

## OPINION

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## TRIBUNE EDITORIAL

## Using judicial discretion for the greatest impact

**B**enjamin Clague, the former CyRide bus driver who pleaded guilty to failure to report an accident earlier this summer and sentenced to 30 days in jail was released over Labor Day weekend.

The charge is a simple misdemeanor and usually goes unnoticed by the public and the media. What made this case different was the accident Clague failed to report resulted in the death of 18-year-old Emmalee Jacobs, a freshman at Iowa State University.

Clague was initially charged with leaving the scene of a personal injury accident and failure to obey a traffic control device. He could have been sentenced to five years in prison if he had been found guilty on those charges.

The news of the plea agreement and the 30-day sentence it

carried was shocking to many. Jacobs' family feels understandably frustrated that justice wasn't served.

Prosecutors are frustrated by a judge's interpretation of a law that required them to prove Clague knew at the moment it happened that he had hit someone.

Prosecutors feel the law is too vague, allowing it to be too broadly interpreted. They are lobbying to have it changed, and named after Jacobs. We support that move.

But let's also look at the discretion a judge has in imposing sentences.

Looking back 18 years to a case in Fort Madison, where a young man was on trial for vehicular homicide after he pulled out from a stop sign and into the path of a semitrailer.

The semi smashed into the car,

killing two passengers. The young man survived.

The case went to trial and a jury found the young man guilty of only drunken driving, or OWI, and not of the more serious charges he faced which could have resulted in a 20-year prison sentence.

As expected, there was a large public outcry.

The driver was sentenced to one year in jail; however, because of time already served, being a young and first-time offender as an adult, he was required to serve only 14 days.

When time for sentencing came, the judge in the case, now-retired William Dowell, got creative.

Rather than make the young man report to jail for 14 consecutive days, Dowell divided it up to get what he must have thought

would have the biggest impact.

The defendant was ordered to report to the county jail on his birthday, the birthdays of the two people killed in the crash, the anniversary date of the crash and major holidays: Thanksgiving, Christmas and New Year's.

The sentence drew both praise and surprise in the discretion, and what some may say creativity used by Dowell in imposing the penalty.

When reached by telephone recently, Dowell discussed his recollection of the case and the sentence he imposed.

"I hoped to impose on him the gravity of the situation he was involved in, and whether it provided comfort to the families, to serve on his birthday and to recognize the birthdays of the two people who died," Dowell said.

That kind of discretion

remains available to judges today. We believe it should be exercised more often.

It also should be sought out by prosecutors in cases where a legal technicality exists.

One would hope Clague will carry the consequences of the accident with him the rest of his life, and that may be punishment enough.

But one can also argue that serving only 30 days for something that took the life of another person hardly seems adequate and more can be done to, as Dowell said, "impress on (someone) the gravity," of a situation.

For those folks, and, more importantly, for the family of Emmalee Jacobs, some judicial discretion and creativity such as that used by Dowell in 1998 may give them a feeling that the justice system didn't totally fail them.

## DEMOCRATIC CANDIDATE

## Understanding where Clinton comes from

**I**saw Hillary once working a rope line for more than an hour, a Secret Service man holding her firmly by the hips as she leaned over the rope and reached into the mass of arms and hands reaching out to her.

She had learned the art of encountering the crowd and making it look personal.

It was not glamorous work, more like picking fruit, and it took the sort of discipline your mother instills in you: *Those people waited to see you so by gosh you can treat them right.*

So it's no surprise she pushed herself to the point of collapse the other day. What's odd is the perspective, expressed in several stories, that her determination to keep going reveals a "lack of transparency" — that she should've announced she had pneumonia and gone home and crawled into bed.

I've never gone fishing with her, which is how you really get to know someone, but years ago I did sit next to her at dinner, one of those Washington black-tie occasions that are nobody's idea of a wild good time, the conversation tends to be stilted, everybody's beat, you worry about spilling soup down your shirtfront.

She, being first lady, led the way and she being a Wellesley girl, the way led upward. We talked about my infant daughter and schools and about Justice Harry Blackmun, and I said how inspiring it was to sit and watch the court in session, and she laughed and said, "I don't think it'd be a good idea for me to show up in a courtroom where a member of my family might be a defendant." A succinct and witty retort.

And she turned and bestowed her attention on Speaker Dennis Hastert, who was sitting to her right. She focused on him and even made him chuckle a few times. I was impressed by her smarts, even more by her discipline.

I don't have that discipline. Most people don't. Politics didn't appeal to me back in my youth, the rhetoric ("Ask not what your country can do for you") was so wooden compared to "so we beat on, boats against the current, borne back ceaselessly into the past," so I walked dark rainy streets imagining the great novel I wouldn't write and was still trying to be cool and indifferent well into my thirties, when other people were making a difference in the world.

Hillary didn't have a prolonged adolescence and fiction

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was not her ambition. She doesn't do dreaminess. What some people see as a relentless quest for power strikes me as the good habits of a serious Methodist. Be steady. Don't give up. It's not about you. Work for the night is coming.

The woman who does not conceal her own intelligence is a fine American tradition, going back to Anne Bradstreet and Harriet Beecher Stowe and my ancestor Prudence Crandall, but none has been subjected to the steady hectoring and jibber-jabber that Clinton has.

