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# From Paper Terrorists to Cop Killers: The Sovereign Citizen Threat

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## From Paper Terrorists to Cop Killers: The Sovereign Citizen Threat\*

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### INTRODUCTION

On March 9, 2010, a police officer in Greensboro, North Carolina, pulled over Tornello Fontaine Pierce El-Bey to issue a routine citation for his expired vehicle registration.<sup>1</sup> The officer detained Mr. Pierce during the traffic stop, cited him for the expired

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1. *El-Bey v. City of Greensboro*, No. 1:10CV291, 2010 WL 3242193, at \*1 (M.D.N.C. Aug. 16, 2010), *report and recommendation adopted as modified*, No. 1:10CV291, 2011 WL 255719 (M.D.N.C. Jan. 25, 2011). “El-Bey” is a suffix that many sovereign citizens adopt. *See infra* Part II.B. For the sake of clarity, this Comment will refer to the litigant by his legally-recognized surname, Pierce. *El-Bey*, 2010 WL 3242193, at \*1. Like many of the sovereign citizens’ practices, adding “El-Bey” to one’s name has a different meaning and rationale depending upon whom one asks. *See, e.g.*, A. Melek Özyetgin, *On the Use of the Title “Beg” Among the Turks*, 11 INT’L J. CENT. ASIAN STUD. 156, 158 n.4, 159 n.8 (2006) (“In the Old Turkic period, *beg*, was the title of people who headed small tribes or large communities comprising various tribes . . . . Today the word represents respect when used as *bey* after male names and as a form of address . . . .”); R.V. Bey, *What to Study, Moors in America*, R.V. BEY PUBLICATIONS, <http://rvbeypublications.com/id80.html> (last updated Jan. 10, 2015, 2:12 AM) (“Moors are the Title holders. The Titles are El, Bey, Dey, Al, and Ali. Translated as the 5 civilized so-called Indian tribes during the battles on the Western Frontier, here in North America.”).

registration and for operating a vehicle without a license, and released him.<sup>2</sup> Mr. Pierce then sued the Greensboro Police Department in federal court, alleging that the traffic stop was a violation of both the United Nations Declaration on the Rights of Indigenous Peoples<sup>3</sup> and the 1790 Sundry Free Moors Act,<sup>4</sup> and that the stop forced Pierce into “Illegal Slavery Trade (Chattel) by selling and trading Indigenous people for profit without Noble Plaintiff(s) receiving any benefit,” among numerous other claims for relief.<sup>5</sup> This was a case of an unlucky police officer and a particularly litigious driver. Pierce’s

2. *El-Bey*, 2010 WL 3242193, at \*1.

3. G.A. Res. 61/295, Annex, U.N. GAOR, 61st Sess., Supp. No. 49 (Vol. III), U.N. Doc. A/61/49 (Vol. III), at 16 (Sept. 13, 2007).

4. The complaint’s reference to the fictitious “1790 Sundry Free Moors Act,” Complaint at 4, *El-Bey*, 2010 WL 3242193 (No. 1:10CV291), available at <http://www.digtriad.com/news/pdf/ticket-lawsuit.pdf>, is particularly intriguing. While, to the best of this author’s knowledge, no such legislation was ever enacted, archive records from the South Carolina General Assembly’s House Journals do mention a bizarre incident in 1790:

[A] petition was presented to the House [of Representatives] from Sundry Free Moors, Subjects of the Emperor of Morocco; and residents in this State, praying that in case they should Commit Any Fault amenable to be brought to Justice, that they as Subjects to a Prince in Alliance with the United States of America, may be tried under the same Laws as the Citizens of this State would be liable to be tried, and not under the Negro Act.

H. JOURNAL, 8th Gen. Assemb., 2d Sess. 363 (S.C. 1790). This so called “petition of the Free Moors” was referred to a committee of several House members, including the well-known General Charles Pinckney, which in turn

[r]eport[ed] that they have Considered the same and are of opinion that no Law of this State can in its Construction or Operation apply to [the Free Moors], and that persons who were Subjects of the Emperor of Morocco being Free in this State are not triable by the Law for the better Ordering and Governing of Negroes and other Slaves.

