

Phone conversation with Dan Schmitt

Recording Name:

[DAN SCHMITT POST NOT A TRAINING ISSUE 061622]

Transcript Prepared By:



DITTO

720-287-3710
1355 S. Colorado Blvd.
Suite C515
Denver, CO 80222

DUNS Number: 037801851
CAGE Code: 6C7D5
Tax ID #: 27-2983097

1 Bereki: The police academies for officers to investigate
2 deprivation of rights, ca- -- uh, complaints.

3 Schmitt: Uh, well when you're talkin' about deprivation of
4 rights, like you're talkin' about like a citizen
5 complaint?

6 Bereki: Yeah, like a citizen complains that another public
7 official, um, violated due process, or, um, punished
8 them without lawful authority, something like that.

9 Schmitt: Like public officials, like are you talking -- like
10 give me some examples.

11 Bereki: Um, well, the -- the one that's coming to mind is the
12 situation that I'm involved with, which is that a
13 judge, um, violated due process and actually is taking
14 money that the law doesn't allow the judge to take.
15 So I -- I went to the police to make a complaint of,
16 uh, violations of due process rights and being
17 excessively fined, and the police officer that I went
18 to said, uh, that he'd never, uh, received in training
19 in the -- in the police academy about how to
20 investigate a claim for deprivation of rights.

21 Schmitt: Yeah, not -- not so much, 'cause that's like really
22 higher -- higher type of investigative, um, I guess
23 skill that would be needed. Uh, those type of
24 complaints though are -- are taken at the, um, San
25 Diego C- -- well are you in San Diego? You're in San



1 Diego, right?

2 Bereki: Um, no, I'm actually in Orange County.

3 Schmitt: Okay. In the Orange County, uh, District Attorney's
4 Office --

5 Bereki: Okay.

6 Schmitt: -- they're the ones that would take that, and you
7 would talk to somebody in the -- the Professional
8 Standards Division, somebody that would handle those
9 type of -- of -- of complaints. It wouldn't
10 necessarily go to a local agency, per se, because the
11 D- -- the -- the DA's office can initiate an
12 investigation when it comes to public officials, um,
13 uh, type of investigations, fraud investigations.
14 Those -- those DA's offices are -- are equipped, at
15 least the one in San Diego is. I can't speak for
16 Orange County, but I -- I worked for the one, uh, in
17 San Diego, um, before I retired. And I know they do,
18 uh, those type of complaints and those type of
19 investigations.

20 Bereki: Okay. That's very interesting, because I did call the
21 one up here --

22 Schmitt: Uh-huh.

23 Bereki: -- and they said, "Call your local police department."
24 And every local police department is going, "What are
25 you talking about? We don't know what to do."



1 Schmitt: Interesting. Okay.

2 Bereki: So this is -- this is -- this is -- this is kind of
3 really the -- the conundrum that going -- I'm gonna --
4 I'll share with you. I -- I went to the Golden West
5 Police Academy and I was a cop in -- in Southern
6 California for about 10 years.

7 Schmitt: Uh-huh.

8 Bereki: And so, what happened in this case was when I got out
9 of law enforcement, I got medically retired, I got
10 into, um, custom design-build construction, and I got
11 into a dispute with a -- uh, my customer. And we went
12 to the -- to the court, and what ended up happening
13 was the customer said I was unlicensed, even though I
14 had a license, and the judge ordered me to -- the
15 judge fined me a million dollars for not having a
16 license. No joke.

17 Schmitt: How c- -- how can he do that if you had a license?

18 Bereki: Well, exactly. So, I, uh, went to the, uh, Court of
19 Appeal, and they said, "Oh, this isn't punishment.
20 The judge -- this is called disgorgement, and, um, uh,
21 the judge -- it's an equitable remedy. The judge had
22 every right to do this." Well, I said, "No, this is
23 not equitable," and all this, um, and ultimately, the
24 U.S. Supreme Court came down with a ruling and said
25 that everything that the Appellate Court and the --



1 the, um, Trial Court did was essentially an excessive
2 fine. So then I started going to the police
3 departments, because none of the courts would, um,
4 would stop the -- the judgment against me. I mean,
5 there's a lien on the house, and, um, they have
6 suspended my license indefinitely until I pay this
7 illegal fine. And obviously, I don't have a million
8 dollars to --

9 Schmitt: Right.

10 Bereki: -- pay the fine. So I s- -- I made complaints to the
11 legislature, and they said, "Oh yeah, we'll look into
12 it," and they didn't. So then, as a former police
13 officer, I started going to police departments, and I
14 said, "Hey look, guys," I go, "The judge is taking
15 something that he doesn't have a lawful right to take.
16 So you need to investigate it as a crime." "No, we're
17 not l- -- we are not investigating judges, period."
18 Um, so that has been the thing. I've been to the, um,
19 Santa Ana Police Department. They flat out refused to
20 do any investigation whatsoever. So I complained, uh
21 -- I made a citizen complaint against the officers,
22 and then the chief, in the -- the disposition of the,
23 um, the complaint said, "We're not investigating
24 judges, period." So then I went to the County
25 Sheriff's Department, who has, you know, uh,



1 jurisdiction right over the courts.

2 Schmitt: Yeah.

3 Bereki: And initially, the officer said, "That's not a crime
4 and we're not going a report." So I complained to
5 their Watch Commander, and then they took a report,
6 but then what happened was the detective called the
7 DOJ's Office and called the OC DA's Office, and both
8 of them said, "Yeah, we're not interested in
9 prosecuting something like that," so then he closed
10 the case and said there's no crime being committed.
11 So then I called Newport Beach PD, and the officer
12 interviewed me over the course of a couple of weeks,
13 uh, a total of five hours. And then at the end of his
14 whatever you would call it, he went to the OC DA's
15 office, and they said, "Yeah, we're not interested in
16 prosecuting this." So he closed the case as well. So
17 now there's no court in California, there's no
18 legislature, and no police department that's going to
19 stop this behavior. And it's actually been something
20 that's been going on for over 30 years in California.
21 Um, so why I -- I -- I got on line, and I went to
22 POST, and I started looking at the learning domains
23 back when I was in the Academy, and s- -- and saw --
24 you know, I thought, wait a minute, am I crazy? Like
25 am I imagining that -- that cops are just supposed to be



1 part of the -- that they are the Executive, uh, Branch
2 that's supposed to be overseeing the other branches?
3 And so I started looking at the learning domains, and
4 it's pretty clear in there that you -- they have a
5 duty to, uh, investigate and protect people from
6 deprivations of rights. They -- they have a duty to
7 look into, uh, all reports of crimes. And the -- the
8 sad thing is, it -- they -- it doesn't seem like, for
9 whatever reason, that these agencies have a clue of
10 what to do about any of this.

