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## Houston Lawyer Setting Traps For Louisiana Police

"I'm tired of this ---," the narcotics officer told the Texas driver who had been pulled over by another lawman on a highway near Covington, La., one cold day last November.

"If you don't answer my --- questions, we're going to do something else."

After that vague threat spiked with obscenities, and the threat of confiscation of his Florida rental car, the Texan relented and allowed the officers to search the vehicle.

If the officers expected to find a load of drugs moving between the narcotics "hot spots" of Texas and Florida, they were disappointed. All they found in the suspicious-looking garbage bags inside the car was air.

But the driver, Houston criminal defense attorney Gary Trichter, was not disappointed.

He had secretly taped the 40-minute roadside encounter, and the tape has become a piece of potential evidence in his not-so-secret "sting" operation against the Louisiana State Police.

Trichter, once a policeman in Florida, is part of the defense team in a string of drug cases in Covington and elsewhere along the Gulf Coast. In each case, the drivers - many from the Houston area - were stopped, searched and eventually charged with possessing or transporting drugs.

The Louisiana State Police say they are narrowing the flow of drugs through their state. Officers are now doing a better job of spotting signs of drug-running and other crimes by drivers they first stop for breaking traffic rules, a spokesman said.

The "criminal patrol" project has resulted in more than 2,330 criminal charges, a quarter of them involving drugs; the arrest of more than 200 fugitives, including two men on the FBI's "10 Most Wanted" list; and the confiscation of more than 6,700 pounds of marijuana, more than 420 pounds of cocaine and more than 100 stolen cars, according to the agency.

But Trichter and his clients contend the traffic violations frequently are fiction - that some Louisiana troopers use the pretense to stop drivers and their passengers who fit a drug courier profile. And in some of those cases, drivers are illegally coerced into consenting to a search of their vehicles, according to Trichter, who cites the tough talk during his own run-in with the officers.

The circumstances of the arrests are important, because evidence seized in a search shown to be based solely on a "profile" is very often thrown out of court, even after drugs are found. It's a recent pattern of law established under the Fourth Amendment of the U.S. Constitution, which protects against unreasonable searches and seizures. Appeals courts essentially have ruled, in other words, that it's wrong to search someone only because they look suspicious - even if the suspicion turns out to be well-founded.

And coercion of consent to conduct a search can also trigger the rejection of evidence of a crime. However, Trichter said the issue goes beyond his clients and affects the right against government harassment of any innocent person driving through Louisiana and other coastal states.

"You don't have your rights out on the street," he says. "You only have them when you get to court. As a former police officer, I don't think that's the way it should be."

Col. Wiley McCormick, Louisiana State Police superintendent, said in a recent letter to The Times-Picayune newspaper in New Orleans that such criticism is sour grapes from people caught drug smuggling.

The police, acting within the law and encouraged by a public mandate against illegal drugs, "will not be swayed by criticism," he wrote. "We will continue to fight against these heinous merchants of misery." A spokesman for McCormick denied the police use a drug courier profile and stressed that the agency "is a professional law enforcement organization."

In court, the matter often comes down to conflicting testimony from an officer ("I stopped the defendant because of a traffic violation") and the accused ("There were drugs in the car, but I did not violate the traffic laws"). The defendants almost certainly will lose without third-party evidence.

Trying to prove his side right, Trichter has led an undercover video and sound crew on several car trips through Louisiana since last fall.

In each case, he drove a rented car with out-of-state tags and his passenger was a Hispanic man - Houston defense attorney and former prosecutor Joe Castillo. Garbage bags were sticking out of the closed trunk. He drove cautiously, about 5 mph below the 55 mph speed limit.

Trichter maintains that all these characteristics - especially the presence of a Hispanic - fit the drug-running "profile" he alleges is used by the Louisiana patrolmen. However, he was not stopped each time. During the November stop near Covington, the police officer said he nabbed Trichter for weaving on the road. But according to Trichter, videotapes recorded by private investigators in a second vehicle show no traffic violation took place.

After Trichter gave false or elusive answers to the trooper's questions about his occupation and travel plans, the trooper summoned two narcotics officers. They asked for permission to search the car. When Trichter refused, the officers said they had no power to arrest the travelers yet - but they would impound the car and possibly drive the men to a bus station.

"Ya'll can either walk away or stay here and see what happens," one officer said. Faced with losing the vehicle, Trichter finally said he "wouldn't stop" the officers if they searched for narcotics. When nothing was found, Trichter and Castillo were released with a warning ticket for weaving. Word of Trichter's project has spread to Louisiana law enforcement agencies, but Trichter says the "sting" will continue, in part to see if the state police have changed their tactics.

An assistant district attorney in Covington has called Trichter's project unethical, and a state police spokesman said such an endeavor "would not be good for law enforcement." No effort will be made to prevent Trichter from conducting research, however, as long as he obeys the law, the spokesman said. Another motivation for Trichter to continue his car trips is the collection of evidence for a possible class-action suit against Louisiana on behalf of drivers from Texas and other states who may be stopped partly because they are from somewhere else.

A hearing in Covington next month may prove whether Trichter's project is immediately effective. With testimony from other drivers who say they were stopped illegally in the area, Trichter will be asking a judge to throw out the evidence against a Houston couple originally stopped for speeding in September. The man and woman deny they were speeding and contend their car was searched illegally, but they cannot deny that a cache of marijuana was found in the trunk of their car.

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