*Id.* at 373–74. It appears that the committee’s findings were well received, as the Journal indicates it was thereafter “Resolved That this House do agree with the Report.” *Id.* at 374.

5. Complaint, *supra* note 4, at 1–4. Nearly all materials written by sovereign citizens are riddled with typographical errors. See, e.g., *id.*; ANTI-DEFAMATION LEAGUE, THE LAWLESS ONES: THE RESURGENCE OF THE SOVEREIGN CITIZEN MOVEMENT 7 (2d ed. 2012) (describing tactics of self-identified sovereign citizen “David Wynn Miller, who has actually created (and uses) a completely alternative grammar for the English language, which he claims allows him to master the judicial system. Or, as Miller puts it on his Web site, ‘FOR THIS PLENIPOTENTIARY-JUDGE: David-Wynn: Miller’s-KNOWLEDGE OF THESE CORRECT-SENTENCE-STRUCTURES-COMMUNICATION-SYNTAX-LANGUAGE=(C.-S.-S.-C.-S.-L.) IS WITH THE CLAIMS BY THE QUANTUM-LANGUAGE-SYNTAX-NOW-TIME-FACTS.’”).

The quoted material in this Comment retains the original capitalization, spelling, and grammar unless otherwise noted. The notation “sic” or other alterations are reserved for instances where confusion is likely.

propensity for filing frivolous lawsuits has earned him notoriety in federal court—in this lawsuit, for instance, the judge derisively referred to him as a “frequent and enthusiastic litigator.”<sup>6</sup>

Also in federal court in Greensboro, another plaintiff, Arthur Armstrong, filed six consecutive lawsuits against a single defendant for a range of civil rights violations, conspiracies, and breach of contract claims arising out of his expulsion from the lounge at a Holiday Inn.<sup>7</sup> He also has sued his mortgagor, his daughter’s car dealer, Duke University Hospital, the Greensboro Police Department, and individual Greensboro police officers.<sup>8</sup> So litigious is this plaintiff that he refers to himself in his filings as a “black, semi-professional litigator.”<sup>9</sup>

In Chicago, Illinois, Cherron Phillips—who prefers to be known as River Tali El Bey—filed multiple “false maritime liens” against public officials involved in her brother’s drug conspiracy case, some in amounts as high as \$100 billion.<sup>10</sup> As Ms. Tali filed “unintelligible motions,” the federal district judge told Ms. Tali that he “hesitate[d] to rank [her] statements in order of just how bizarre they are.”<sup>11</sup> Ms. Tali has been charged with targeting U.S. Attorney Patrick Fitzgerald and several federal judges by filing false, multi-billion dollar liens on their homes.<sup>12</sup>

In another, less formal approach, a Las Vegas couple armed themselves with guns and secured a vacant house, planning to follow police officers and kidnap them during the course of routine traffic stops.<sup>13</sup> The couple planned to hold trials for the officers for civil rights violations.<sup>14</sup> The couple’s plans were thwarted by an undercover police officer who learned of the plans and arrested them.<sup>15</sup>

6. *El-Bey*, 2011 WL 255719, at \*1.

7. *Armstrong v. Koury Corp.*, 16 F. Supp. 2d 616, 617 (M.D.N.C. 1998), *aff’d*, 168 F.3d 481 (4th Cir. 1999).

8. *Id.* at 618 (citations omitted).

9. *Id.* at 617.

10. Annie Sweeney & Jason Meisner, *Chicago Woman’s Trial Could Get Wild*, CHI. TRIB. (Aug. 2, 2013), [http://articles.chicagotribune.com/2013-08-02/news/ct-met-sovereign-citizen-trial-20130728\\_1\\_chicago-woman-then-chief-judge-james-holderman-court-rules](http://articles.chicagotribune.com/2013-08-02/news/ct-met-sovereign-citizen-trial-20130728_1_chicago-woman-then-chief-judge-james-holderman-court-rules).