11 Schmitt: And that probably sounds right. They probably don't
12 even know what, uh, what penal code section to charge,
13 you know, is -- is the thing. Um, I mean, do you even
14 know what -- what -- what the penal code section would
15 be for that, other than --

16 Bereki: Oh, absolutely.

17 Schmitt: -- theft.

18 Bereki: Absolutely. Absolutely, I would say theft. And then
19 I would say robbery, and here's why. Robbery, because
20 they're taking it under force of the judicial power of
21 the state, right? So if I were to resist something
22 like that, they would have a SWAT team out here at my
23 house. So it's -- it's by force. And, I -- I mean, I
24 can't tell you the number of -- of sleepless nights
25 and fear that I've have that -- that -- I mean,



1 literally, I'm being forced into bankruptcy.

2 Schmitt: Yeah.

3 Bereki: And there- -- there's a lien on the house, and I can't
4 work. I haven't been able to work for four years.
5 Um, and literally, I've gone to every court, every
6 police department with jurisdiction, and the
7 legislature, and no one's helping. Um, so all of the
8 offices in government that are supposed to be there to
9 -- to protect and act as a check and balance are not
10 doing that. Um, so that's why I reached out to -- to
11 you to see, you know, given your experience -- I -- I
12 read your resume on -- on line, and -- and you have
13 just a -- just a beautiful career. Um, and also, to
14 find out, you know, if there was something else at
15 POST that there was, you know, some type of training
16 for, um, police officers. Because one of the key
17 things is that, you know, they've said, we are not
18 going to investigate a judge. And I said, "Well, why
19 not? Because if the judge is doing something that
20 violates rights and commits a crimes, you have a duty
21 to investigate that like any other crime." And so, in
22 one call I was on the phone with this sergeant, and I
23 said, "Let's read 484 of the penal code together. It
24 says, 'Whoever does any of this.'" And I said,
25 "There's nothing that excludes a judge from this. And



1 he said to me, "Well look, if the judge was on the
2 bench and he ordered you to empty your pockets and
3 give him all the money, I would say that's a crime.
4 But if the judge made an order for you to give someone
5 money or do something like that, I would say that's
6 not a crime." And I said, "Well, I understand, but
7 what if the judge had no authority to make that
8 order?" He said, "Well, the bottom line is that
9 whatever the judge says is the law." So, I mean, this
10 is the --

11 Schmitt: Yeah.

12 Bereki: -- this is kind of the situation that I'm -- I'm
13 dealing with, and so -- anyways, I -- I think you get
14 the idea.

15 Schmitt: Yeah, you felt you've done quite a bit more than the
16 typical person would do, and -- and -- and I applaud
17 you for that, because you're t- -- you're really
18 trying to get this resolved, and -- and I understand.
19 You know, they -- they got that lien on your house and
20 on your license. I mean, it's -- it's -- it's being,
21 um, a hardship for you, definitely gonna be a
22 hardship, and if it's not already. Have you gone to -
23 - okay, every judge has a chief judge, which is their
24 boss.

25 Bereki: Mm-hmm.



1 Schmitt: Have you by any chance contacted them or talked --
2 contacted their department? Contacted, um, or sent
3 them an email? I'm -- I'm just curious. Now I'm not
4 gonna shoo you off to them, but I'm just wondering --

5 Bereki: Yeah, yeah. No, I -- I absolutely have. I've even
6 contacted the Commission on Judicial Performance.

7 Schmitt: Okay, good.

8 Bereki: And -- and they --

9 Schmitt: And what did -- what did they say?

10 Bereki: They refused to investigate it.

11 Schmitt: Holy crap. Um --

12 Bereki: Yeah, and this is -- this is not like -- this is not
13 like some dispute of like he said-she said. This is
14 blatant, right? Like the -- the -- the statutes say
15 that the maximum fine in a criminal offense is 5000
16 bucks, and I got 930,000. Like this is a no brainer.
17 And it's like outrageous. But yes, I -- I also
18 contacted the, um, the, uh, Attorney General, and --

19 Schmitt: Right.

20 Bereki: -- they blew me off and said, "Contact the Commission
21 on Judicial Performance," after I had already, um --
22 um, gotten word from them that they were not going to
23 investigate. And I've also made twi- -- two
24 complaints to the OC DA's office. They've refused to
25 even acknowledge my claims, let alone give me some



1 sort of findings of fact and lawful conclusion about
2 that. Um, I know that the, uh, Sheriff's Department
3 and the Newport Beach Police Department have both gone
4 to the DA's Office, and they have refused to do
5 anything about it. Um, yeah. So I've been -- and I
6 even went to the FBI. And, uh, no joke, the call
7 taker said, "Your rights aren't being violated. Get a
8 lawyer," and hung up on me. And I have all this on
9 tape. So --

10 Schmitt: Do you ha- -- do you have a lawyer? I'm just curious.

11 Bereki: No, I -- I can't afford one. I can't -- I can't work.
12 I mean, the -- part of the problem is I'm -- I'm still
13 in the process of like writing, um, complaints to get
14 into a court to get help. Um, and so that's why I
15 reached out to the police department specifically
16 because they have a little bit more pull than just,
17 you know, some Joe Schmo citizen. So, um, you know,
18 there's also a lot of fraud going on in the judgment.
19 Like for example, the judgment says "damages," and
20 there's no damages in the case. And so these are the
21 -- the key easy things that I was reaching out to the
22 police for, to say, "Hey look you guys, look and
23 verify what I'm saying is true or not," right? 'Cause
24 I get, this is a very unique situation. And every
25 time, it's just this floundering, and they -- I don't



1 know if they get scared, or they just don't know what
2 to do. Um, but some of them, you know, like the Santa
3 Ana one, it went up the chain of command. Um, the
4 same thing with the one in Newport Beach. Um, I --
5 after the officer told me that he didn't have any
6 training to investigate deprivation of rights
7 complaints, I -- I flat-out said to him, his name is
8 Darrin, I said, "Darrin" -- he's a detective sergeant,
9 by the way. I said, "Darrin, it's the same way you
10 investigate any other claim. You interview the
11 witnesses. You -- or the victim. You interview
12 witnesses. You go, um, gather evidence. You go talk
13 to the suspect, find out what happened. You do an
14 investigation, and then you write a report with your
15 findings."

