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CARONA FIVE, FEDS ONE (BUT THE FEDS WON)

By Julius Wachtel, (c) 2010

Getting convicted of a felony is hardly a reason to rejoice. But after being tried for one count of conspiracy, three counts of [mail fraud](#) by depriving the public of the [honest services](#) of a public official, and two counts of witness tampering, charges that could have landed him in prison for decades, it's easy to see why his acquittal nine days ago of everything but a single count of witness tampering left ex-Orange County Sheriff Mike Carona feeling "[beyond vindicated](#)."

Carona was originally elected in 1998, then re-elected in 2002 and 2006. His travails date back to his first term, when he appointed two friends to top positions in the Sheriff's Department. George Jaramillo, a lawyer and ex-Garden Grove cop (he left the department over a bitter personnel dispute) was installed as chief of operations, while Don Haidl, a wealthy businessman with no law enforcement background took charge of the reserves.

Jaramillo and Haidl would stumble badly. In 2004 Jaramillo was charged in State court for misusing deputies, patrol cars and a helicopter to promote a vehicle immobilizing device for a private firm. Incensed at Carona's lack of support (the Sheriff promptly fired him) Jaramillo eventually pled no contest to felony conflict of interest and served six months. That same year Haidl's son was charged in a gang rape. Carona again proved of little help. The boy was convicted and imprisoned and an embittered Haidl resigned.

The Feds seized on the opening. In March 2007 Haidl and Jaramillo were [secretly indicted](#) on tax charges, Haidl for not declaring business funds he spent on his son's defense, and Jaramillo for failing to disclose cash and other gifts he got from Haidl. Seeking leniency, and perhaps revenge, they ratted on Carona, accusing him of selling his office by accepting cash and gifts from Haidl and doling out badges and gun permits to contributors. In October 2007 a Federal Grand Jury returned a [multi-count indictment](#) against Carona, his wife Deborah Carona and his mistress Debra Hoffman.

Carona's trial took place first. It was extensively reported by the [Orange County Register](#) so we won't go into all the details. Here what we're most

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interested in is why it fizzled out. The single conviction, for witness tampering, stemmed from a meeting between Carona and Haidl, who was wired up and working as an FBI stoolie. Although Carona knew that the Feds were sniffing around, he still felt close to his former confidant, and when Haidl displayed a fictitious Grand Jury subpoena and asked what to do Carona suggested being evasive. But try as he might, Haidl couldn't get Carona to admit he accepted cash or did favors for money. As far as the Sheriff was concerned, whatever gifts he received, including the mechanically-challenged boat he got from Haidl were tokens of friendship. Unable to confirm that Carona acted corruptly -- the reason for the investigation in the first place -- Haidl got so frustrated that once they parted he muttered "it's like f***ing pulling teeth." And yes, the hidden microphone was still on.

Interviewed after the trial, the [jury foreman](#) said that most jurors disbelieved Haidl because of his cooperation agreement with the Feds. Aside from Haidl's uncorroborated statements there was no evidence that Carona sold his office, hence citizens weren't "cheated" of anything. Things might have gone differently had Jaramillo testified about the cash bribes, most of which supposedly passed through him. As it was, Jaramillo was never called to testify, an absence that one juror said cost the Government dearly: "It would have been different if Jaramillo was there, and that was the consensus of the group."

Not everything went smoothly in the jury room. Before the ink on the [verdict form](#) was dry [two jurors were already complaining](#) that they were browbeaten into voting for acquittals on the more serious counts. One said that it was only through his persistence that Carona was convicted at all. "I'm the one who did that one [charge]. I think it was a miracle. It was the only one that had an absolutely good, unadulterated tape where nobody could say something contrary." But the [transcript](#) has no smoking gun. Carona never flat-out told Haidl to lie. What he did say, though, was so crudely put (among other things, he boasted about his affairs and sexual prowess) that Federal prosecutors probably charged him with obstruction just for the sake of bringing the tape into court.

Carona is liable to a ten-year penalty. If the conviction holds -- there's concern that it might not, as there was no proceeding to "obstruct" -- it's likely that the judge will make him serve at least a token term behind bars. As a convicted felon, Carona will also lose many of his civil rights. He himself admits that his reputation is toast. Yet while there's relief that a man with such a weak moral compass is no longer Sheriff, his trial ended with a whimper. Sure, Carona's election, and re-elections, were probably tainted with campaign-law violations

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(due to the five-year statute of limitations, much of the evidence was inadmissible.) And like Sheriffs elsewhere -- [Los Angeles County, for example](#) -- he gave a bunch of wealthy, unqualified civilians badges and gun permits. But jurors didn't equate these shenanigans with being a crooked cop. [As one juror half-seriously suggested](#), "they should have given us a list of all the women he didn't sleep with, it would have been shorter. But that doesn't matter. Having an affair isn't illegal."

If nothing else, Carona's trial illustrated the foibles of American jurisprudence. Here are four lessons to carry away:

- *Good lawyers are everything.* Carona is by no means wealthy, yet he enjoyed the services of two top-notch, big-bucks lawyers, both partners in the renowned firm of Jones Day. Not only that, but they worked for free! What might his chances have otherwise been? Hmm, can you spell p-l-e-a?
- *Throw enough dirt and something will stick.* Propping up a thin case with muck (and with a character like Carona, there was plenty of that to go around) is a time-tested lawyer's trick. But when the Government tries to get a target to incriminate themselves after the fact by sending in a secretly indicted good buddy with a fake Federal subpoena, desperation begins to show. Not even your loyal blogger, who worked undercover on and off for years, ever did anything that slimy (or would fess up to it if he did.) Which brings up the question of how far the good guys should go. Prosecutors have a greater obligation than to convict. Should they be bound to no higher an ethical standard than the defense?
- *Jurors may only be finders of fact, but they tend to view their roles more broadly, as their community's moral agents.* Extraneous factors such as a defendant's character are always in play. Prosecutors knew that Carona's dalliance with at least three women other than his wife would be looked on poorly. At the same time, the Government's greasy investigative techniques probably did its own cause harm. Balancing the defendant's nauseating conduct against the FBI's, jurors might have settled on guilty to a single, lesser count as a compromise. It's the kind of decision-making that one sees time and again. And it's not necessarily a bad thing.
- *Electing Sheriffs is a terrible idea.* Politicians who supported Carona for election and re-election [now argue](#) that they didn't know the man behind

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the badge. (Well, they *did* know that Carona lacked any law enforcement experience other than as County Marshal, where he oversaw security and process service for the courts.) That, as [this blog has pointed out](#), is why Sheriffs should be selected like police chiefs, competitively and only after extensive vetting.

Since Carona resigned while in office the Board of Supervisors had to select someone to complete his term. After a nationwide search, detailed background checks and multiple interviews they chose Sandra Hutchens, formerly a division chief with the Los Angeles County Sheriff's Department. While the outcome didn't please CCW permit holders (she promptly [revoked dozens of concealed-carry licenses](#) that Carona issued) the process assured citizens that the County's new top cop would be a well-regarded law enforcement professional. Of course, she will soon have to run for office, once again injecting a political spin into a process that, as events conclusively proved, should be completely removed from politics.