11. *Id.*

12. *Id.*

13. Erin McClam, *Vegas Arrests Cast Light on Anti-Government ‘Sovereign Citizens’ Movement*, NBC NEWS (Aug. 23, 2013, 10:39 AM), [http://usnews.nbcnews.com/\\_news/2013/08/23/20151351-vegas-arrests-cast-light-on-anti-government-sovereign-citizens-movement?lite](http://usnews.nbcnews.com/_news/2013/08/23/20151351-vegas-arrests-cast-light-on-anti-government-sovereign-citizens-movement?lite).

14. *Id.*

15. *Id.*

What ties this bizarre medley of individuals together is their status as sovereign citizens. “Sovereign citizen” is a catchall identifier that refers to a wide range of anti-government individuals who share some common beliefs.<sup>16</sup> The sovereign citizen movement can be traced back to far-right groups like the Posse Comitatus, tax protestors, and the militia movement of the 1980s and 90s.<sup>17</sup> Some members’ affiliation is limited to making vocal critiques of the legitimacy of federal, state, and local governments and manufacturing odd driver’s licenses, license plates, and registrations.<sup>18</sup> Others engage in “paper terrorism”<sup>19</sup> and even physical violence toward government officials.<sup>20</sup> As the threat of sovereign citizens has grown,<sup>21</sup> state and local governments as well as judges have responded by imposing harsh penalties for filing false liens and imprisoning frivolous litigants for contempt of court.<sup>22</sup> These responses have had limited success at deterring sovereign citizens and might only be effective inasmuch as

16. *A Quick Guide to Sovereign Citizens*, UNC SCH. GOV’T 1 (Sept. 2012), <http://www.sog.unc.edu/sites/www.sog.unc.edu/files/R09.1%20Sovereign%20citizens%20briefing%20paper%20Sept%202012%20%28Crowell%29.pdf> [hereinafter SOG I]. For instance, sovereign citizens generally believe that the United States government is illegitimate, that they are not subject to its laws, and that they can circumvent its laws in bizarre ways, ranging from claiming immunity based on a fictitious, eighteenth-century treaty between the United States and Morocco to renouncing the legality of all government documentation in which their names are written in all capital letters. *See id.* at 1–3.

17. Francis X. Sullivan, Comment, *The “Usurping Octopus of Jurisdictional/Authority”: The Legal Theories of the Sovereign Citizen Movement*, 1999 WIS. L. REV. 785, 786–87; *see infra* Part I.

18. *See* SOG I, *supra* note 16, at 1, 3.

19. “Paper terrorism” refers to the filing of false liens and frivolous claims against public officials. *See, e.g.*, Erica Goode, *In Paper War, Flood of Liens Is the Weapon*, N.Y. TIMES (Aug. 23, 2013), [http://www.nytimes.com/2013/08/24/us/citizens-without-a-country-wage-battle-with-liens.html?\\_r=0](http://www.nytimes.com/2013/08/24/us/citizens-without-a-country-wage-battle-with-liens.html?_r=0).

20. *See, e.g.*, SOG I, *supra* note 16, at 1; Counterterrorism Analysis Section, FBI, *Sovereign Citizens: A Growing Domestic Threat to Law Enforcement*, FBI L. ENFORCEMENT BULL., Sept. 2011, at 20, 20–21 [hereinafter FBI], available at <http://leb.fbi.gov/2011/september/leb-september-2011>.

21. Casey Sanchez, *Sovereign Citizens Movement Resurging: Resurgence of Far-Right Movement Reported*, S. POVERTY L. CENTER, <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2009/spring/return-of-the-sovereigns> (last visited Apr. 9, 2015) (“The movement has proliferated beyond its traditional antigovernment base, expanding aggressively among an unlikely mix of black separatist fringe groups, disgruntled police officers and IRS agents, [and] con artists capitalizing on the mortgage crisis . . .”).

