

Capturing Criminals But Maybe Not The Reward Money

(An 18 U.S.C. § 209 \$25,000 Question)

Presenters:

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The Story



- **Private Prison near Kingman AZ**
- **Serving Murder Sentences**
- **Only a Medium Security Prison**

The Girlfriend & the Get-a-Way Car

Carolyn Welch



Bolt Cutters



The Prison Break



The Escapees



Tracy Province



Daniel Renwick



John McCluskey

Gary and Linda Haas

- Oklahoma Residents
- On their way to Colorado to meet up with some camping buddies



- Charred remains behind a barn in Santa Rosa, N.M.
- Forensic evidence links Province, McCluskey and Welch

The 3 Week Nation-wide Manhunt

- Sited in Canada
- Sited in Montana
- Sited in California





Reward Money Offered for Information



The Story Continued



- Around noon on Thursday, August 19, 2010, at an Apache-Sitgreaves Forest campground
- A Forest Service Employee in Uniform
- An unattended campfire & an ax in a dead tree
- An old dented car hidden in the trees.
- A man & woman
- The man seemed suspicious, but the woman smiled

The Fugitives



John McCluskey



Carolyn Welch

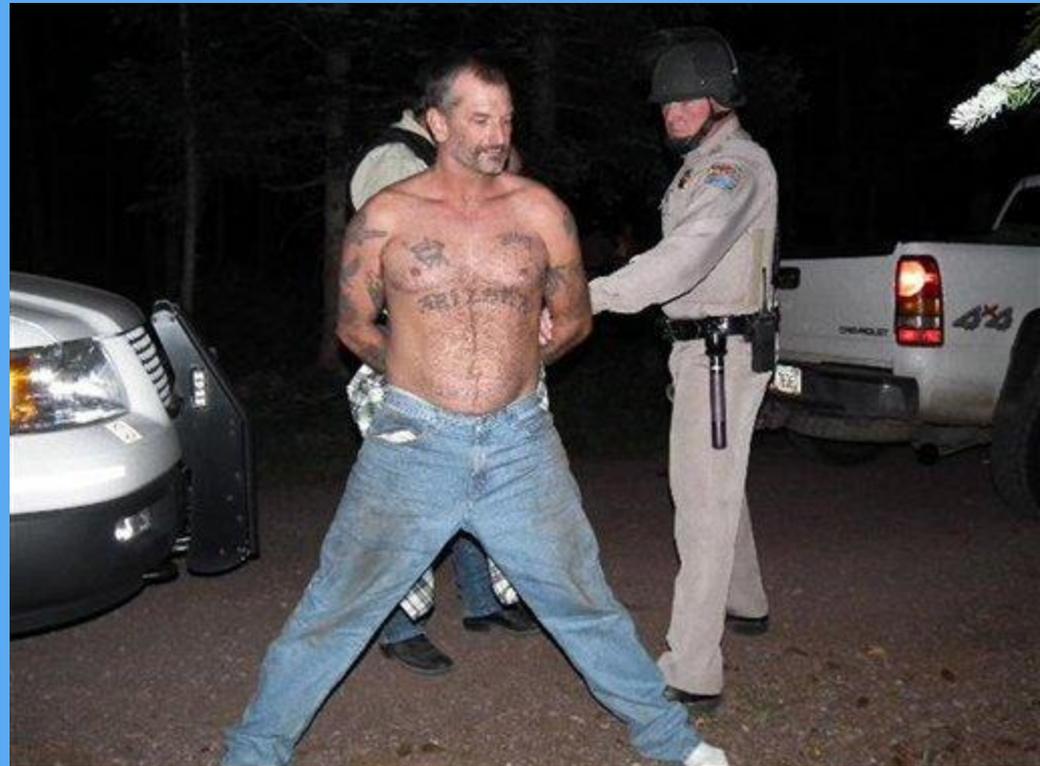
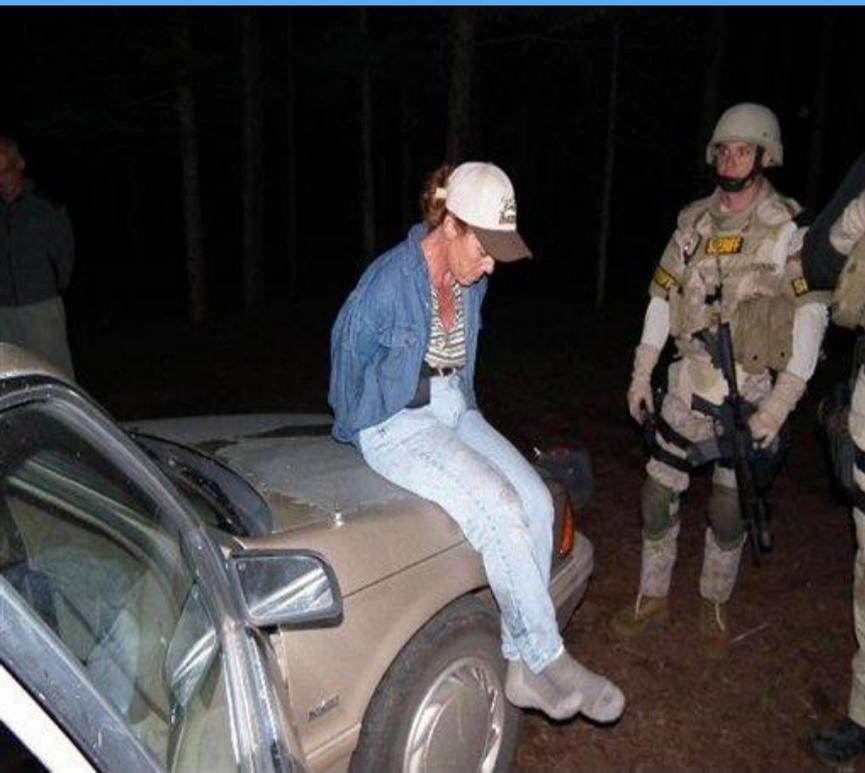
The Hero



