

Dispatch from River City, continued... / Small Town Noir

By Carl Nelson

Stonewalling everywhere. They commonly mouth absurdities as replies.

I attended my first city council meeting of our small SE Ohio town. As long as I could stay awake, it was quite an eye-opener.

I, and probably all of us, have watched innumerable movies, (especially Westerns and those set in the deep rural South), wherein a small, remote town is literally ruled and run by a despotic Sheriff. It's a classic trope as a setup for the hero's journey and can make for an engaging watch, when accompanied by a subtle production, good acting and intelligent script.

Well, our small burg hasn't any of this – but it really makes up for it in imbedded realism and attention to tedious detail.

The issue, which was brought before the town council by my neighbors (my wife and I coming along for support), was the removal of two derelict autos which had been left parked in front of my neighbors' home for over two years.

To recap from [“Dispatch from River City” \(Part One\)](#):

Meanwhile relations with the neighbors along the opposite (west) street side of Bob continued to sour. Bob had used his connections within the city to have a handicapped zone designated just across the street from his home where he parked his vehicles – his expansive garage on the alley being too crammed with overflowing cardboard boxes for use. He personally got the determination based on his wife's handicap

and so felt that the zone was entirely hers, regardless of what other handicapped persons on the block desired. Then, when his wife's car's battery died, he left the car in the handicapped zone, where it has sat for months, rather than to fix it, or move the wreck to his back alley. So his wife can't use the car and the neighbors can't use the handicapped parking spot. And this irritation sits like a wart directly in front of his neighbors, and squats like a toad in front of all. (Apparently by law, in our small town, you can't leave a disabled car in your front yard – but can leave it sitting in the street.)

When my neighbor asked Bob why he insisted upon doing this, Bob replied: "Just to piss you off."

The Police Chief – who for some reason supports the derelict auto owner, Bob – refused to have the cars removed. (The derelict autos had since increased by one.) And when pressed, the police began to harass my neighbor instead.



Following a flap between our neighbors and Bob, Bob apparently called the Chief, who instructed one of his patrolmen (it was late, on the night of a pouring rain) to go to our neighbor's home and make our neighbor

remove their car from their driveway because it was sticking about a foot into the sidewalk thoroughfare. Our neighbor, with two gimpy knees herself, had tried to squeeze two cars into their driveway because Bob's two derelict autos plus his functioning vehicle had taken all of the street side parking. For good measure, the patrolman issued our neighbor a ticket, adding that he apologized for having to do what he had been ordered to do.

This stewed for a while, until several months later the neighbor's husband, (who is generally calm as a stone) finally decided the time had come – having given up on any help coming from the police or town administration – to present his case to the town council. My wife and I came along for moral support and to supply two more voices and perspectives, as we also had some standing in the matter. As the neighbors', whose cars were denied nearby parking due to the presence of Bob's derelict autos, then parked in front of our home. So on a Monday evening, we all sat through two hours of tedious council business until finally achieving our audience with the assemble council members plus the mayor, et al.

Let me start you off with the comment made by the legal advisor to our town council – a likeable fellow who tends to keep his head down.

The comment was in regard to my reading of City Ordinance 351.14:

MAXIMUM PARKING TIME. (a) No person shall park an inoperable vehicle upon any road, street or highway in the city longer than seventy-two hours. (b) "Inoperable" is defined as meaning unable to be driven upon a public road, street or highway for any reason. (c) Whoever violates this section shall be issued a warning by the Police Department. Upon a second offense within one year, the violator is guilty of a minor misdemeanor. For a third offense within one year, the vehicle may be towed with costs charged to the violator. (Ord. 20(2004-05) Passed 5-9-05.)

My neighbors and I had all maintained that the cars, having not been moved for over 2 years for the initial vehicle (a car) and in 6 months for the latter (a truck), could and should be towed off as 'inoperable'. And that their inoperability could easily be proved by asking the owner, Bob, to start the cars and demonstrate their operability. The Police Chief had stated to our neighbor who had visited him

earlier, that he could not force the owner to do this as it would violate his Fourth Amendment rights. I thought this the most specious interpretation of the Fourth Amendment as surely anyone could come up with.

As a sidebar, to refresh memories (taken from Google):

What are violations of the 4th Amendment

The Fourth Amendment prohibits the United States government from conducting “unreasonable searches and seizures.” In general, this means police cannot search a person or their property without a warrant or probable cause. It also applies to arrests and collection of evidence.

What is an example of a reasonable search and seizure?

