



# The Enemy Within

By Ted M. Hires, Sr.

## Follow the Law Campaign

Everyone should "Follow the Law": that is the main message of this campaign. Citizens should adhere to appropriate standards of conduct. Law enforcement and prosecutors should apprehend violators and prosecute them to the full extent of the law. Judges should impose appropriate sentences and follow the guidelines established by the Florida Legislature. These simple, common-sense guidelines are not being followed in our state.

Criminals continue to break the law without regret or remorse. Lawyers file expensive and frivolous lawsuits that strain all credibility while judges continue their assault on the separation of powers by both interpreting and making law. One objective of the "Follow the Law Campaign" is to educate the average citizen about the legal system in Florida. The Florida legal system currently has 69,587 lawyers (one for every 230 residents). The Florida Bar, which licenses and disciplines lawyers, is a division of the Florida Supreme Court. The Florida Bar levies taxes against its members to fund its own interests and to push for pro-lawyer legislation. A person cannot be a lawyer in the State of Florida without belonging to the Florida Bar. Also, until late last year, the process of selecting judges in our state was controlled by the Florida Bar.

The "Follow the Law Campaign" grew out of the successes of the Justice Coalition. The Justice Coalition was founded to protect the rights of innocent victims of crime. After starting the Justice Coalition, I learned not only were the needs of victims not being served on the criminal side of the law, but problems existed on the civil side as well.

Upon further inspection, I discovered the root of the problem was at the doorsteps of the Florida Supreme Court in Tallahassee. Florida Supreme Court Justices were issuing verdicts and setting precedents that challenge the basic principles of fairness in the law. They were also corrupting their constitutionally set role of interpreting law- not making law. The role of the Florida Legislature is to make the law.

The message of the "Follow the Law Campaign" is to inform the average Florida citizen of the rulings of the Florida Supreme Court and also the system by which Supreme Court Justices are put on the bench and how they can be removed. Another fundamental cause of "Follow the Law" is to raise the level of responsibility shown by personal injury lawyers and other lawyers who are looking to generate fees and profits rather than establish fairness in our courts.

## How Justices are Selected

In the mid-1970s, Florida changed its process of putting judges on the bench. Instead of elections, the judges would be chosen by the Judicial Nominating Commission (JNC) and these recommendations would then be passed on to the governor. It is the JNC that controls the selection of judges to our highest court, not the governor. The Judicial Nominating Commission was set up in each of the Judicial Circuits in Florida. Each JNC is made up of 9 members. Three members were appointed by the Florida Bar, three members were appointed by the governor, and the final three were chosen from the previous six members. This effectively gave half of the control of the process to the Florida Bar and half of the control to the governor. Recently, many citizens and legislators began to feel too much of the control rested in the hands of the

Florida Bar which had no elected power. In 2001, the Florida legislature and governor changed the process to turn over the JNC power to the governor. Under this new law, the governor would appoint three lawyers as candidates from The Florida Bar, another lawyer, and three non-lawyers of the governor's choosing. The Bar would submit three nominees for each of the three Bar vacancies, and the governor could reject all three as many times as it takes to get an acceptable nominee. Under this process, the governor has control over all seven nominees but the Bar provides advisement on three.

## How Justices Stay on the Bench

Another unique feature implemented in the mid-1970s was a change in how Supreme Court Justices would keep their place on the bench. The process initiated is known as retention voting. After Supreme Court Justices are seated on the bench because of selection by the JNC, they come up for retention votes every six years. The judges then appear on the statewide voting ballot, where the voter is asked if they wish to retain a certain judge. It is a "yes" or "no" question. A voter is not choosing between two candidates but is merely deciding if they wish to keep a Supreme Court Justice or to remove that judge from the bench. If more than 50 percent of the voters choose "no", then the judge is removed from the bench but if more than 50 percent of the voters choose "yes", the judge is kept on the bench for another six years until another vote is taken. Over the history of this process, no judge has been removed from the

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