16 Schmitt: Yeah.

17 Bereki: It's the same thing. Well, I don't know how to do
18 that. So then, I made a complaint to the, um, to the
19 City Council, and I said, "This is what your officer
20 did. I think he's in dereliction of duty. But before
21 I make that claim, he's saying that he doesn't have
22 training in how to do this. So I'm asking you to
23 provide him that training and get me somebody who can
24 do this investigation." And they wrote back and said,
25 "The officer did the right thing, go back to the



1 courts." Um, so yeah, there's -- it's just
2 mindboggling. Um --

3 Schmitt: Okay. So -- and this -- you said this went all the
4 way to the California Supreme Court?

5 Bereki: It's been all the way to the U.S. Supreme Court, yes.

6 Schmitt: Okay, U.S. Supreme Court. So, um, what did the
7 California Supreme Court say? What did they write?

8 Bereki: So -- so they, uh, refused to -- they didn't rule on
9 the merits on the case, they just refused to hear the
10 case. And obviously the problem with that is that
11 ordinarily they don't have to hear a case. They have
12 discretion. Um, but that's only if you actually had a
13 full fair -- full and fair trial and appeal. And
14 obviously I didn't, because the judge is completely
15 acting without authority. The Appellate Judges and
16 the Trial Court Judges.

17 Schmitt: So let me ask you this. How did it get to the -- the
18 U.S. Supreme Court?

19 Bereki: Uh, it's called a Petition for Writ of Certiorari.

20 Schmitt: Okay.

21 Bereki: And it's like an appeal. And they treat that as
22 discretionary as well. But again, that same rule
23 applies, because again, if you didn't have a fair
24 trial, then the appeal can't be discretionary, it has
25 to be mandatory, because --



1 Schmitt: But they -- but they heard it, and they --

2 Bereki: No, no. No, no. They did not hear it. They did not
3 hear it.

4 Schmitt: Oh.

5 Bereki: Yeah, they -- they, um -- what they do --

6 Schmitt: I thought you s- -- I -- I thought you said the -- the
7 Supreme Court came back and ruled in your favor and
8 said that the judge was wrong.

9 Bereki: No, no. In a different case. In a different case.
10 In a -- in a case that's very similar to mine.

11 Schmitt: Oh.

12 Bereki: The issue that's in my case went to the Supreme Court.
13 So -- so let me give you just a little bit more info.
14 So --

15 Schmitt: I think I know what you're talkin' about, but yeah,
16 okay.

17 Bereki: Okay.

18 Schmitt: Okay.

19 Bereki: So yeah, if you understand. There -- there was an
20 issue that -- so they called the action against me
21 disgorgement, which is -- is an action that's actually
22 for making someone give up profits of their
23 wrongdoing. Like if a bank robbery robbed a bank --
24 robbed -- you know, he has to give back the profit,
25 20,000 bucks, right?



1 Schmitt: Right.

2 Bereki: So they said in the action against me that they were
3 doing an action for disgorgement, which would mean
4 that I had to give back my profits. Well, there's no
5 evidence of profits on the case. And they didn't
6 order me to give back profits. They -- they basically
7 made me give back all of the money that the people had
8 paid me to do the job, and they got to keep all of the
9 work.

10 Schmitt: And which court was this that -- that -- that ruled
11 that?

12 Bereki: Um, Superior Court in, uh, Central Justice Center in
13 Santa Ana.

14 Schmitt: Superior Court.

15 Bereki: Yeah.

16 Schmitt: Okay.

17 Bereki: And then it went to the Fourth District Court of
18 Appeals, and --

19 Schmitt: And they -- and they refused to hear it?

20 Bereki: No, they -- they did hear it, and they said --

21 Schmitt: Okay.

22 Bereki: "Yeah, the Trial Court is right. This is
23 disgorgement. You're not being punished." And this
24 is crazy, because it's in the face of the California
25 Supreme Court saying that the action was penal. And



1 that's the other part of it is that this can't even be
2 a civil case. Private -- like I can't prosecute you
3 for not having a driver's license. These people can't
4 prosecute me for not having a construction license.
5 That's the other crazy aspect of it, is that it's
6 really a criminal trial disguised as a civil trial.
7 And so the court awarded me to pay them the million
8 dollars as the punishment for contracting without a
9 license. It's just mind-blowingly absurd.

10 Schmitt: Jesus, man. Oh God. Um, tryin' to -- I'm tryin' to -
11 - my -- my mind is -- my mind is just spinning around
12 tryin' to figure out who you could go to. Because
13 it's -- well it's gone all the way to the top.

14 Bereki: Yes, it's gone everywhere. Yep. And what'-- what's -
15 - what's crazy is like -- like let's say when this --
16 the Orange County Sheriffs Investigator called the
17 DOJ, or he spoke to a DOJ Investigator, the DOJ
18 Investigator said that I had made a complaint and that
19 the, um, the public inquiry unit had reviewed it, and
20 that -- the fact that they reviewed it and didn't send
21 it to him meant that there was nothing that they
22 wanted to do with it. Well that was a lie. I never
23 even submitted a complaint to them. So there's all
24 these little nuance things. And then, like when I
25 told the investigator about that, he refused to return



1 my call or email, to even know that that had happened.

2 Um --

3 Schmitt: Ha- -- have you tried to speak with a -- like a DOJ,
4 uh -- I don't know, Director, or -- or -- or something
5 that has -- somebody that has like some supervision of
6 -- of the -- the units up there? Like a sergeant or
7 somethin' like that?

