



Laura Belin <laurarbelin@bleedingheartland.com>

New column

Andrew Mertens <andrewmertens@iowajustice.org>
To: Laura Belin <laurarbelin@bleedingheartland.com>

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Here is the full statement/letter.

Iowa DCI Scandal Bleeds Over to the State Capitol

Criminal charges of illegal gambling against four student athletes in Story County were recently dismissed because the Iowa Department of Criminal Investigation (DCI) unconstitutionally invaded the privacy of student athletes and non-athletes alike, by using a GeoLocate software, to intercept the students' online activities. This unconstitutional invasion of student privacy was largely uncovered, in the face of DCI and State obstruction, because the students' attorneys were able to issue investigative subpoenas to gather evidence of the DCI's warrantless unconstitutional activities. This entire investigation has been a black mark for Iowa's Department of Criminal Investigation and represents the worst fears of unlawful government intrusion into the private lives of every Iowan, and most especially the children we send to our state universities whom we expect the State to protect, not spy upon.

Alongside this scandal, the Iowa Attorney General's Office, with help from an active DCI agent who serves in the State Senate, is trying to pass a law (SF 2349 / HF 2616) that would practically eliminate the use of investigative subpoenas by attorneys representing the criminally accused. The Iowa Attorney General and the State Senator are attempting to prohibit defense attorneys from utilizing the very same subpoenas which helped uncover their wrongdoing. These subpoenas are vital tools, especially when the State attempts to cover up evidence of their own misdeeds, as they've done in the gambling cases.

Lawyers for the accused students in the gambling probe case firmly believe that the state was intentionally hiding evidence. Specifically, that GeoLocate rescinded DCI's access to the surveillance technology. Had the Attorney General's pending bill (SF 2349 / HF 2616) been law, the attorneys may never have found this hidden information. Had the Attorney General's pending bill (SF 2349 / HF 2616) been law, these cases would have likely never been dismissed, ruining the students' athletic careers, and the vast invasion of student privacy at our state universities would have never been uncovered. Moreover, lawyers for the accused athletes also feel that they are only scratching at the surface of what the state is hiding as it pertains to this scandal, and the Attorney General's pending bill could have let the DCI get away with their unconstitutional warrantless invasion without consequence.

Under existing Iowa court rules, defense attorneys face stringent requirements in order to subpoena

evidence, including proving that the information sought is exculpatory, does not compromise a victims' privacy, is not protected by other laws, and is unavailable from alternative sources. The Attorney General's pending bill seeks to practically eliminate this already limited but necessary investigatory tool in criminal cases. In civil cases, on the other hand, where money is on the line rather than an individual's freedom, attorneys defending insurance companies or the state have much broader ability to subpoena evidence under existing court rules.

The ability to depose witnesses, investigators, and involved parties is equally necessary. It was the deposition of DCI Special Agent Brian Sanger early in this case which revealed that the state was conducting warrantless surveillance of these student athletes, in violation of their constitutional rights. In a separate legislative proposal that is pending at the Capitol (SF 525), state prosecutors are trying to practically eliminate the rights of the accused to depose witnesses and investigators.

It all begs the question: are these legislative proposals motivated by the state's desire to hide their conduct during this and similar investigations? Should they be held to account, or allowed to run roughshod over Iowans' constitutional rights?

On Wednesday morning (March 6, 2024) the active DCI agent serving in the state senate spoke about this brewing scandal. (Video [here](#), starting at 9:06:27.) To him, the ends justify the means. To him, the fact that evidence was unconstitutionally gathered is irrelevant if it led to guilty pleas. This unapologetic posture from state law enforcement should be a wakeup call to every Iowan who is concerned about their right to privacy.

As the fallout from the gambling probe continues, the proposed legislation is a focal point at the Capitol, with its implications reverberating through the legal rights of individual Iowans and our children. This evolving story promises further twists as the controversy unfolds. Although these four cases have been dismissed, we by no means have heard the end of it.

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