

Chicago Tribune

MetroWest

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News from
CHICAGO AND
THE WEST SUBURBS
along with reports from
around the region.

Rivera conviction deserves 2nd look, despite complaints

Eric Zorn

Exasperation is the natural first response to the news last week that the Illinois Appellate Court has reversed—for relatively undramatic reasons—the conviction of a man serving life in prison for raping and murdering an 11-year-old girl.

Damn technicalities! Young Holly Staker was attacked and killed in Waukegan in August 1992. Lake County authorities got a signed confession from Juan Rivera and a jury found him guilty.

Now along comes a three-judge appellate panel to say that Rivera, now 34, deserves a new trial because, one, his lawyer was prohibited from making a particular point in the opening statement, two, prosecutors improperly criticized home-monitoring devices, three, it was hearsay evidence when a police officer testified that a third party told him that Rivera knew something about the slaying, four, a witness should not have been allowed to offer his opinion that another potential suspect was not guilty, and, five, in the opinion of two of the judges, Rivera's lawyer blew it not making that other suspect part of the defense.

Not a bombshell in the lunch. In fact, no one reason alone was enough to reverse the conviction, the court said. It returned this major case based on the cumulative effect of what Lake County State's Atty. Mike Walker complained.

He added, "That's not doing justice."

But Walker had it wrong. "Doing justice" was exactly what the court was about in duly reversing the Rivera conviction, preserving the main elements of the prosecution's case but sending it back for a much-needed second look.

Fact is, troubling questions surround the case against Juan Rivera. An electronic home-monitoring device he was wearing while awaiting trial for burglary puts him at home at the time Holly was raped and killed at a baby-sitting job. DNA and hair evidence taken from the victim points away from him, and fingerprint analysis of the crime scene, which he requested, does not implicate him.

The confession upon which the state bases its case was obtained 10 weeks after the slaying in the middle of the night after Rivera, whose IQ measured 79, had been questioned for more than 36 hours over four days. A jail nurse observed that Rivera appeared to be suffering "acute psychosis" near the time of the purported confession, and Rivera claims to have no memory of making the confession.

Further, police did not tape the confession, have Rivera write it out by hand (as he had done in the case of an earlier auto burglary) or save their notes from the interrogation. Meanwhile, other witnesses have implicated an unidentified man who allegedly admitted to killing Holly and whose genetic material is roughly consistent with that of which a defense expert detected on a swab taken from the victim.

On the other hand, Rivera was a gang member and a thief whose alibi for the night of the slaying kept changing. A team of veteran officers swore to the authenticity of his confession.

Reading between the lines of the Appellate Court ruling—often necessary to divine the real issue behind it—the judges seem to be troubled by the totality of the circumstances and aware that justice had been done. Were the case against Rivera more powerful, the court likely would have deemed these same mistakes "harmless error," which is legalese for "hey, no trial is perfect; we still think he's guilty."

"Honest judges will admit that they often start with the idea of how a case should come out, then find the legal authority to support it," said Kent College of Law professor Richard Kling. "This is often an eye-opening lesson for law students."

Adds Albert Altschuler of the University of Chicago Law School, "I'd judge believe that the criminal justice machine may have run someone over, they will find a way to stop it."

Citing oft-maligned "technicalities"—seemingly fine points of the law—is a way for appellate judges to do this without playing 10th juror or impugning prosecutors, trial judges or police.

"With a case this ugly," goes the plain-language translation of the 36-page appellate ruling in Rivera, "we'd better be extra sure we've been extra fair before putting a guy away for life."

That's not exasperating. It's comforting.
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Plan cuts state's use of law firms

By Sue Ellen Christian
TRIBUNE STAFF WRITER

Illinois' top attorney is seeking to rein in the high cost of using outside law firms to handle the state's legal business, even as Gov. Jim Edgar digs deeper into state pockets to farm out work on the Meigs Airport fight.

Atty. Gen. Jim Ryan intends to pitch Edgar a plan early next year on how to reduce the \$11.5 million in legal fees the state

paid to private law firms last fiscal year. The attorney general must approve the use of private lawyers to represent the state in litigation; legal work is often sent to outside firms if the job requires many lawyers, much time or special expertise.

Ryan's proposal will require more staff and more money in his office's budget next year, but the added costs will be offset by lower bills for outside counsel, said Stephen J. Culliton, Ryan's chief of staff.