8 Bereki: I -- I haven't done that yet, no.

9 Schmitt: I'm sorry, but that might be your next step. 'Cause -
10 - 'cause DOJ is gonna be the one that's gonna be
11 looking at those type of cases. I mean, I was gonna
12 turn you on to -- well I did, to the, uh, the -- the
13 Ethics Unit at the Orange County District Attorney,
14 but you've already gone there. And --

15 Bereki: Yeah.

16 Schmitt: -- they -- um, I think the -- the only option really
17 is gonna be the DOJ, um -- um, somehow before you have
18 to file bankruptcy. I -- I -- I don't know.

19 Bereki: Yeah, that- -- that's it. And I -- that's gonna be
20 the only way it seems that I'm gonna be able to either
21 maybe keep a portion of my house, or have to sell it,
22 or, uh, be able to get my -- the ability to get a
23 license back. Um --

24 Schmitt: You know -- you know, um, if you file bankruptcy --
25 I'm not telling you to file bankruptcy.



1 Bereki: Right.

2 Schmitt: But if you -- if you file bankruptcy, you do go in
3 front of a Bankruptcy Judge who -- who does hear the
4 whole case. And if you plead your case well, and
5 you're -- yeah, you're pretty articulate, so if you --
6 if you plead your case well, telling them, "Look, the
7 reason why I'm filing bankruptcy is because of" -- of
8 what you just told me about this judge and -- and
9 these proceedings, and everything that went on. They
10 have -- you know, the -- the -- they're gonna hear all
11 that to determine if you're -- if you -- if you -- if
12 you have a -- a reasonable case to file the bankruptcy
13 or to not file bankruptcy, but at least -- but at
14 least -- what I'm getting at, is that you're gonna be
15 in front of a judge, a Federal Judge, who's gonna
16 listen to your case. I mean, I --

17 Bereki: Dan, I -- I -- you're -- you're --

18 Schmitt: And I do hate -- hate for you to have to go -- go down
19 that road, but that might be a way -- a way to get in
20 front of a judge.

21 Bereki: You're -- you're absolutely brilliant, and yes, that
22 is my plan, to litigate in bankruptcy. But what's
23 crazy is that I did also -- I didn't tell you this. I
24 did file a case in Federal Court to vacate the void
25 State Court judgment. And the judge threw my case



1 out, claiming that it was frivolous. And I went to
2 the Ninth Circuit Court of Appeal for an appeal, and
3 they dismissed my case as frivolous. And so that's
4 part of the problem too with some of these cops, is
5 they're saying, "Oh, you're saying all these judges
6 are lying to you, Adam." I'm saying, "Yes, they are.
7 Look at the Supreme Court's case." The Supreme Court
8 is saying, it, not me. And, uh, you know?

9 Schmitt: Adam, you -- and are -- are you representing yourself,
10 or you have an attorney?

11 Bereki: Yeah, I -- I can't afford an attorney. I'm -- I'm
12 absolutely having to represent myself. But I -- I'm
13 more than competent at doing that. The problem is --

14 Schmitt: Yeah, and you sound -- like I said, you -- you are
15 very articulate and you can present yourself well. I
16 -- I think getting in front of a -- a judge, I mean,
17 on another matter, but bring this matter in, that may
18 help you. I -- I don't know, man. I just --

19 Bereki: Yeah. I'm -- I'm about ready to -- um, there's some -
20 - some federal statutes that say that you -- um,
21 they're called Misprision of Felony and Misprision of
22 Treason, and you have to report behavior like that.
23 So I may just go to them and do it on that grounds.
24 Um, I -- I don't know if that would work, but it's
25 worth a shot too.



1 Schmitt: What -- what is Google -- like when you Google, uh, I
2 don't know unlawful judgments, I mean, who -- who can
3 you call? Does it give you like a list of who to
4 call?

5 Bereki: No. See -- see that's the thing, Dan, is there's --
6 throughout this process, like if you go on the Cal
7 DOJ's website, it says if you wanna make a complaint
8 against a public official for misconduct, go contact
9 your local agency. And then when you show up at the
10 local agency, they go, "We don't know what to do with
11 this. We're callin' the DOJ." And so then they call
12 the DOJ, and the DOJ says, "We don't know what to do
13 with this. We don't want anything to do with it, and
14 so they close it.

15 Schmitt: Well, I mean, if you go to a local agency to file a
16 report, I mean, you can demand a report, and by law,
17 they have to write the report for you. Um, I -- I
18 mean, that's -- that's -- that's in legislation.
19 That's -- that's the law. If you demand a report.

20 Bereki: Are you -- are you sure?

21 Schmitt: Yeah, I'm pretty -- yeah.

22 Bereki: I -- I --

23 Schmitt: I re- -- I remember when I was in patrol, if somebody
24 wanted to, uh -- uh, complain -- or not complain,
25 wanted a police report, and we said, you know, or --



1 or I said, "Well, no, you don't have the grounds to
2 file a police report," and they demand it, then we
3 have to file a police report. It's -- it's by law. I
4 mean, look up, um, California -- let me see, uh,
5 Police Obligation to Generate a Police Report.

6 Bereki: Okay.

7 Schmitt: And see -- and, you know, see what pops up. But I --
8 I know when I was in, uh, in Patrol back many years
9 ago, uh, that was -- you -- we had to do that. And I
10 don't know if that's changed, but (inaudible -
11 00:23:56).

12 Bereki: When I was there, I -- I don't -- I think it was
13 always demanded if -- if, um -- yeah, you had to take
14 one if someone demanded it, if there was, you know,
15 whether a crime had been committed or not. But where
16 -- this is where another problem is showing up, um,
17 well obviously in Santa Ana, they refused to do the
18 report. And Newport refused to actually do a crime
19 report, or really to take down all of the facts of
20 everything that it said. But what they're doing now,
21 like last night, I called, um, Irvine Police
22 Department, because I said to them, you know,
23 "Basically these are the gist of the facts." And I
24 said, "The agencies that seem to have jurisdiction
25 over this area, this city, they're refusing to do



1 anything about it. So that's why I'm calling you. So
2 can you please take a report for m- -- the deprivation
3 of my rights and unlawful taking of my property." And
4 they said, "No, uh, our jurisdiction doesn't go into
5 that city." And I said, "You are a police officer,
6 and you are -- your duty is to enforce the state law
7 and constitution of this state. You can't say that
8 you're boundary doesn't go over there, because the law
9 extends the -- in the entire boundary of this state."
10 And they said, "Sorry, the Irvine Police Department
11 doesn't have anything for you. Bye-bye."