This means, for example, that if you leave a gun or a bag of marijuana out on the seat of the vehicle and you are stopped, the police may be able to seize it without a search warrant if it is in plain view.

I wondered under what possible interpretation could the police requiring a person prove that their vehicle was “operable” by starting the vehicle and moving it be considered an unlawful search or seizure? What was being searched? What was being seized? And isn’t the derelict auto, like a bag of narcotics, in plain view? (...for two years!)

And moreover, I asked during my moment before the town council, isn’t the grass growing out of the bed of the truck and around the tires of both vehicles, plus a neighbor noting that a vehicle hadn’t been moved in over two years probable cause for thinking it inoperable?

The lawyer on the council laughed while inching back in his chair and said that there was no way he was going to get into a legal discussion of the 4th Amendment – as if, in my amateurish incomprehension, I were presenting a champion

tarbaby of legal contention. He seemed a nice enough fellow and bright. (And he stopped to discuss the matter further later, privately, in the parking lot afterwards).

So, outside then later, I continued on to ask, isn't his job to describe what the law is when there is any uncertainty, so that it could be acted (or not acted) upon?

The lawyer said that his responsibility was to interpret the law as he read it to the Police Chief. "And however he decides to act upon this is his decision." He raised his arms in a hands-off, defensive posture. "I don't interfere in how he runs the Police Department."

"Well then, who oversees the actions of the Police Department?" I asked.

I was told that the Safety Service Director oversaw the actions of the Police Chief, and that they answered to the Mayor. I have no idea how the actions of the Police Chief are reprimanded. It sounded as if this wasn't done. Because, the next thing mentioned was that the only way to get rid of the Police Chief was if he were convicted of various felonies which would be very hard to prove

(And what did I think of that?).

I considered this. That the city's lawyer explains to the Police Chief what the law is. And then the Police Chief is apparently not obliged to follow the law, but is at liberty to do as whatever he prefers.

"So what if the Mayor were to mention to the Chief one day that the city is under tight fiscal restraints and that he is "very expensive?" (That maybe they were going to have to cut his salary by one half?)

(Wouldn't that get him to set his doughnut? was my thinking.)

The lawyer was shocked, I think by the audacity of my

question.

He didn't want to go anywhere near that one either, and directed the conversation to other trivial small town chatter before taking his leave.

But back to our meeting with the town council...

Of the council members who replied to our arguments, several seemed sympathetic. However, they oddly refused to reach any conclusion which would obligate them to act. I said, "It's almost as if, rather than to solve this problem, you all are trying to spin whatever argument we make so as to do nothing. It's as if we, who are suffering this problem are offered nothing, while Bob, who is the perpetrator of the difficulty is offered every advantage of action and interpretation."

I spoke to a wall of impassive faces seated behind the semi-circular council cabinet front.

"For example," I continued. "You've made it very plain that you do not want to create an ordinance which you haven't the funds to enforce. You say that if you were to remove the word "inoperable" from the current city ordinance, that cars would have to be moved after setting a maximum of 72 hours, such as is the law in our sister town just upriver. Then, you maintain, the city would be obligated to hire an armada of parking attendants to insure that this occurred nowhere within the city – and that you simply haven't the budget for it. That you don't want to pass an ordinance that you can't enforce. And yet, here is an ordinance right in front of your eyes, which you seemingly can't enforce."

I continued. "Our council lawyer just began making what I thought was an excellent point that we have a speed limit down Washington Boulevard of 35 mph, and yet cars are doing over that speed limit all the time. We haven't the resources to ticket them all." (Then it seemed he realized where this line of argument was headed, and continued in the vein of, "So we

can't have another ordinance we can't enforce.")

I pointed out that it is logical that the city must prioritize with speeders and write tickets as the most severe problems present themselves. I pointed out also that there is usually no need to enforce an ordinance until a complaint is made. (Only later did I reflect on the absurdity of having to canvas the city 24/7 to be sure each of over a hundred ordinances were constantly in enforcement.)

"But how would we handle all of the complaints?" a more vocal council member responded. "Why we could have people complaining all the time if they didn't like how their neighbor managed their parking. Where would we find the budget?"

In retrospect, a good reply I should have made was that they could get the monies for enforcement from the same source which paid the police officer to stop by my neighbor's home at night in a pouring rain to make her move her car, which was protruding a foot into the sidewalk. Or, I could have made the point that these were actual things the citizens were asking the city to do, and they would be doing a service to their constituents to respond. Moreover, that it seemed the city had no trouble enforcing the collection of their taxes – whereas they drag their heels at every opportunity to supply the lawfully required services. That their arguments against solving a complaint seemed to have much in common with community city leaders who don't want to build more roads – because people would want to use them!