22. *See, e.g.*, Goode, *supra* note 19.

they incapacitate individual sovereign citizens for the time that the citizens are incarcerated.<sup>23</sup>

Because paper terrorism is so pervasive, and because it has garnered significant publicity,<sup>24</sup> states have begun enacting harsher penalties for filing false liens and lawsuits.<sup>25</sup> However, there is little evidence that these laws work to deter the subject of the sanction in particular or sovereign citizens in general.<sup>26</sup> The systems that are currently in place to combat sovereign citizens, namely felony lien laws, are not sufficient to control or eliminate the sovereign movement. This Comment argues that it is therefore important to explore other methods of preventing sovereign citizens from continuing to wreak havoc on the justice system. In addition to already-existing felony lien laws, governments can best counter sovereign citizens with a combination of pre-filing injunctions—what this Comment refers to as a “hard” solution—and Internet advocacy, procedural justice, and general systemic reform—what this Comment calls “soft” solutions.

Part I of the Comment lays out the origins of the sovereign citizen movement. In particular, it explores the *Posse Comitatus* (“*Posse*”), the tax protestor movement, and the militia movement, which all contributed to the practical and ideological underpinnings of the modern sovereign citizen movement. Part II analyzes sovereign citizens’ diverse beliefs and ideologies as they relate to the government as well as the more pervasive conspiracy theories and narratives. Part III describes the tactics that sovereign citizens employ in furtherance of their anti-government goals. Finally, Part IV lays out strategies for preventing sovereign citizens’ harassment of public officials. In particular, Part IV discusses the efficacy and practice of gatekeeper orders in federal and North Carolina courts, as well as Internet activism, procedural justice, and general systemic reform.

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23. *See id.* However, prison may not even incapacitate sovereign citizens, as experts have observed sovereign citizen recruitment and indoctrination in prisons. *See* SOG I, *supra* note 16, at 3; Sanchez, *supra* note 21.

24. *See, e.g.,* Caitlin Dickson, *Sovereign Citizens Are America’s Top Cop-Killers*, DAILY BEAST (Nov. 25, 2014), <http://www.thedailybeast.com/articles/2014/11/25/sovereign-citizens-are-america-s-top-cop-killers.html>; Goode, *supra* note 19; McClam, *supra* note 13; Sweeney & Meisner, *supra* note 10; Sanchez, *supra* note 21.

25. Goode, *supra* note 19.

26. *See* Mark Pitcavage, *Paper Terrorism’s Forgotten Victims: The Use of Bogus Liens Against Private Individuals and Businesses*, ANTI-DEFAMATION LEAGUE (June 29, 1998), <http://archive.adl.org/mwd/privlien.html> (last modified June 29, 1998) (exploring the efficacy of methods employed to combat the filing of false liens).

## I. FROM THE POSSE TO RUBY RIDGE—THE BEGINNINGS OF A FAR-RIGHT MOVEMENT

Sovereign citizens (“sovereigns”) can be traced back to a number of radical rightist groups, namely the Posse Comitatus, tax protestors, and more generally, the modern militia movement. These groups share fervent anti-government sentiments, often racist beliefs, and tactics such as abusing the court system to harass public officials. The similarities between contemporary sovereign citizens and the Posse Comitatus, tax protestors, or militias often render them indistinguishable at first glance; however, upon closer inspection it becomes clear that sovereign citizens arose out of these three distinct groups. It is instructive to lay out the precursors to the sovereign citizen movement for a more coherent view of how sovereign citizens act and what they believe.

