

# ***Crime Stoppers*** **Legal Update** **2019**

Presented by Judge Richard W. Carter (Ret.)  
at

2019 Annual Training Conference  
*Crime Stoppers of the United States of  
America, Inc.*

Presenter  
Judge Richard W. Carter (Ret.)



# Speaker's Biography

- Licensed attorney in Texas since 1973, also admitted to practice before all federal district courts in Texas, 5<sup>th</sup> & 11<sup>th</sup> U.S. Courts of Appeal, and U.S. Supreme Court.
- Former Chair of Legal Officers Section of *International Association of Chiefs of Police (IACP)*; Life Member of National Sheriff's Association.
- Former Hunt County Attorney, former Arlington Municipal Court Judge.
- Former General Counsel & Executive Director of *Crime Stoppers International, Inc.*
- Former Asst. General Counsel & Staff Attorney for *Combined Law Enforcement Associations of Texas (C.L.E.A.T.)*.
- Senior Attorney with *Walker & Taylor*, Houston, Texas.
- Director of Legal Services for *Crime Stoppers of the United States of America, Inc.*
- Author of *Court Security for Judges, Officers & Other Personnel* (2016) published by *LexisNexis* and *Blue360Media*.

# Overview of Training Points

- Recent legislation helpful to Crime Stoppers in Florida and Texas
- An analysis of recent court decisions pertaining to Crime Stoppers
- Unveiling the anticipated attack upon Crime Stoppers by criminal defense attorneys in the United States state and federal courts

# Statutes and Regulations

- There are approximately 24 states or Territories in the United States which have legislation or regulations helpful to Crime Stoppers
- Florida and Texas have enacted legislation since last year's CSUSA Annual Training Conference

# Florida

Title IV, Chapter 16, at 16.557

“Crime Stoppers organizations; disclosure of privileged communications or protected information”

- Defines “Crime stoppers organization”
- Defines “Privileged communication”
- Defines “Protected information”
- Unless disclosed per criminal discovery punishable as a felony of third degree

# Texas

- Amends definition of “crime stoppers organization” to also include “open enrollment charter school” and “school district”
- Amends 414.0015 to expand types of information to include conduct or threatened conduct to schools
- Amends to refer to members of Texas Crime Stoppers Council as five “voting members” and one non-voting current student of a public school who participates in the Texas Crime Stoppers “Ambassador Program”; and requires at least 3 of the 5 voting members to have either participated in a Crime Stoppers organization or be a current or former official or employee of a school

# Missouri (Proposed)

- Adds to Missouri Rules of Criminal Procedure 26.02(h)
- Defines “Crime stoppers organization”; “Privileged communication”; and “Protected information”
- Prohibits disclosure of privileged communication unless an infringement on constitutional rights would result
- Appears to mirror recent Florida legislation, but does not create a criminal offense for unlawful disclosure

# Case Law

There are over 100 appellate court decisions each year which involve Crime Stoppers. We will discuss a few which may have been overlooked since 2016, but which are of educational value to Crime Stoppers.

If you have any recent court decisions you wish to share, please forward them to:

[CrimeStoppersLaw@aol.com](mailto:CrimeStoppersLaw@aol.com)

# Federal Cases

Giles v. Crime Stoppers of Birmingham, Alabama  
U.S. Court of Appeals (11<sup>th</sup> Circuit 2018)  
720 Fed.Appx.1001

“Crime Stoppers is not a state actor and Giles has not argued any facts that would support a finding that it fell under one of the three circumstances that would, for a Section 1983 claim, allow it to be viewed as such. Therefore, Crime Stoppers is not a proper defendant for a section 1983 claim.”

# Federal Cases, continued

Cozzi v. City of Birmingham, et al  
892 F.3d 1288 (11<sup>th</sup> Cir. 2018)

Officer Thomas was denied “Qualified Immunity” and was found liable for violation of civil rights (unlawful arrest) under 42 U.S.C. Section 1983.

Failure to compare tatoos of suspect to tatoos on video was deemed unreasonable and under totality of circumstances officer lacked probable cause. A readily available information tending to exculpate was ignored by officer (according to court).

# State Cases

Funk v. Lincoln-Lancaster County Crime Stoppers and City of Lincoln, 885 N.W.2d 1 (2016)

- Excellent example of what can go wrong when relying upon ATM/bank video surveillance with erroneous or no time stamp.
- Damages are increased when making unnecessary comments such as “This young lady doesn’t look like your typical crook, but she is. She used someone’s stolen credit card...”
- Also illustrates danger in allowing links to remain to Facebook and other sites after one publication has been pulled.
- Judgement in favor of Funk for \$259,217.60 against City and \$75,000 against Crime Stoppers

# State Cases, continued

State of Nebraska v. Hidalgo, 896 N.W.2d 148 (2017)

- Conviction of possession of a firearm by prohibited person (3-5 years). Affirmed.
- Crime Stoppers tip was corroborated by Omaha PD with drive-by surveillance, trash pull, and search warrant.
- The Supreme Court of Nebraska found probable cause, and no legal requirement that the entire tip must be corroborated

# Preview of Upcoming Attack(s) on Crime Stoppers in the USA

## *State of Texas v. Brandon Lacour*

On September 7, 2018, criminal defense attorney Norman Silverman attempted to have his client's murder case dismissed because Crime Stoppers tipster's identity was not produced, and in his efforts he exposed several soft target areas in Crime Stoppers operations.

Although only partially successful, we have reason to believe there will be other attacks upon the Crime Stoppers program in the near future, and we must be ready for more s

# Methods of Attacking Crime Stoppers

- Allege a “Constitutional right” that supersedes any statute enacted to protect informants who are Crime Stoppers tipsters
- Seek “1099-MISC” documents in cases where federal agencies pay reward money and ill-advisedly do not exempt reward recipient under Treasury Regulation.
- Lobby for repeal of the portion of the Treasury Regulations which exempt from 1099-MISC reporting rewards paid by a 501(c)(3) [Argue that Crime Stoppers has broken its unwritten agreement not to offer and pay large rewards, and now hundreds of thousands in income is not being reported.

# Attacking Crime Stoppers, continued

- Argue that ethical and professional responsibility codes are not being enforced against prosecutors who are participating in or acquiescing in the payment of witnesses for their testimony.
- Move for “Change of Venue” in cases where Crime Stoppers reward offers make jury selection difficult.
- Move for dismissal under *Brady* if a Crime Stoppers payment to a witness has not been disclosed to the defendant.
- Report violations of the federal Fair Labor Standards Act (FLSA) by law enforcement agencies who knowingly allow officers to work uncompensated overtime with Crime Stoppers.

# Attacking Crime Stoppers, concluded

- Use the “Motive to Fabricate” to impeach Crime Stoppers tipsters who testify, and to attack the credibility of “anonymous” informants who are paid large(er) rewards.
- Attempt to show that Crime Stoppers with its arbitrary offering of larger rewards conveys the message that “Some Lives Matter More Than Others” and contributes to bias in the criminal justice system.

[Note: I’d rather not even put into words a number of other attacks I am concerned about due to larger rewards being offered.]

# End of Presentation

- Are there any questions?
- Additional questions or requests for information can be emailed to [CrimeStoppersLaw@aol.com](mailto:CrimeStoppersLaw@aol.com)