is another example of its failure to be accountable for the illegal conduct by some of its rangers. Instead of acknowledging that "mistakes were made," The BLM has simply closed ranks and denied fault. By refusing to work with Lawyers for Burners and filtering out those cases with bogus searches, the BLM is simply emptying its pockets onto the Court and the office of the United States Attorney in Reno.

Mark Pirtle, the Director of Law Enforcement for the BLM in Nevada, personifies the faultiness of the BLM and its law enforcement rangers. Mr. Pirtle has said many inconsistent things about law enforcement activities at the Event. At times, Mr. Pirtle has disclaimed any ability to supervise or manage the various rangers on the Playa. He said that the rangers on the Playa were from multiple jurisdictions such as Colorado and Arizona which were not under his control.

Moreover, Mr. Pirtle claimed that since 9/11, the Rangers report directly to the Bureau of Land Management in Washington, DC and that he had no control or authority over their training and supervision. Mr. Pirtle also said that since the rangers were from other jurisdictions, they were unfamiliar with local laws.

During the 2007 Event, Burning Man expressly informed Mr. Pirtle about allegations of illegal conduct by his rangers. Every day at the Event, Burning Man staff met with Mr. Pirtle and others regarding law enforcement activity. At one of those meetings, several staff members told Mr. Pirtle about reports of over-zealous and unconstitutional searches by his rangers and incidents where rangers obtained consent to search after threatening to bring in their trained dogs. At that meeting, Mr. Pirtle told those present that coerced searches were illegal and that the US Government would not prosecute cases based on a coerced search. Mr. Pirtle even invited those wrongly cited to challenge the citation in court. The BLM's decision to set, blanketly, all citations for trial contradicts what Mr. Pirtle said on the Playa.

Another area of contradiction is the level of training BLM rangers receive prior to working our Event. If law enforcement is going to wear a badge, carry a gun and charge citizens with crimes in our community, they should be trained properly regarding how to conduct lawful searches. We asked Mr. Pirtle about such pre-event training, and Mr. Pirtle has given various conflicting answers. Despite his claim that he does not supervise or manage the rangers who work at our Event, he claimed that the rangers are properly trained.

Other law enforcement agencies disagree. Pershing and Washoe counties, the local jurisdictions within which the Playa is located, wrote a report which summarized their law enforcement activities at the Event this year. (As stated elsewhere, Lawyers for Burners is not challenging enforcement activities by local Nevada law enforcement agencies. The conduct of those officers and the number of incidents they recorded was consistent with 2006. It was only the BLM which dispensed 213 percent more citations than it did in 2006). The 2007 After Action Report by Pershing County acknowledged unlawful searches by BLM rangers. Specifically, the local law enforcement agency reported that they had to decline enforcing violations alleged the BLM once they learned about faulty searches by some of the rangers. The 2007 After Action Report by Pershing County reads:

In speaking with BLM rangers, I found that some of the BLM rangers need to be educated on Nevada Law and Nevada Supreme Court decisions, especially as it relates to search and seizure and what consent to search is. Pershing County was asked several times to adopt BLM cases, and declined to do so, advising that the way that the item was seized would not be allowed in state courts. I am recommending that all personnel attend a training class taught by a local Deputy District Attorney, prior to deploying at the event. This would save a great deal of time for both agencies, as well as reduce the number of complaints that BRC receives from people attending the event.

Thus, the BLM's local law enforcement counterpart recommends that BLM train its rangers about search and seizure law.

On October 25, 2007, at one of three annual Cooperators Meeting with federal and state officials, Burning Man asked Mr. Pirtle about the training of his officers prior to the Event. In response, Mr. Pirtle backtracked from his earlier assurances that BLM rangers were properly trained. Mr. Pirtle told everyone present at the meeting that he had planned to train his rangers about proper search and seizure procedures, but that training did not occur because the Nevada United States Attorney's office did not provide anyone to conduct the training. In other words, the fault was with the US Attorney's office.

We think it is shameful that Mr. Pirtle chooses to blame the United States Attorney for the transgressions of his subordinates. Now that the entire basket of BLM citations has been dumped into the lap of the US Attorney's office, we ask that the US attorney's office investigate the circumstances of all questionable searches by BLM rangers and decline to prosecute those cases which warrant dismissal.

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