### A. *The Posse Comitatus*

The Posse is an important precursor to sovereign citizens, providing many foundational tactics and beliefs. Posse groups originally formed in the American Midwest to defend the Constitution by forming “common-law” courts and imprisoning public officials who purportedly acted in dereliction of the Constitution.<sup>27</sup> Much like Christian Identity, the white supremacist group with which the Posse shared many members,<sup>28</sup> the Posse Comitatus was, at its core, a “racist, anti-Semitic, antitax group that believe[d] there [was] no legitimate form of government beyond the county level.”<sup>29</sup>

Though the Posse Comitatus began in 1969, it reached its height during the farm crisis in the 1980s by teaching legal theories and strategies to struggling farmers.<sup>30</sup> These strategies included suing lenders and the Federal Reserve, as well as what is now known as

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27. See Sullivan, *supra* note 17, at 787.

28. *Id.* Christian Identity is an anti-Semitic, racist movement that began after World War II and dissolved by the 1990s. Michael Barkun, *Essay: The Christian Identity Movement*, S. POVERTY L. CENTER, <http://www.splcenter.org/get-informed/intelligence-files/ideology/christian-identity/the-christian-identity-movement> (last visited Apr. 9, 2015). Adherents promulgated theologically unique, racist beliefs, including the view that the biblical story of Adam as the progenitor of humanity only involved the creation of whites and that other races were created separately. *Id.* Moreover, members of Christian Identity believed they were in a battle against non-whites and Jews alike. *Id.* Sects of Christian Identity engaged in militaristic training, and some even attempted to instigate race wars. *Id.*

29. MORRIS DEES WITH JAMES CORCORAN, *GATHERING STORM: AMERICA'S MILITIA THREAT* 14 (1996).

30. See Sullivan, *supra* note 17, at 787–88.

“paper terrorism”: filing false liens against bankers, IRS agents, police officers, and other public officials.<sup>31</sup> Public officials can easily become targets of paper terrorism when they are engaged in any form of proceeding involving a Posse member or sovereign citizen, “from pet licensing to serious criminal charges.”<sup>32</sup> Posse Comitatus members also practice a form of “severation,” an attempt to reclaim sovereignty or “true freedom” by returning or destroying driver’s licenses and other government-issued documents that allegedly “intrude upon their God-given individual rights.”<sup>33</sup> The Posse movement largely disappeared in 1983 when a member killed two U.S. Marshals, thus placing the group under increased scrutiny by authorities.<sup>34</sup> However, by that time, the Posse’s strategies and beliefs had taken hold and carried over to the burgeoning militia movement and, eventually, to sovereign citizens.<sup>35</sup>

### B. Tax Protestors

The tax protestor movement laid important anti-government ideological foundations for sovereign citizens.<sup>36</sup> Tax protestors are a group of anti-government individuals who believe the income tax is illegitimate.<sup>37</sup> Unlike the Posse Comitatus, the tax protestor movement has “no common theological, philosophical, or racial beliefs”; rather, they subscribe to anti-tax theories that are promulgated through books, manuals, and, more recently, the Internet by for-profit theorists.<sup>38</sup> They argue that the income tax

31. *Id.* at 788.

32. Lorelei Laird, ‘Sovereign Citizens’ Plaster Courts with Bogus Legal Filings—and Some Turn to Violence, A.B.A. J. (May 1, 2014, 10:20 AM), [http://www.abajournal.com/magazine/article/sovereign\\_citizens\\_plaster\\_courts\\_with\\_bogus\\_legal\\_filings/](http://www.abajournal.com/magazine/article/sovereign_citizens_plaster_courts_with_bogus_legal_filings/).

33. DEES WITH CORCORAN, *supra* note 29, at 87; *see also* Keith Schneider, *Terror in Oklahoma: The Far Right; Bomb Echoes Extremists’ Tactics*, N.Y. TIMES (Apr. 26, 1995), <http://www.times.com/1995/04/26/us/terror-in-oklahoma-the-far-right-bomb-echoes-extremists-tactics.html> (describing “severation” as an initiation tactic adopted by far-right extremists “who believe that only through severing all ties to [the] government can they truly be free”).

34. *See* Sanchez, *supra* note 21; DEES WITH CORCORAN, *supra* note 29, at 14.