"We think this office should be expanded so some matters that are currently outside counsel will no longer be so; we've made some progress," Culliton said.

Ryan's pitch to Edgar will focus on the roughly \$3 million a year the state's Transportation Department spends to hire private firms to handle land condemnation cases.

Ryan also is taking over one of the state's largest child welfare suits from the private firm that has handled the litigation for the past eight years. And with funding from the Department of Children and Family Services, he has set up a unit of state lawyers to handle DCF's legal issues.

Ryan also wants to set up a special litigation unit to handle cases such as the state's battle to stop Chicago Mayor Richard Daley from converting Meigs Field into a park, said Culliton.

Edgar said he supports Ryan's general goal—but only "if he can develop the expertise in-house."

"It's more than happy if we could do it in-house, but he's got to have the people that have the expertise," said Edgar. "And a lot of these cases are dragged out for years and years, and it's difficult to change course in the middle of it."

SEE RYAN, PAGE 2

Historic find may dredge up more of canal's glory days



Early part of waterway's past still murky

By Ken O'Brien
SPECIAL TO THE TRIBUNE

When it opened in 1848, the Illinois and Michigan Canal was a hub of activity. Boats took passengers up and down the canal, stopping at such places as Lockport, Joliet, Morris and LaSalle-Peru. As boatsmen shouted from ship to shore, mules walked along the adjacent tow path, pulling barges and ferries loaded with such cargo as lumber, stone, iron ore, grain and coal.

Those were the days when the canal was the best way to get from Lake Michigan to the Illinois River and on to the Mississippi. That era began fading in 1864 when industry opted for a new and faster transportation mode: railroads.

Now new insights about that period could emerge from a canal bed site in Morris. State and local historians and archeologists are excited about the recent rediscovery of the partial skeletons of seven 19th-century wooden barges.

"On the Illinois and Michigan Canal, this is an unusual find," said Harold Hassen, the cultural resources coordinator for the Illinois Department of Natural Resources. The department oversees the canal from near Lemont to LaSalle-Peru.

"It is a unique experience for us [to study the barges]. It adds another dimension for us to learn about the canal."

Harold Hassen, archeologist

In the mid-1800s, wooden barges loaded with cargo traveled on the Illinois and Michigan Canal, stopping at such places as Lockport, Joliet, Morris and LaSalle-Peru.

ogy, began tediously documenting the boats, which are 1 1/2 feet tall, 14 to 16 feet wide and 100 feet long.

Last week, two employees of Fever River Research, a Springfield-based firm specializing in historical preservation and arch-

In the next two weeks or so, the employ-

SEE CANAL, PAGE 4

Troubling questions surround the case against Juan Rivera

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As holidays near, needy find they do have friends

By Jerry Thornton
TRIBUNE STAFF WRITER

With Thanksgiving on Thursday, the long holiday season officially begins. Once again, Chicago-area residents and organizations are opening their hearts, wallets and pantries to the unfortunate for whom the holidays are not as bright.

For the past 10 years, the Humboldt Anti-Hunger Network in that West Side neighborhood has held a Thanksgiving food drive.

Through its current effort, operated under Contry Para Desarrolo Comunitario Y Liderato, at 1365 N. Hamilton Ave., the community group hopes to raise enough food to fill 500 baskets

to be distributed Wednesday for Thanksgiving Day meals.

"The drive is supported by schools, churches, banks, community organizations and businesses, and will be distributed to 10 food pantries," said its coordinator, Luis Alvarez.

Contributions of both money and food items are still needed, and anyone who would like to donate can call 773-489-4533.

Alvarez's group is just one of hundreds of organizations and agencies in the Chicago area that have geared up to help feed the needy during Thanksgiving and the remainder of the holiday season.

Little Brothers Friends of See NEEDY, PAGE 4

2 aldermen want to steer valet parking off street

By James Hill
TRIBUNE STAFF WRITER

It is a scene two Chicago aldermen are trying to avoid: A motorist cruising through the Lakeview area at about 15 m.p.h. cautiously looking for a legal parking space.

After 30 minutes of searching, the driver thinks he has gotten lucky as a young man runs to get into a parked car.

The driver rubs his hands together. "Yes!" he exclaims.