The Campsite



The Capture





Can the Ranger Accept the Reward Money ?



18 U.S.C. § 209(a)



- Bans Outside Supplementation of Government Salary
- Bans receiving any supplementation of salary, as compensation for services as an Executive Branch employee from any source other than the U.S. Government.
- Also bans outside entities from providing a supplementation in violation of § 209

Four Elements of § 209



1. Receipt of supplementation of salary;
2. As compensation;
3. For services as an employee of the United States;
4. From any source other than the United States.

Just the Facts.....

*Just the facts, mam.
Just the facts.*



- “Detailed” as a recreation technician
- Permanent job was a desk job
- Detail job required him to inspect campsites
- Advise users proper use of campgrounds
- If people are dangerous, report and do not engage
- No law enforcement duties

Element Four - From any source other than the United States (USMS V. MTC)

- At least half of the money came from U.S. Government – United States Marshal Service
- DOJ Regulations says so long as you are not an employee of DOJ or a U.S. Government Law Officer you can partake of reward money
- FS Employee has green light for USMS reward money under Section 209

The Portion of the Reward Offered by the Prison = Outside Source

- Must look at third element – Is the reward offered for service as a Government employee:
 - Review the facts
 - Review the facts
 - Review the facts!!!!

The Dilemma

- Was the FS employee acting within his “official duties” when he contacted law enforcement?

What is Official Duty?

- Does your official duty end when you leave at the end of the day?
- Can official duty reactivate if you start calling Fed Gov employees after work?
- Is it official duty when you do research on your own time, at home with your own resources?

Critical Facts

- The Ranger's first phone call to try to contact a Forest Service law enforcement officer – the same person he would have tried to contact if he was on duty.
- The Ranger explicitly asked local law enforcement to keep him updated in case he needed to notify his Forest Service District Ranger.

18 U.S.C. 209

- No applicable statutory safe harbor for this situation.

- No waiver provision in Section 209.

Unlike 18 USC 207 and 18 USC 208 –
Section 209 does not allow waiver of the
supplementation ban.

The Ranger's Scope of Duties

- No law enforcement duties
- Not within his duty to report mere suspicions
- Duty to report actual observed violations of law, but no obligation to report mere suspicions.
- The Ranger's supervisor believed he went above and beyond his duties.

The 50 Percent Solution

- Ranger allowed to accept the reward money from the U.S. Marshal's Service
- Ranger not allowed to accept the offered reward from the private prison.



Lessons Learned



- When you have a "grey zone" case, immediately bring in and discuss the issue with your agency's ethics experts.
- Be Persistent - You will likely not be given all of the facts you need in the first communication with a reward-seeker.
- If another Federal agency is involved, discuss with them.

Lessons Learned



- ✓ At the end, the employee may not appreciate the ethics ruling (if he cannot keep the money), but he will be in compliance with 209, a criminal law.
- ✓ No such thing as too many facts
- ✓ Most Importantly – Once you have the facts, Coordinate with OGE

Comeuppance



Questions?

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