She is the first major-party nominee to be pictured in prison stripes by the opposition.

She is the first Cabinet officer ever to be held personally responsible for her own email server, something ordinarily delegated to anonymous nerds in IT.

The fact that terrorists attacked an American compound in Libya under cover of darkness when Secretary Clinton presumably got some sleep has been held against her, as if she personally was in command of the defense of the compound, a walkie-talkie in her hand, calling in reinforcements.

Extremism has poked its head into the mainstream, aided by the Internet. Back in the day, you occasionally saw cranks on a street corner handing out mimeographed handbills arguing that FDR was responsible for Pearl Harbor, but you saw their bad haircuts, the bitterness in their eyes, and you turned away.

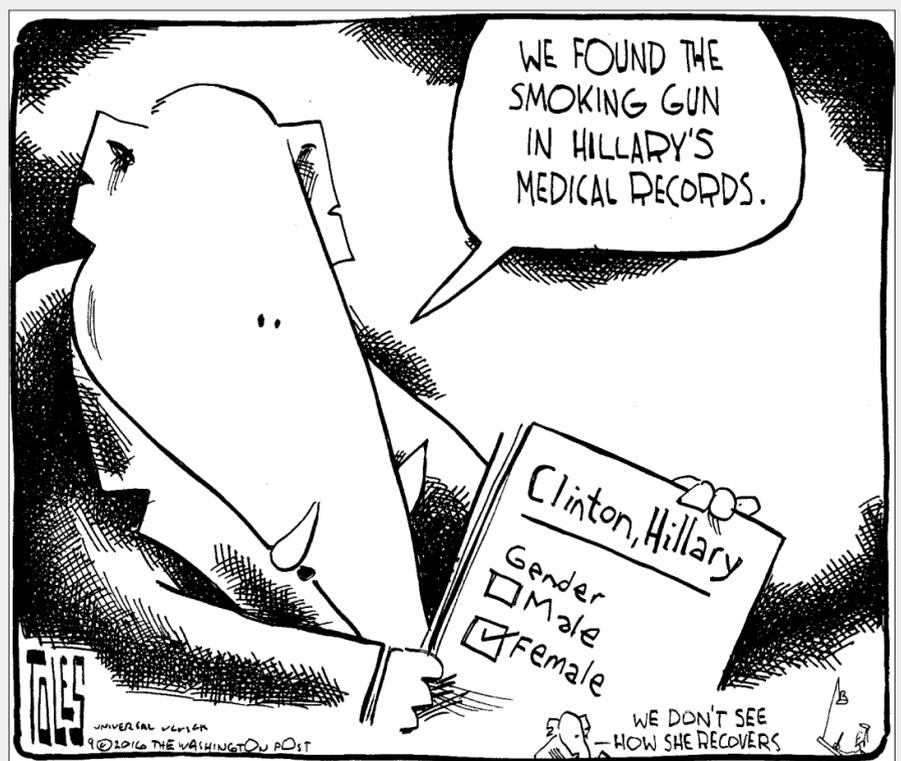
Now they're in your computer, whispering that the economy is on the verge of collapse and for a few bucks they'll tell you how to protect your savings.

But lacking clear evidence, we proceed forward. We don't operate on the basis of lurid conjecture.

Some day historians will get this right and look back at the steady pitter-pat of scandals that turned out to be nothing, nada, zero and ixnay and will conclude that, almost a century after women's suffrage, almost 50 years after Richard Nixon signed Title IX into law, a woman was required to run for office wearing concrete shoes.

Check back 50 years from now and if I'm wrong, go ahead and dance on my grave.

## TOM TOLES



TOM TOLES is a cartoonist for the Washington Post.

## YOUR LETTERS

## Inis Grove not a good place for Miracle Park

Developing recreational facilities for persons with disabilities has long been neglected in Ames. Only persons with disabilities — or those close to them — really see the gaps in services and facilities.

However, as a neighbor of Inis Grove Park, I have also come to realize the value of the natural park setting.

Constructing permanent infrastructure for a Miracle League ballpark regional "destination" attraction would transform an open green space that is used for all types of creative recreational activity.

From a more basic perspective, there are many concerns

with placing a Miracle League softball field in Inis Grove Park: increasing two-way traffic on a dead-end residential street; inadequate parking; lights and sound system impacts; the quick process that has left out broader public involvement; and the feeling among Inis Grove neighbors that their perspective and ideas are not really being heard or considered.

With three shelters, two playgrounds, a basketball court, tennis courts, pickleball courts, and four large/lighted sand volleyball courts for programmed volleyball leagues (not yet in use), Inis Grove has reached its utilization "saturation" point.

Investing \$1.5 million to create new infrastructure is not a decision that can be taken back when issues of overuse and other

impacts become real.

If concerns are not being addressed now, why would they be in the future?

The city has not chosen to invest money to create a home for new recreational/programmed sports infrastructure.

As a result, Inis Grove and Emma McCarthy Lee — the two community parks with large amounts of flat green space not in a flood plain — are the "go to" answers for major new infrastructure.

Ames needs to address recreational facilities for persons with disabilities.

However, we need to be open to different possibilities so we accomplish a project we can all look to with pride.

KEN CAMERON, Ames

## DOONESBURY CLASSIC



## WHAT DO YOU THINK?

## Write a letter to the editor

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