But then another car pulls up right behind the car that is pulling out. What the driver has just witnessed is one of the oldest valet tricks in the book: the switcharoo. Retrieve one customer's car and fill the parking

space with another.

The now-hopeless driver grumbles, and the seemingly endless search resumes.

This is just one example of how some valet services are making parking life difficult for drivers, residents and some business owners in the Lakeview and Lincoln Park areas on Chicago's crowded North Side.

Aldermen Bernard Hansen (44th), whose ward includes Lakeview, and Charles Bernardini (43rd), whose ward includes Lincoln Park, proposed an ordinance this month at a City Council meeting that would require restaurants and other businesses offering valet parking to use a designated area

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Valet

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ing to have off-site parking—such as a parking lot—for at least 20 percent of their customers. If a restaurant seats 100 people, it would be required to have parking spaces for at least 20 cars.

The move is aimed at preventing valets from hogging space, double and triple parking, and illegally parking cars along main and residential streets. It's also another attempt to help ease parking in two of the city's most congested communities.

"The bottom line is if a valet is getting paid to park a car, it should not be on a public way," said Mike Quigley, a legislative aide to Hanna. "The reality is that they should have enough spaces to park those cars."

Hansen and Bernardini contend that another of the common complaints about valet services is that they park cars illegally in front of fire hydrants, too close to street corners and on residential streets that only allow permit parking.

"You give the valet your keys, and they drive around looking for a space and then park your car in front of a fire hydrant or something. Then when you pick up your car, they go get it, rip up the ticket and 30 days later you get a notice in the mail saying you have an unpaid parking fine. That's not right," Quigley said.

"The car owners are getting hurt because they are being ticketed unknowingly. Residents living in the area are getting hurt because cars are being parked illegally—double and triple parked. We need off-site parking. That way people are getting what they pay for and neighborhoods are protected."

The proposed ordinance is in committee, and a hearing could be held in the next week or so, Quigley said. If the proposal is approved by committee members and forwarded to the full City Council, there could be a vote before the end of the year, Quigley said.

"Right now, I think we have enough support to get it passed," Quigley said. "When you come to a committee vote, you find out where your opposition lies and where your support lies."

Not surprisingly, much of the support is coming from residents who live in the areas. They say it had enough having to deal with the weekend cruisers who flock to

the North Side in search of entertainment. Dealing with the valets only adds to that aggravation.

"Some of them aren't bad, but I remember one time I was getting ready to go out for the evening and I came outside to get in my car and some valet had double-parked a car next to mine and blocked me in," said Rachel Mitchell, who lives in the 800 block of Alameda Street. "That kind of stuff really burns me, so I hope the ordinance passes."

Reaction among some proprietors and business managers is mixed. They question if the city needs another parking regulation in a heavily regulated part of town.

Joe Hanna, who manages the Uncle Fannous restaurant at 2628 N. Halsted St., said the proposal will not affect his 70-seat restaurant because the valet service he uses has an agreement with a nearby pet store to use its parking lot.

"We have more than enough room," Hanna said, even though many customers don't use it. "Most customers don't like to valet their cars. They want to park it themselves, but just about all of the side streets around here are permit parking-only streets—so there is no choice. They either valet or they go somewhere else, and that hurts business."

Hanna said he would prefer a municipal lot in the area, but the city government has been gradually getting out of the parking business. He said he also has tried to strike a deal with nearby stores to rent their parking lots to provide self-parking for his customers, but at \$3,000 a month, the price is just too steep.

Businesses that would be affected by the proposed valet-parking requirements also say that the cost of securing guaranteed parking could be disastrous. For restaurants, clubs and bars with large seating capacities but little, light or sporadic business, shelving out thousands of dollars a month to lease parking space could spell ruin.

"My place seats 65 people, but we only really have a crowd on the weekends and most of those people don't drive because they know how hard it is to find parking down here," said a Lakeside-bar owner.

"If I had to find space to rent or lease parking space to accommodate 12 or 14 cars, I probably would go broke because I couldn't afford it. And where in the heck am I going to find the space? There isn't even room to build a parking lot around here."



No shaking needed: Cliff Herman of Balcons Unlimited positions a plastic snow globe over some Christmas trees and a snowman at Wacker Drive and Wabash Avenue.

Ryan

Continued from Page 1

Edgar attributed part of the problem to the steady barrage of suits piled on the state. "If people would stop suing us, we wouldn't have to spend all this money. We get sued too much, and it costs the taxpayers too much," he said.