Like stonewalling bureaucracy everywhere, they were answering reasonable complaint with absurd replies accompanied by blank stares.

This had me flummoxed.

I really hadn't much skin in the game up until I ran into this faux amiable passive-aggressiveness on the part of the council

towards its citizens. Rather than the Police Chief answering to the law and the council to its citizens – the reverse seemed to be occurring. Isn't that the nature of despotism? And weren't they reacting as one? That is, giving absurd answers to reasonable questions, and then staring at the questioner as if the matter were resolved?

So I shifted gears.

"But what is more troubling to me currently, than the removal of these derelict cars, is the biased enforcement of the law by the Police Department. They seem to do what they can to harass a citizen who merely wants derelict cars removed from in front of their home, but will do whatever they can to excuse the behavior of the person who has planted them there. And there also seems an equal resistance upon the part of this council."

"It seems our elected city government practices no oversight of the Police. Why does Bob get to park his derelict autos in front of my neighbor's home just to "piss them off" in his own words. And why has Bob been able to have a handicapped zone placed directly across from his home for the use of his wife's car, which to my understanding is a situation not existing on any other residential street in this town. How did this come about? And then, to allow him to leave her disabled car there for over two years – in a disabled zone which other persons on the block are qualified to use – without penalty or action. There is something very wrong with the oversight in this city administration."

A quiet descended over the assembly room.

"So a bigger issue here is that if the law is to be applied inequitably, changing the law or creating a new one is not going to solve the problem. In fact, it will make it worse. Does that make sense?"

Stuff was said about it being an administrative matter, so the

problem really needed to be presented to the Safety Service Director. Later the next day, my wife emailed the Safety Service Director, with a rundown of our complaint.

The Safety Service Director emailed back that though we were told it was an administrative issue, "we can only enforce what the city ordinance says. Being that the ordinance reads that no owner or occupant of any residential premises shall allow or be allowed to keep or store any inoperable vehicles on the premises for more than 60 days, regardless of the condition or alleged value of the said vehicle. per Ord 1313.12(b). The city council would have to change the statute to have the vehicle moved every 72 hours that was discussed during the meeting."

The Safety Service Director had referred to the wrong Ordinance. But by not referring to the ordinance we were discussing, he was able to dismiss our claim and kick it back to the city council – and we, the claimants, were back to square one. Moreover, he did not comment on the leaking oil we evidenced in photos running into the city sewer. Nor did we ask for the removal of the handicapped sign. But the handicapped sign was removed the next day, nevertheless – an operation which the Police Chief personally oversaw.

Can you say, "Cover-up"?

Originally, I had believed Bob received benefits from the Police Chief's office perhaps because they were old time friends, or because Bob had gotten himself elected to the town council, where he was the Chief's staunch supporter in budgetary and other matters to come before the city council. But Bob is no longer on the town council. And the council members don't appear to like him very much. In fact, the lawyer obviously hates him. And Bob has no following of any account to assist in another run for office. (He narrowly achieved the council posting by beating out a convicted drug felon. I really believe my dog, Tater, greatly liked

throughout our neighborhood, would poll better.) And Bob's favorite activity, it would seem, is gleefully flipping whatever friendships or acquaintance he has into animosities. Bob generates quarrels. So surely, if extending his influence were one of the reasons our Police Chief has for favoring Bob, this makes no sense either. Because Bob is the sort of 'influencer' you would want to keep away with a long stick.

One of the council members asked me, following my presentation, why there was a space between the two derelict cars in the photos I submitted as evidence?

I told him, "The space is where Bob parks his one car which runs. I was up early one morning walking my dog, and I saw his tenant from the other side of the duplex where Bob lives walk out to start his car, parked in front of my home, and move it into the empty slot which Bob had left. This was in order that our neighbor across from him couldn't park his car there in Bob's absence. Then the tenant went back to bed."

"The tenant is a convicted pedophile on the Sex Offender Registry. Bob isn't friends with anyone he doesn't control. If this fellow doesn't do as Bob wants, he's out on the street. Bob owns him."

All of which makes me think that Bob must have something on our Police Chief.

But what is it?

I don't know.

And why is the council so opposed to both handling the derelict problem and to exerting some oversight of the police? And why is the lawyer so timid?

The issue has grown larger – in my eyes – than the problem of two derelict vehicles, and has offered a peek into my small town's operation and underbelly.

