

## COMMENTARY

# Just system or ‘system’ of justice?

## Your Turn

Lance Eaton  
Guest columnist

After finishing grand jury duty at Providence Superior Court, my belief in the criminal justice system has not improved. This court-side view of the methods and mechanisms of this “justice” system presented me with a lot more questions about what justice is, who gets to be a part of that system and, as importantly, who gets left out. That’s not to disparage the individuals who are working to enact justice and be good-faith actors in the system.

In Rhode Island, grand jury duty consists of six weeks. Each day ranges from an hour (not including commuting) to six hours, at \$25 a day. While employers cannot fire jurors, state law does not require employers to pay them. Who can actually afford the luxury of time-shifting work or diminishing income to serve?

Among the 23 jurors was one person of color; most police and detectives interviewed were white. The suspects were overwhelmingly people of color. In a country where there are different outcomes for suspects along racial lines in our justice system, how

much should the jury pool reflect society or even the suspects?

The state interviewed witnesses with rapid fire questioning. When done, we were asked if we had questions. If we didn’t have questions within three seconds, they dismissed the witness. Who can synthesize a vast amount of information fast enough to create questions in less than three seconds?

With a wink and a nod, we were told the court couldn’t tell our employers whether we were at court for five minutes or seven hours. So if folks wanted to go shopping, go home, or do whatever at their employer’s expense, the court reminded us that they would never tell employers. How do we reconcile the ethics of encouraging wage theft by a representative of the state with the ethics of gathering and presenting legitimate evidence in the cases we were to hear?

These are a handful of the incongruities that I witnessed while engaging in this important part of civic duty. Citizens participate in such civic commitments with the belief that it can help them feel more invested in the system. Yet, much of what I saw was a focus on churning, manipulation and an imbalance of power that pushed the jurors towards moving quickly, over-relying on what the state told us, and giving no thought

as to the impact of an indictment on an innocent person — particularly in a system that has different outcomes based on the intersection of race, age, class and other categories of identity.

Grand jury duty perfectly reflects two quotes. I can see why lawyer and politician Sol Wachtler said that a grand jury could indict a ham sandwich. Additionally, management consultant W. Edwards Deming’s attributed quote of “every system is perfectly designed to get the results it gets” reminds me the system is working as intended. The goal is efficiency with the veneer of due process and the inclusion of the citizenry.

Why else would we make grand jury duty so inaccessible? How come there was such a vast racial difference between those moving the suspects through this process and the suspects? Why not allow jurors time to process what they heard and ask questions? Why encourage jurors to go out and enjoy the rest of the day, work-free, thereby enticing them to move quickly?

The question that remains strongest for me is how do we make these civic responsibilities not serve the institutions of criminal justice, but actually serve justice?

*Lance Eaton is an educator and writer living in Cranston.*



A North Atlantic right whale was seen injured and trailing commercial fishing gear off the coast of Georgia in January. Emergency responders removed an estimated 375 feet of rope from the whale.

GEORGIA DEPARTMENT OF NATURAL RESOURCES

## Two RI leaders can play pivotal role in survival of right whale

### Your Turn

Gib Brogan  
Guest columnist

For centuries, many species of whales have been traversing the Atlantic waters off the coast of Rhode Island, where boaters and sailors are sometimes lucky enough to catch a glimpse of migrating whales.

One very special, and critically endangered, whale they might not ever see again is the North Atlantic right whale. That’s because our government has failed to put adequate safeguards in place to protect them from human-caused threats. There are only about 340 North Atlantic right whales left, including around 80 breeding females. Humans are driving them further into extinction every year.

Entanglement in fishing gear used to catch lobster, crab and other species is a leading cause of North Atlantic right whale deaths. Around one-quarter of the current whale population is entangled in fishing gear from the U.S. and Canada each year, and about 85% of whales have been entangled at least once in their lifetime. We’re barely into 2023 and have already gotten news of several severely entangled North Atlantic right whales from New England to North Carolina.

Similarly, North Atlantic right whales are commonly hit and killed by boats up and down the eastern seaboard from Maine to Florida where they migrate. They are slow surface swimmers, have dark skin and no dorsal fin, making them notoriously hard to see.

These are preventable problems with known, effective solutions that will allow us to coexist with this species as it recovers. But we’ve been waiting far too long for the government to take necessary action to prevent entanglements and boat strikes.