Regarding the airport battle this fall, Edgar said, "We don't spend much on Meigs compared to DCF's."

The child welfare agency has legal bills of \$15 million to \$2 million annually, despite a "government rate" typically given the state that is a reduction of private firms' usual fees.

Edgar's administration has so far let contracts worth up to \$350,000 to the law firm of Miller, Shaktman, Hamilton, Kurton and Schifke to provide legal work on Meigs. The city and Chicago Park District also retained outside counsel in the fight, with bills totaling about \$600,000 so far. Culliton said the special litigation unit would start small.

"Sometimes these firms are

throwing 10 to 15 lawyers on something on a 24-hour basis. I don't know yet whether we're going to be able to match that capability, but maybe we can take the more marginal cases and go from there," Culliton said.

Illinois has consistently paid \$9 million to \$11 million annually for outside legal work over the past six years, 1992 had the highest price tag with \$15 million in legal costs, according to the state comptroller.

A key reason for the use of outside lawyers is that some state officials have felt the attorney general's legal staff wasn't qualified to handle their agency's work.

That complaint was a main point made in a report by the Chicago Council of Lawyers and its charitable arm, The Fund for Justice, presented to Ryan as he prepared to take office in January 1995. The review was based on past administration performance and relied on interviews with judges, lawyers and state department heads.

"Representatives of state agencies to whom we spoke complained that it was difficult to

communicate with assistant attorneys general and that certain agencies do not trust the (office) to provide high quality representation," said the 1995 report.

Ryan has tried to chip away at the problem by raising the entry-level salary to \$80,000 from \$77,000. Illinois has consistently paid \$9 million to \$11 million annually for outside legal work over the past six years, 1992 had the highest price tag with \$15 million in legal costs, according to the state comptroller.

Earlier this month, Ryan announced a suit against the tobacco industry, and the private firms he chose to take on the litigation agreed to work on a contingency basis: they only make money if they win. But such arrangements are rare.

More common are the huge bills accrued by private firms on long-term litigation. DCF has paid \$5.2 million to the law firm of Shadden, Arps, State, Mesinger &

Suburb police aid pot seizure

Drug trafficking information provided by Deerfield police has led to the seizure of 30 pounds of marijuana and the arrest of a 35-year-old Chicago man on three felony drug charges, according to officials of the Metropolitan Enforcement Group of Lake County.

The Illinois attorney general's office filed the charges against Adam Gottlieb, of 534 W. Wellington Ave., after an undercover drug agent allegedly purchased two pounds of marijuana from him outside a grocery store on North Broadway in Chicago on Wednesday, said Doug Andrews, MEG's deputy director.

Officers from Deerfield and Chicago police departments accompanied MEG agents to an apartment used by Gottlieb in the 400 block of West Barry Avenue in Chicago, where they allegedly found an additional 28 pounds of marijuana and \$80,000 cash, Andrews said.

Gottlieb is charged with possession of cannabis, possession of cannabis with intent to deliver and unlawful delivery of cannabis.

From over the past eight years to handle the 1988 class action lawsuit that sought to reform the agency. Now, the attorney general's office is gradually taking over the case.

Ryan hired four of the six lawyers needed for a new child welfare litigation unit funded by \$400,000 from DCF's budget. Several years ago, the General Assembly created the unit but never funded it.

For years, DCF has been criticized for spending millions on litigation that could go toward improving services to children.

"It's to our advantage to have inside counsel," said DCF's Director Jess McDonald. "They are with you on an ongoing basis. They get familiar with the issues, and if it saves the state money it makes a lot of sense."

Ryan plans to add a new eight-person unit next year to take over and conform to cases. "Depending on how it is set up, it has the potential for savings, and we believe it can be of assistance to us," says IDOT spokesman Richard Adorjan.

Not doing anything?

If you have a little extra time on your hands, there's never been a better reason for a getaway to Paris than our special fare. Just book your flight before midnight, November 27, and plan to leave from Chicago O'Hare Airport on a Thursday or Friday, returning the following Monday or Tuesday. The fare is good for departures through December 13, 1996, or between January 9 and March 7, 1997. Seats are limited, so call your travel agent or Air France at 1-800-237-2623. After all, a fare this low might be the best news you've had in a long time.

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