35. Sanchez, *supra* note 21.

36. *See* Sullivan, *supra* note 17, at 786.

37. *Tax Protest Movement*, ANTI-DEFAMATION LEAGUE, [http://archive.adl.org/learn/ext\\_us/tpm.html](http://archive.adl.org/learn/ext_us/tpm.html) (last updated 2005).

38. Sullivan, *supra* note 17, at 789 (citing *McLaughlin v. Comm’r*, 832 F.2d 986, 987 (7th Cir. 1987)); *Tax Protest Movement*, *supra* note 37. There are a handful of particularly well-known tax protestors, perhaps most famous of whom is Irwin Schiff—who, despite having served time in prison, continues to hold for-profit anti-tax seminars. *Id.* Mr. Schiff is currently in federal prison for tax-related offenses. Peter J. Reilly, *Are Tax Protestors Actually Winning?*, FORBES (Jan. 17, 2013), <http://www.forbes.com/sites/peterjreilly/2013/01/17/are-tax-protesters-actually-winning/>.



violates the Fifth Amendment, that the Sixteenth Amendment was never properly ratified, or that income tax applies only to residents of Washington, D.C.<sup>39</sup> Some individuals employ tax protestor tactics, namely litigating using these anti-tax theories, because they cannot afford to pay income tax; others seem to harbor fervent anti-government sentiments and are, more than anything, “looking for trouble with the IRS” or seeking an outlet to challenge the purportedly illegitimate federal government.<sup>40</sup> Also unlike the Posse, tax protestors still seem to be active and remain “thorns in the side of the federal judiciary.”<sup>41</sup>

### C. *The Militia Movement*

Examining the militia movement’s origins, strategies, and downfall is helpful to understand the meteoric rise in sovereign citizens and the attention they have garnered across the country.<sup>42</sup> The American Militia Movement is founded on the principle that, at varying levels, the U.S. government has been corrupted—generally by the “New World Order,”<sup>43</sup> which secretly controls the federal government—and the revolutionary militiamen are the only capable saviors of true American values.<sup>44</sup> In addition to the militias’ central

39. *Tax Protest Movement*, *supra* note 37. There are myriad arguments that claim the invalidity of income tax. One particularly interesting theory is that income tax is unconstitutional because it “place[s] the taxpayer in a position of involuntary servitude” in violation of the Thirteenth Amendment. *Id.* Another theory is that requiring individuals to fill out tax forms violates the First Amendment’s free speech protections. *Id.*

40. *See Sullivan*, *supra* note 17, at 790 (citing *Miller v. United States*, 868 F.2d 236, 237–38 (7th Cir. 1989)).

41. *McLaughlin v. Comm’r*, 832 F.2d 986, 987 (7th Cir. 1987); *see also, e.g., Davis v. I.R.S.*, 905 F. Supp. 2d 1253, 1254–55 (D.N.M. 2012) (striking a plaintiff tax protestor’s affidavit and dismissing the case summarily after the plaintiff “espous[ed] his alleged belief in tax-protestor rhetoric that has long been rejected in the Courts”).

42. *See, e.g., Maxwell Barna, Move Over Jihadists—Sovereign Citizens Seen as America’s Top Terrorist Threat*, VICE NEWS (Aug. 15, 2014), <https://news.vice.com/article/move-over-jihadists-sovereign-citizens-seen-as-americas-top-terrorist-threat>.

43. The “New World Order” is a popular conspiracy theory that posits that there is one unified, “shadow government” or group of actors controlling major world events and seemingly sovereign national governments. *See Hua Hsu, A Global Government Is Waiting in the Wings*, N.Y. MAG. (Nov. 17, 2013), <http://nymag.com/news/features/conspiracy-theories/new-world-order/>.

