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Officers' lack of credibility leads to \$310,000 settlement
February 2nd, 2010, 5:00 am · 138 Comments · posted by **Tony Saavedra**, Register investigative reporter

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Marco Escobar Nava didn't know it when he was getting pounded by two Anaheim police officers in February 2008 – but he was about to hit the judicial jackpot. Twice.

First, a criminal jury in May 2009 unanimously found him innocent of misdemeanor charges that he assaulted one of the officers.

Then, the city of **Anaheim** agreed to pay \$310,000 for the beat down that left him with a broken left arm.

What turned the tide for Nava?

The answer is within the officers' own personnel records, which were reviewed by a judge and given in part to defense attorney **Rudolph Loewenstein** of Tustin. What Loewenstein found provided the bulk of his defense strategy: one of the officers was formally put on notice for lying about an ill-timed coffee break. And both had been accused by civilians of making false statements in a report.

In a question of whom to believe – Nava, an admittedly hard-partying window installer, or the two police officers – criminal jurors went with Nava.

And city officials didn't want to risk it in a civil trial, agreeing to settle in December 2009, said Nava's civil attorney **Mark Eisenberg**. Anaheim police and city officials declined comment through city spokeswoman Marty DeSollar.



But the court records give a pretty clear picture: It's a story about cops, coffee and credibility—and how much force it takes to cuff an unruly suspect. It begins Feb. 17, 2008, at 3 a.m.

Too much tequila and too many beers left Nava passed out in the passenger seat of a purple Honda driven by his equally drunken friend, **Edgar Hernandez**. The car caught the attention of Anaheim police officers **Patrick Bradley** and **Garrett Cross** when it almost sideswiped their patrol unit on the Riverside Freeway.

According to court transcripts obtained by **The Orange County Register**, the officers

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pulled the car over at Santa Ana Canyon and Imperial Highway, arrested Hernandez and put him in the squad car.

Problems began when they tried to remove Nava from the Honda. Police say he ignored their orders to get out and kicked Bradley, who responded by pulling Nava from the vehicle. Both officers testified they used just enough force to handcuff and restrain Nava.

Nava, on the other hand, testified he was asleep and kicked blindly at the officer, thinking he was a carjacker. Both Nava and Hernandez testified the officers punched and kicked Nava repeatedly, even after he was subdued.

In most cases of this sort, police testimony is enough to secure a conviction. This time, however, defense attorney Loewenstein found help in the hard-to-get personnel files of Bradley and Cross. State law [bans the release](#) of police personnel files, except by judges who've reviewed the documents at the request of attorneys. Most times the judges say they didn't find anything pertinent. This time, Judge **Ronald Klar** released information under seal to Loewenstein that he believed to be relevant to the officers' credibility.

That's how Loewenstein learned about Bradley and the Starbucks incident.

On Feb. 5, 2005, at 8:55 p.m., Anaheim gang officers were in foot-pursuit of a narcotics suspect around Beach Boulevard. Bradley, at the time, was a K-9 officer. Sgt. **Michael Haggerty** testified at Nava's trial that he summoned Bradley and his dog to help find the suspect. At least twice, he asked Bradley over the police radio where he was. The answer was the same both times: on his way. Bradley, according to court testimony, told Haggerty he was in the downtown sector of the city.

Lt. **David J. Vangsness**, listening to the radio chatter, was surprised when he pulled into a Starbucks in the eastern part of the city – and saw Bradley parked in his patrol car. Vangsness was reluctant, though, to testify that Bradley had lied.



"There were things that he said on the radio that were inconsistent with the facts," Vangsness said. Things like his whereabouts.

Vangsness said he put a note in Bradley's file about the incident. Vangsness testified that not responding in a timely manner to a foot pursuit was a serious situation for a department dog handler.

For his part, Bradley indicated in the Nava trial that he didn't believe he lied, leading to some awkward interactions with lawyer Loewenstein.

Bradley: "At the time I said I was on my way, I was in the Starbucks parking lot speaking to another officer."

Loewenstein: "Isn't it true...you were not on your way?"

Bradley: "The wheels of my vehicle were not moving, sir. I don't know how else to answer your question."

Bradley also said he "misspoke" when he gave his location as being in another sector. The officer's coffee break wasn't the only credibility problem for the prosecution. In December 2007, Bradley and Cross arrested an Anaheim Hills woman they suspected of attacking a roommate with a wine glass. The only problem is that the victim's wife, **Cora Bailey**, was adamant that her husband was emotionally upset and hit himself with the glass.

Nevertheless, Bradley and Cross wrote in their report that Cora Bailey stated that her roommate, **Christi Merced**, attacked her husband, according to court transcripts. Bailey testified that she tried to correct the two officers at her house, but Cross called her "an (expletive) liar" and noted that she was fidgeting.

"Who would not get nervous? I have two officers there trying to put words in my mouth," Bailey testified.

No charges were filed against Merced and both women lodged complaints against the officers. Bradley testified he was exonerated by an internal investigation.

But Merced and Bailey, both registered nurses, still consider themselves victims of false statements and rude conduct by police.

Through Nava, they finally got their day in court.

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