12 Schmitt: Yeah, I -- and -- and I see where they're going with
13 that, not that it's right. We did courtesy reports
14 for other agencies all the time. But what courthouse
15 did this, uh, take place?

16 Bereki: Santa Ana, which is within their, uh -- it's their
17 courthouse.

18 Schmitt: So -- so it would be either Santa Ana PD or Orange
19 County Sheriff.

20 Bereki: Right.

21 Schmitt: Orange County, like you said, oversees. So it would
22 be either one of those. I would think it was, uh, it
23 would be the Oran- --

24 Bereki: Well I went to -- that's what I'm saying, I went to
25 both of them.



1 Schmitt: Yeah, I know you did.

2 Bereki: And that's the problem. So that's why --

3 Schmitt: I know you did. But -- but I think if you could tell
4 'em, "Per California Penal Code Section," you know,
5 whatever that number is. I don't -- I -- offhand I
6 don't know what it is.

7 Bereki: Right.

8 Schmitt: Um, Google it. Find it. Research it. And per -- per
9 Penal Code Section, you know, 1234, uh, I am demanding
10 a police report, and if you don't file a police
11 report, then I will -- you know. You know, you -- you
12 may have to say, "I don't want to have to pull your
13 chief into some type of lawsuit," or term it nicer.
14 But, "I'd had to have to call your chief into court to
15 answer why you, Officer Jones, didn't take a police
16 report."

17 Bereki: Yeah, and that- -- that's where I'm going, is that I
18 also don't want to be filing lawsuits against any of
19 the departments, um, but this is -- it's such a mind-
20 blowing issue that this is what's going on, and this
21 is the state that they don't -- for some reason, they
22 don't want to recognize that there's a problem here.
23 And I get that it -- it may be a little bit different
24 because it involves someone that isn't normally
25 committing crimes, a judge.



1 Schmitt: Yeah, yeah.

2 Bereki: But, um, you know, it -- the penal code applies to
3 everyone, so just look into the facts, and -- and take
4 a report and investigate it. I mean, um --

5 Schmitt: Absolutely. I mean, yeah, what -- what they would
6 probably do -- I remember what we did, when we had
7 something like that and we were obligated to take the
8 report, we would not give them a Case Number, which is
9 fine. At least it's documented as an Incident Number,
10 and you make sure that you get that Incident Number.

11 Bereki: Right, right.

12 Schmitt: So like -- so that if you ever do file a, uh, like a,
13 um, a lawsuit against that agency, you -- at least
14 there's an Incident Number.

15 Bereki: Yeah. Yeah. So that -- that -- that's where it's at.
16 So -- so yeah, my -- my thing with contacting you
17 obviously in POST was, hey, is there some other
18 training that's out there, other than the learning
19 domains that I have already, that, um, give officers
20 instruction about this. Because, I mean, again, I
21 went to the police academy in around the year 2000,
22 and all of this is crystal clear to me. So it's --

23 Schmitt: Yeah, I -- I -- I mean, yeah, there is training. It's
24 called the, um, the ICI, the Institute of Criminal
25 Investigation. And, uh, detectives -- it's



1 voluntarily, they don't have to go to it.

2 Bereki: Uh-huh.

3 Schmitt: But, uh, most of 'em do, um, go to that -- that type
4 of training. And it -- it talks about higher level
5 type of investigations, like homicide investigations
6 or child abuse investigations, robbery investigations.
7 It -- I mean, there's -- there's specialized training
8 for like homicides, and robberies, and things like
9 that. That's more advanced investigation.

10 Bereki: Right.

11 Schmitt: But this ICI is basic investigators. And you can look
12 -- you can look it up on the POST website.

13 Bereki: Okay. Okay.

14 Schmitt: Um, uh, Institute for Criminal Investigations. Um,
15 that's for like beginner type of detective to get
16 into.

17 Bereki: Oh, okay.

18 Schmitt: For -- for like basic type of investigation. But as
19 for the Academy itself, the Academy is designed for
20 basic, you know, writing down and doing a -- a police
21 report, not doing so much as a police investigation.
22 Although it -- it is considered an investigation, it's
23 more like a police report, just mainly documenting the
24 facts.

25 Bereki: Right.



1 Schmitt: All that, is that what they're trained in the Academy.
2 Once they get out of the Academy (inaudible -
3 00:29:22) more advanced type of, uh, more advanced
4 type of, um, investigations.

5 Bereki: Yes, yes, yes. I hear you. It -- it -- just by the
6 way -- on another subject. It's -- it's very
7 relieving to hear you recognize that there's obviously
8 a problem here, because it's been so mind-boggling go-
9 -- going to these different agencies. And -- and I
10 don't usually talk to line-level cops. I go straight
11 to the Watch Commander, or a Sergeant, or someone like
12 that. And maybe that's been the problem, because
13 they're so far removed from police work, I guess, uh,
14 that they're having trouble recognizing that there's a
15 problem. I mean, a million dollar fine, that -- I
16 think that would outrage anybody, but, uh --

17 Schmitt: Well, yeah, and -- and you are probably correct in
18 that. I mean, jumping the chain of command, people
19 don't like that, especially people -- uh, you know,
20 officers or sergeants, lieutenants in authority. They
21 would rather you come to them first, and if that
22 doesn't work, then you -- you know, you climb that la-
23 -- that -- that -- that ladder of authority. But they
24 don't like -- you know, you just kinda jump everybody
25 and go -- go straight to the Watch Commander. I mean,



1 if you had spoken to -- well you did, you spoke to an
2 officer. If you would've spoke to his sergeant first
3 -- because what happens is when you talked to the --
4 the Watch Commander, the Watch Commander is thinkin'
5 to go to that officer's sergeant and say, "Hey, what
6 the hell happened here? What's goin' on?" Right?
7 And then, the sergeant gets pissed off, or gets upset
8 because you -- he's blindsided by this, instead of you
9 gon- -- have gone to him, you know.

10 Bereki: Yeah, I -- I hear you, but --

11 Schmitt: You know what I mean?

12 Bereki: -- that -- that -- I hear you totally, and I'm well
13 aware of that. But I didn't create that situation for
14 them here.