44. LANE CROTHERS, RAGE ON THE RIGHT: THE AMERICAN MILITIA MOVEMENT FROM RUBY RIDGE TO HOMELAND SECURITY 2 (2003). The modern militia movement draws on the popular and inaccurate myth surrounding the American Revolution—that “gentle, selfless people” left their home to fight in militias, and those militias helped win the Revolution. *Id.* at 25. In reality, militias were quite ineffective in battle, and the British were defeated by “professional armies . . . and navies” with little help from militias. *Id.* at 26–27. Militia members generally believe that the “shadow government” acts at the behest

element of conspiracism,<sup>45</sup> militias were, at their zenith, bound together by common membership in the Christian Identity movement.<sup>46</sup> Despite this common membership, not all militias held the same racist beliefs as members of Christian Identity; indeed, some militias in the early 1990s eschewed explicit racism.<sup>47</sup> However, by 1994, it became clear that the “links between the [militia] movement as a whole and the haters and racists of America were strong,” despite the efforts of the more tolerant militias.<sup>48</sup>

In addition to objecting to the purported takeover of the U.S. government by agents of the New World Order or the installation of a shadow government broadly, most modern militias believe that the corrupted government has expanded impermissibly. Particularly, militia members tend to object to the Fourteenth Amendment, income tax, and any gun control legislation.<sup>49</sup> Militias are driven by the belief that it is their job to return U.S. government to what they believe are the ideals of its founders. They believe that resistance, including by violent means, is right and righteous.<sup>50</sup>

It was in this context of perceived government overreaching that federal agents seized Ruby Ridge in a deadly shootout with American citizens. This confrontation, by most accounts, led to the rise of the modern militia movement.<sup>51</sup> Ruby Ridge began when Randy Weaver, a survivalist who subscribed to many core militia ideologies, failed to appear in court on felony weapons charges, instigating a large-scale standoff with multiple federal agencies and local authorities.<sup>52</sup> Early in the standoff, agents hiding at the bottom of the Weavers’ property were compromised when Weaver, Weaver’s son, and Weaver’s friend walked toward the hidden agents with their dog.<sup>53</sup> In an attempt to elude the suspects, an agent shot and killed the dog, who seemed to

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of some “other,” often the United Nations. *Id.* at 12. Shadow agents are believed to have infiltrated all branches of American government. *Id.* at 57.

45. *See id.* at 42 (explaining that militias are characterized by a “conspiracism” mindset that “elevates the scapegoat to the role of an organized plotter engaged in systemic acts of evil to deny rights and freedoms to the ‘good’ people in society”).

46. *See DEES WITH CORCORAN, supra* note 29, at 18. For background on the Christian Identity movement, see *supra* note 28 and accompanying text.

47. *See DEES WITH CORCORAN, supra* note 29, at 86–87.

48. *Id.* at 87.

49. CROTHERS, *supra* note 44, at 51–53.

50. *See id.* at 2.

51. *Id.* at 97.

52. DEES WITH CORCORAN, *supra* note 29, at 9. For more detailed accounts of Ruby Ridge, see generally *id.* at 9–27 and CROTHERS, *supra* note 44, at 75–92.

53. CROTHERS, *supra* note 44, at 82.

have picked up the agents' scent.<sup>54</sup> Hearing the shot, Weaver retreated, and his friend opened fire on the agents, who returned fire, killing the friend and, tragically, Weaver's fleeing son.<sup>55</sup> The next day, an FBI sniper saw Randy Weaver and fired at him.<sup>56</sup> The first shot hit Weaver in the arm, while the second shot missed Weaver and instead struck his wife, killing her.<sup>57</sup> After ten days and extensive negotiations, Weaver eventually surrendered to federal agents.<sup>58</sup> Between the deaths of Weaver's wife and son, the perception that federal agents killed Weaver's wife and son intentionally, and the intricate conspiracy theory subsequently put forward at Weaver's trial, Ruby Ridge became the *force majeure* that vindicated militias nationwide.<sup>59</sup>