The National Oceanic and Atmospheric Administration (NOAA), a part of the U.S. Department of Commerce, is the federal agency responsible for regulating and protecting our oceans, including safeguarding the future of endangered species such as North Atlantic right whales. Unfortunately, by its own admission, the existing fishing and boating regulations to protect right whales are inadequate. They are not in compliance with the Endangered Species Act

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nor the Marine Mammal Protection Act because the deadly risk of entanglement and boat collisions to whales is too high to allow the species to survive or recover.

In many ways, the fate of this species lies in Rhode Island. Two federal government officials from Rhode Island, Secretary of Commerce Gina Raimondo and National Marine Fisheries Services Assistant Administrator Janet Coit, sit in positions of power with both the authority and the responsibility to enact necessary changes to protect North Atlantic right whales. Raimondo as the former governor and Coit as the former head of the Rhode Island Department of Environmental Management are undoubtedly very familiar with this issue and the perilous situation for whales. It is long past time for them to use the full extent of their governmental power to uphold the law and protect critically endangered marine mammals, not just for the Ocean State but for the planet.

The government has delayed doing what is necessary for years, while the North Atlantic right whale population continues to decline at an alarming rate. Every month that passes without action exacerbates the problem.

As a great leader in Foxboro is famous for saying: “Do your job.” If Raimondo and Coit don’t do the job they have been appointed to do, it may be too late for the North Atlantic right whale.

*Gib Brogan is based in New England and is a campaign director at Oceana, the largest international advocacy organization dedicated solely to ocean conservation.*

## Loophole hurting patients’ ability to afford treatments

### Your Turn

John Lombardi  
Guest columnist

The past few years have been a struggle for our community, but I’ve been amazed by the resilience of Rhode Islanders. As a state representative, I’ve had the privilege of helping constituents weather the pandemic by passing legislation that invests in our public health system. Unfortunately, COVID exacerbated many existing problems, and with inflation still at a 40-year high, we must look at ways to ease the financial burden some of our most vulnerable citizens — those impacted by chronic disease — are now facing.

Over the past 20 years, modern medicine has made incredible advancements in treating life-threatening illnesses, including cancer, ALS, hemophilia, cystic fibrosis and lupus. Just this past fall the U.S. Food and Drug Administration approved a drug for Type 1 diabetes that delays the need for insulin shots, blood-sugar monitoring and diet modifications by years, and a new mRNA therapy that would help thousands of patients affected by cystic fibrosis to treat the underlying cause of the disease.

These advancements are amazing, and they bring hope to patients struggling with these chronic, life-threatening diseases.

But these drugs are only effective in helping those living with chronic illnesses if they can access them. And the biggest barrier to accessing medications is often cost.

Until recently there had been at least one solution: pharmaceutical manufacturers and nonprofits stepped in to support patients and families with copay assistance savings programs, which help reduce out-of-pocket payments for medication and treatment. The savings provided by the programs were intended to be put towards a patient’s insurance deductible, allowing them to hit their out-of-pocket maximum and have insurance cover the rest of the cost.

A constituent with cystic fibrosis recently informed me that beginning a few years ago, insurance companies and pharmacy benefit managers found a loophole in laws meant to ensure people have access to life-saving medicine by categorizing new treatments as “nonessential,” even though for almost 80% there are no generic options available. Insurers don’t have to count funds given by third parties for “non-essential” drugs towards their customers deductible. Mind you, they are still happy to accept the money from assistance programs to support patients, but they then force patients to pay thousands more to reach their out-of-pocket maximum.

That’s unconscionable.

This latest scheme has not gotten a lot of media attention because most people impacted don’t know their health plan has a co-pay accumulator or maximizer program until they get hit with a surprise bill showing they owe money after they thought they’d already satisfied their deductible. That’s a horrifying prospect, and not being able to continue to use the best treatment modern medicine has found for their illness is even more so.

That’s why it is time to update our laws to prohibit insurers and pharmacy benefit managers from continuing this practice and enable patients to access and afford the lifesaving medications they need to manage their chronic illness.

Fortunately, there is language that has been introduced in Congress with bipartisan support — H.R. 5801. The Help Ensure Lower Patient Copays Act would fix federal laws to protect patients and take insurance companies and pharmacy benefit managers to task for unfair practices like co-pay accumulator policies.

Living with a chronic illness is hard enough. Insurers and pharmacy benefit managers shouldn’t be standing in the way of patients affording lifesaving new treatments with co-pay accumulator and similar schemes.

*John Lombardi is a state representative serving House District 8 in Providence.*