15 Schmitt: I know. I know.

16 Bereki: So, yeah.

17 Schmitt: I know. I'm just -- I'm just telling you that.

18 Bereki: Yeah, yeah.

19 Schmitt: Because you said -- well, you yourself said that you
20 don't generally talk to line officers, you go straight
21 to the Watch Commander. Yeah, that could -- that
22 could be the issue. But nevertheless, I mean, you
23 know, you sound like you do have an issue going on
24 here, and the way to resolve it would be the way --
25 you know, things that we -- that we discussed, um.



1 Bereki: Yeah.

2 Schmitt: I wish I would help you out further. But, I mean, you
3 know, you can look up ICI, and like under the POST,
4 uh, searching -- search, uh, search site.

5 Bereki: Okay.

6 Schmitt: And, you know, just so that you know for your own
7 edification. But, uh, as for getting your -- your --
8 your -- your situation resolved, I think getting --
9 getting in front of a Federal Judge may the way to do
10 it. Again, it's gonna take lots of other steps. Um,
11 and you said that's not something that you're going to
12 do immediately, there's a couple other avenues that
13 you have too?

14 Bereki: Oh -- oh, no. No, no. I'm -- I'm -- I'm working on
15 writing a complaint to go to the U.S. Supreme Court
16 right now.

17 Schmitt: Yeah.

18 Bereki: And treating that court as like a -- a court that you
19 file a lawsuit in. Normally, they just do appeals.

20 Schmitt: Yeah.

21 Bereki: That's mainly the business that they have to do. But
22 because there is no other court to go to, I've called
23 the -- I spoke -- you know, made a complaint to the
24 FBI. I've made a complaint to three, uh, police
25 departments in California. I've been to every court



1 in California. I called my legislature, uh, the
2 Assemblywoman and a Senator. No response. So,
3 there's nowhere to go. Literally --

4 Schmitt: Uh --

5 Bereki: -- that is the last court in the nation.

6 Schmitt: Yeah. Well, and the highest court in the nation too.
7 So, uh --

8 Bereki: Oh, and the DOJ and the Commission on Judicial
9 Performance, all of them.

10 Schmitt: Yeah. No, you -- you've -- you've definitely done
11 your work. I -- I -- you know, I'll praise you of
12 that. You've definitely done your work. Uh, I think
13 you're just running out of options. Um, and that's
14 unfortunate, right? Um --

15 Bereki: Yeah, because all these things are supposed to be in
16 place to -- to -- any one of them should stop this.
17 Um, so is there -- um, is there anything you know of
18 in -- in the -- from your experience in -- in San
19 Diego that could be something to go to?

20 Schmitt: I -- I don't know understand what you mean, go to?

21 Bereki: Well, i- -- is there a resource down there that might
22 be available? Um, even if there was a "jurisdictional
23 issue," I think that could easily be overcome.
24 Because it- -- it's a State Constitutional deprivation
25 issue. It's not a --



1 Schmitt: Right.

2 Bereki: -- it happened in the town.

3 Schmitt: Okay, the -- the -- the San Diego County District
4 Attorney's Office has a very, um, experienced
5 investigator. Unfortunately I don't know if he's
6 still there or not. But he's in the Special
7 Operations Division. His name is Vince Giama (ph).

8 Bereki: Uh-huh.

9 Schmitt: And this -- but he would be able to tell you what
10 exactly if you have any more options left.

11 Bereki: Okay.

12 Schmitt: Based on everything that you said. Uh, Vince Giami,
13 and if he is not available -- or like I said, if he's
14 retired, then obviously he's not gonna be available.
15 But there's gonna be somebody else -- oh, you know
16 what? Thinkin' -- there's an attorney in the Special
17 Operations Division that handles p- -- uh, political
18 corruption.

19 Bereki: Okay.

20 Schmitt: Ask -- ask to speak with, um, with Vince Giami. If
21 they say, "Oh, sorry, he's no longer here," just --
22 just ask 'em, "Okay, is there a possibility that I can
23 have -- uh, could you transfer me to the attorney that
24 handles the political corruption?" 'Cause he's
25 really, really good.



1 Bereki: Okay.

2 Schmitt: Unfortunately, I can't remember his name. Um, yeah,
3 it's been a while. But yeah, so you -- you can ask to
4 -- to speak with them and see if -- what -- what kind
5 of options they can give you, or he can give you.

6 Bereki: Okay. Okay. Perfect.

7 Schmitt: All right?

8 Bereki: Dan, thank you so much for your time.

9 Schmitt: You're very welcome. I wish you the best. I'm sorry
10 that you're havin' to go through, you know, all this.
11 But you shouldn't have to, but you know.

12 Bereki: Well, I -- I think ultimately what's gonna happen with
13 it is that it's gonna be a major lawsuit, and there's
14 gonna be a huge revolution in law enforcement training
15 because of this. Um, and it's -- it's -- I think
16 that's where it's gonna go.

17 Schmitt: I don't think it's a training issue though, Adam. I
18 think it's just them not wanting to do it, or no- --
19 or being naïve and not being aware of it. Research --
20 do me a favor and research -- go -- like go to Google
21 and say, you know, just type in like I mentioned, uh,
22 requirements for police to take a police report in
23 California. Make sure it's California specific.

24 Bereki: Okay. Let me just do that while I got you here.

25 Schmitt: Okay.



1 Bereki: Um, California requirement for police --
2 Schmitt: California -- California Penal Code requirement for
3 officers to take a police report.
4 Bereki: Police officer to take a report. Okay. Um, yeah, the
5 only thing that's showing up is Penal Code 118, which
6 is, uh, perjury for filing a false report, um, police
7 officers filing false reports. There's false
8 statements to police officers. There's nothing
9 that's, um -- nothing that requires them to -- to take
10 a report.
11 Schmitt: How 'bout, uh, California -- or California Penal Code
12 requirement, uh, for police reports. You're gonna
13 have to play -- you have to play with the words a
14 little bit.
15 Bereki: Yeah.
16 Schmitt: I know it's -- I know it's there.
17 Bereki: I -- I don't remember it ever being there.
18 Schmitt: You don't?
19 Bereki: No. No. No, it's a -- it's a individual, um -- see,
20 like this is even crazy. The -- the -- the Orange
21 County Sheriff's Department, I said, "What's your
22 policy for making a police report?" They sent me
23 their whole policy manual, and there's nothing in
24 there that says they have to take a report. It's all
25 discretionary.



