

Use Jiu-Jitsu To Fight The Trump Administration

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It turns out that jiu-jitsu, in which one uses an opponent's own force against him or her to defeat that opponent, is not just a martial art.

It may very well be key to attempts by Minnesota and Hennepin County to obtain evidence in the killing of Ms. Renee Good, evidence now being withheld deliberately from them by the federal government.

Let's look at the facts. On January 7, a federal ICE officer killed Ms. Good while she was in her car on a Minneapolis street. That evening, President Donald Trump wrote this: "[T]he woman driving the car was very disorderly, obstructing and resisting, who then violently, willfully, and viciously ran over the ICE Officer, who seems to have shot her in self-defense."

That same day, the Secretary of Homeland Security, Kristi Noem, who oversees ICE, accused Ms. Good of attempting to "weaponize her vehicle" in an "act of domestic terrorism."

The next day, January 8, the Vice President J.D. Vance had this to say. "You have a woman who is trying to obstruct a legitimate law enforcement operation."

Also, that day, the Minnesota Bureau of Criminal Apprehension (BCA), initially tasked with participating in an investigation of Ms. Good's killing, withdrew from the case, announcing that it was informed "the investigation would now be led solely by the FBI, and the BCA would no longer have access to the case materials, scene evidence or investigative interviews necessary to complete a thorough and independent investigation."

And on January 12, Todd Blanche, the Deputy Attorney General, asserted without providing reasons that "there is currently no basis for a criminal civil rights investigation."

The state and county have thus been denied access by the federal government to evidence such as the ICE officer's statement to federal investigators, the casings of the bullets which struck Ms. Good, and Ms. Good's car and autopsy report, evidence the state and county deem crucial to making a determination as to whether their criminal laws were broken.

Why? The federal government claims that it alone is entitled to investigate the ICE officer's actions because he was acting within his official authority, and immigration law enforcement is a federal function. Therefore, it need not share evidence with the state or county.

And that federal claim, in turn, is allegedly based upon the "Supremacy Clause" found at Article VI of the US Constitution. That Clause establishes that when state laws conflict with federal laws, federal laws are to prevail. Here, it is argued, the federal government's national interests in enforcing immigration law take precedence over the more parochial state and county interests in enforcing their police powers. Thus, the federal government contends it need not share the evidence it has gathered with the state or county.

But that argument rests on a fundamental misreading of the "Supremacy Clause." For federal preemption of a state activity to occur, there must be a conflict between federal and state laws.

And that's not the situation here. The Department of Justice has said it has no interest in pursuing a criminal civil rights investigation into Ms. Good's killing. Conversely, the state and county have every reason, based simply on evidence already submitted by the public to Hennepin County, to focus principally on a criminal civil rights investigation into that killing.

There is, thus, no conflict between federal laws and interests on the one hand and state and county laws and interests on the other: the federal investigation is focused upon matters pertaining to immigration law enforcement, and the state and local investigation is focused upon matters pertaining to whether a Minnesota citizen's civil rights were criminally denied her.

Lacking that conflict of laws, there is no basis for the federal government to base its refusal to share evidence on the "Supremacy Clause." And, with no constitutional leg to stand on, the prejudicial comments of the President, the Vice President, the Homeland Security Secretary, and the Deputy Attorney General reveal the federal withholding of evidence for what it is: federal obstruction of state and local justice, pure and simple.

The withheld evidence sought by the state and county must be turned over to them.

For in jiu-jitsu, when a powerful bully attacks it is often best to use the opponent's aggression against him or her. So, too, when dealing with the Trump Administration.