1 Schmitt: Well yeah, but if it's a California Penal Code, it
2 doesn't necessarily have to be in there. (Inaudible -
3 00:37:13).

4 Bereki: Right, right, right. But that's what I'm saying.
5 There isn't -- in my knowledge, when I -- I went to
6 the police academy in 2000, and I worked 'til about
7 2010, there was no mandatory report. None. N- -- no
8 penal code, no nothing in our police, nothing like
9 that. Yeah.

10 Schmitt: Uh, um --

11 Bereki: Yeah, there's -- there's -- there's nothing showing
12 up. I'm on Page Three now, of -- of it. Um, yeah.
13 So more than the report, the real issue is, do they --
14 do they have the duty to investigate, and I think they
15 do.

16 Schmitt: They do.

17 Bereki: Um --

18 Schmitt: They do.

19 Bereki: Um --

20 Schmitt: They do have a duty to, um, to -- to investigate, and
21 at least do a preliminary investigation, right?

22 Bereki: Right, right. Just say, "Hey, look, is this guy a nut
23 job, or is there some validity to this here?"

24 Schmitt: Right, exactly.

25 Bereki: "And do we need to do something?"



1 Schmitt: Exactly. I mean, it -- if they -- they have the --
2 the -- the responsibility -- responsibility to at
3 least do a -- a cursory type of investigation. And
4 that is by documenting it in a police report.

5 Bereki: Yeah, and that's -- that's not -- they're -- they're
6 not doing that. Three -- three -- well, one agency
7 did it. But then when the investigator got it, again,
8 I -- I already shared that with you.

9 Schmitt: Yeah.

10 Bereki: But the other two did not -- did not do that.

11 Schmitt: The reason why I was having you look up those -- the --
12 - the penal code section is if you went back to the
13 police department, once you got that, uh, that, uh,
14 that penal code section, you went back to the police
15 department, and like I explained to you before, if you
16 were tell them, "Look, I'm -- I'm demanding a police
17 report." And they say, "Sorry." And then you go back
18 and say, "Look, per California Penal Code," whatever
19 it is, "I'm demanding a police report based on this
20 information. If they still say no, then you can say,
21 "Look, you -- you -- you know, you're -- you are
22 required -- I would hate to have to call or file a
23 lawsuit in v- -- you know, against your -- against
24 your police department and your chief because you're
25 violating California penal code and what it is."



1 Bereki: Yeah, th- -- it's not --
2 Schmitt: You know, but -- so you have it.
3 Bereki: Yeah, I think that's a brilliant idea, but -- but
4 there isn't -- I'm not aware of one, and there's
5 nothing showing up here. I -- I will keep looking
6 about that.
7 Schmitt: Yeah.
8 Bereki: Um, but yeah, there -- I mean, there's other -- you
9 could call this a peddly (ph) issue. I don't feel
10 that it is, but, um, you know, like I -- I asked in
11 some of these instances for to see these officers',
12 um, Oath of Office. They don't have one.
13 Schmitt: Or --
14 Bereki: Or they have one for a police officer --
15 Schmitt: -- or sworn in.
16 Bereki: Yeah. They have one for a police officer, but not
17 for, um, you know, sergeant or a lieutenant, or
18 whatever their -- their position is. Um --
19 Schmitt: No. No, 'cause they all do it as a police officer.
20 So, and as you promote, you don't redo another oath.
21 You just do it once upon graduation at the Police
22 Academy.
23 Bereki: Hm. Well, some of the agencies are doing them with
24 every position, because there's different duties.
25 Like if you go through the courts, for -- for example,



1 a judge of a Superior Court and a judge of Appellate
2 Court, they're still doing judging, but they have a
3 different position, so they get a different oath.

4 Schmitt: When -- but I --

5 Bereki: And like -- like --

6 Schmitt: -- but I promoted through many ranks at the San Diego
7 Police Department, and also at the -- at the District
8 Attorney's Office, and I on- -- I only did my oath of
9 office one time at my Academy. It didn't -- it didn't
10 --

11 Bereki: Okay.

12 Schmitt: -- carry on into every -- every different assignment.

13 Bereki: Okay. Okay.

14 Schmitt: So.

15 Bereki: Well anyways, that's some of the other stuff that's
16 going on, that's -- that's --

17 Schmitt: Yeah, that's -- yeah, that's nothin', but, um, yeah.
18 I mean, I think everything that we discussed is we
19 kind of beat -- beat a dead horse.

20 Bereki: Okay.

21 Schmitt: Unfortunately. I'm giving you options, um, with Vince
22 and the, you know, the attorney that -- that does all
23 of the, uh, the political corruption stuff over there
24 at the San Diego County District Attorneys. Now,
25 they're probably not going to do anything because it's



1 a different county. But at least they would be able
2 to provide you with some information and -- and where
3 to go, you know what I mean?

4 Bereki: Right, right, right.

5 Schmitt: D- -- don't go in there -- or don't contact them, you
6 know, demanding them to investigate it, 'cause it's --
7 you know, it's a whole different county. So you're
8 just basically going in there as a factfinder, kinda
9 wanting to know what your options are. And you pretty
10 much are pretty knowledgeable on what your options
11 are. You've already done everything, uh, and you'll
12 share that with them, and hopefully they can come out
13 with something else. I -- Adam, I don't know, man.
14 Hopefully.

15 Bereki: Okay. So you don't -- you don't think at all that
16 this, you know, this is another part of my -- my, uh,
17 question is, like you think that it's pretty clear
18 that when someone comes with a complaint like this,
19 that they should be taking a report and doing a basic
20 investigation, and that's like a no-brainer?

21 Schmitt: Basic investigation, in the sense of documenting it on
22 a police report.

23 Bereki: Okay.

24 Schmitt: Okay, they're not gonna go, you know, kinda like you -
25 - you give 'em a -- (inaudible - 00:42:11) to go



1 contact all five of those witnesses. It's basically
2 to just document what you're telling them, and then
3 that gets pushed over to an investigative unit, that
4 then the investigative unit, the detectives, they're
5 the ones that do the follow-up. But as for the line
6 police officer, it's just to document what -- what
7 your issue is.

8 Bereki: Yeah, yeah. And -- and -- and that's what I'm saying.
9 So there's kind of like a dual understanding here, is
10 that they -- the line level cop, they -- they send a
11 patrol person out, take -- take a basic report. It
12 gets forwarded to detectives, and then the detective
13 does an investigation. Um, and --

14 Schmitt: Perfect. That -- that -- yes.

15 Bereki: That's the basic minimum standard, as I remember it.

16 Schmitt: Yes. And -- it -- it's the same, you're absolutely
17 right.

18 Bereki: Okay, so that -- that's what I'm saying, is -- is what
19 -- what do you think might be going on then, if
20 they're just not doing that? If it's not a training
21 issue?

22 Schmitt: In training, I -- I don't know if it's a training
23 issue, or more that -- or -- or other than them not
24 knowing what the laws are.

25 Bereki: Hm. Okay.



1 Schmitt: Because again, Adam, like I said, and I can only speak
2 for me. I was -- it was pounded into our heads that
3 if a person demanded a police report, regardless of
4 whether it was, you know, a BS report or not, we were
5 -- we were required to do a police report. Now,
6 getting a Case Number is another thing. But at least
7 there -- there was an Incident Number to track the --
8 the, uh, the report that we did in the -- in the event
9 that it had to be located later -- later, it could
10 always be researched via, you know, the CAD system,
11 via the -- the Incident Number.

12 Bereki: Right. Yeah.

13 Schmitt: Right?

14 Bereki: So my -- my thought with that is that's great. But
15 the whole point of -- of reaching out to law
16 enforcement for -- to make the report is to have some
17 means to stop the -- the state-created harm that's
18 going on. You know, it's -- it -- that -- that's the
19 -- the means of --

20 Schmitt: Well, it's -- it -- it's to have the -- the incident
21 documented, to have it investigated by a detective,
22 and then to have it, if it merited, have it sent to
23 the District Attorney's Office, who then they're the
24 ones that make the decision whether to move forward
25 with prosecution or not.



1 Bereki: Yeah.

2 Schmitt: It's just an officer (inaudible - 00:44:47).

3 Bereki: Yeah, that's -- that's my understanding as well.

4 Schmitt: (Inaudible - 00:44:53) to investigate it with the
5 detective, and then to, you know, to send it to the
6 DA's Office. That's -- in a nutshell, that's how the
7 whole process works.

8 Bereki: That's -- that was my experience as well.

9 Schmitt: Yeah.

10 Bereki: So, okay. Well Dan, I don't wanna take up any more of
11 your time. I'm so grateful for you calling me back,
12 and -- and thank you for all the support that you gave
13 me and the time you shared. And, um, you know, maybe
14 you'll hear about it on the news.

15 Schmitt: Well keep my name out of it, okay?

16 Bereki: Yes. No problem.

17 Schmitt: No, but I wish you the best of luck. Um, I -- like I
18 said, I hope I've given you options. I -- I -- I'd
19 hate for you to have to file bankruptcy. Um, I mean,
20 I -- I feel what you're goin' through. I mean, you're
21 goin' through a hardship right now. But at least,
22 with a bankruptcy you're gonna get it in front of a
23 Federal Judge, and they're gonna listen to the whole
24 thing, so that might -- may be what you want to do.
25 But that's completely your call.



1 Bereki: Yeah, that -- that -- that seems to be where it's
2 going, because, uh, you know, I haven't been able to
3 pay the mortgage on the house because I can't work, or
4 the property taxes.

5 Schmitt: Yes, and well -- yeah, so you're gonna -- you're gonna
6 be, you know, losing your house. Hopefully not. So,
7 you may --

8 Bereki: Right.

9 Schmitt: -- you may have to file bankruptcy to keep that from
10 happening.

11 Bereki: Right. Yep. So that -- that -- that may -- I may,
12 you know, be forced into that. But in the meantime,
13 I'm trying to do everything that I can to -- to stop
14 the harm from happening and stop the damages. Um --

15 Schmitt: Well, you've done -- you've done a lot more than other
16 people would've done.

17 Bereki: Yeah.

18 Schmitt: I -- you know, I think you've -- you've exhausted just
19 about everything there is to do. I -- I mean, to
20 protect -- to protect your -- your assets, your home,
21 uh, your license. I mean --

22 Bereki: Right.

23 Schmitt: -- you -- you know, you may have -- like I said, you
24 may have to file that b- -- that -- that bankruptcy to
25 get it in front of a Federal Judge to be able to have



1 him or her listen to, "This is why I'm filing
2 bankruptcy, Your Honor."

3 Bereki: Right.

4 Schmitt: "Judge X, Y, and Z, this is what he did to me, and
5 this is why. And this -- and this is -- you know, I -
6 - I've had it heard by several other entities,
7 including similar cases that would rule in my favor
8 that the judgment that this judge has made against me
9 is -- is -- is not right.

10 Bereki: Right, right, right. Yeah. It may come to that. It
11 may come to that.

12 Schmitt: It may. But I -- Adam, I wish you the best of luck,
13 man.

14 Bereki: Thank you, Dan. Have a good rest of your night.

15 Schmitt: You too, you have good luck, okay?

16 Bereki: Okay, brother.

17 Schmitt: Good luck, okay?

18 Bereki: Okay, thank you.

19 Schmitt: All right. You're welcome.

20 Bereki: Bye-bye.

21 Schmitt: Bye-bye.

22

23

24

25



TRANSCRIBER'S CERTIFICATE

I, DANEN MURRAY, DO HEREBY CERTIFY THAT THE
FOREGOING TRANSCRIPT IS A FULL, TRUE, AND CORRECT
STATEMENT OF THE AUDIO FILE PROVIDED TO ME TITLED "DAN SCHMITT
POST NOT A TRAINING ISSUE 061622".

DATED this 20th day of June, 2025.



Danen Murray

Ditto Transcripts
1355 S. Colorado Blvd.
Suite C515
Denver, CO 80222
Tel: 720-287-3710
Fax: 720-952-9897

DUNS Number: 037801851
CAGE Code: 6C7D5
Tax ID #: 27-2983097