Sensing the potential for widespread success, a leader of the Christian Identity movement called a meeting of militia leaders across the nation in 1992 that would later be termed the "Estes Park meeting."<sup>60</sup> The meeting drew members of the Ku Klux Klan, Gun Owners of America, and significantly, Louis Beam, a national leader in the militia movement.<sup>61</sup> Though the meeting was initially pitched as a response to the perceived atrocities at Ruby Ridge, it ended up serving as a strategy session among national militia leaders.<sup>62</sup> The leaders narrowed the attendees' focus to ensure that the "public face of the movement . . . would focus on the victimization of innocent citizens by an abusive government," while the true motivational impetus for the members remained their "profound hatred of the national government."<sup>63</sup>

Militias toned down the racist and violent rhetoric that previously characterized their public image in exchange for a message that would garner increased popular support.<sup>64</sup> Thus, as a

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54. *Id.*

55. *Id.*

56. *Id.* at 84.

57. *Id.*

58. *Id.* at 87.

59. *Id.* at 90. Weaver's defense attorneys managed to exclude much of Weaver's racism and religious fanaticism from his trial, thereby portraying Weaver as an innocent citizen wronged by a violent and vengeful government. *Id.*

60. *Id.* at 93–94.

61. *Id.*; see also DEES WITH CORCORAN, *supra* note 29, at 33–35 (explaining Beam's status as a national leader in the Militia Movement in addition to being the Grand Dragon of the Texas Knights of the Ku Klux Klan and its paramilitary group, the Texas Emergency Reserve).

62. CROTHERS, *supra* note 44, at 93–95.

63. *Id.* at 94.

64. *Id.*; see DEES WITH CORCORAN, *supra* note 29, at 58–59.

consequence of Ruby Ridge and the Estes Park meeting, hundreds of thousands of Americans began to openly support—or join—the militia movement without feeling like radicals or racists.<sup>65</sup> Equally important, leaders at the meeting—particularly Beam—proposed the formation of small, armed militias that would directly resist the government, instead of employing traditional forms of lobbying and political dissent.<sup>66</sup> These militias would adopt the model of “leaderless resistance,” and in so doing ensure that even if the government infiltrated or disbanded one militia, members would not be able to turn over members of other militias to the authorities.<sup>67</sup>

Just a few months after Ruby Ridge, the federal government’s large-scale, surprise raid of David Koresh’s<sup>68</sup> Branch Davidian compound in Waco, Texas, further vindicated the militia movement.<sup>69</sup> After committing a series of egregious mistakes that significantly compromised the government’s secret plans,<sup>70</sup> instead of waiting or modifying their strategy, federal agents went forward with their plan to perform a surprise raid.<sup>71</sup> Going forward with a “secret” raid of which the suspects were aware was predictably unsuccessful—four federal agents and six Branch Davidians were killed, and an additional twenty agents and four Davidians were injured.<sup>72</sup> The agents retreated after this bloodshed, and the standoff that ensued lasted an unprecedented fifty-one days and culminated in a reckless

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65. CROTHERS, *supra* note 44, at 94–95.

66. *Id.* at 94.

67. *Id.*; see also Schneider, *supra* note 33 (“‘Leaderless resistance’ refers to the need to keep the planning of terrorist attacks confined to individuals or very small groups to prevent infiltration by the police.”).

68. David Koresh was the eventual leader of the Branch Davidians and professed to be a prophet—specifically, the Lamb referenced in the Book of Revelation. Malcolm Gladwell, *Sacred and Profane*, NEW YORKER (Mar. 31, 2014), <http://www.newyorker.com/magazine/2014/03/31/sacred-and-profane-4>. Problematically for the FBI, the Branch Davidians believed Koresh was the Lamb, which the FBI likened to the situation of Jim Jones’ cult followers before their mass suicide. *Id.*

69. DEES WITH CORCORAN, *supra* note 29, at 72; see CROTHERS, *supra* note 44, at 114.

70. Federal agents planned to storm the Branch Davidian compound by hiding in “cattle trucks that would pull up close to the [compound] buildings as if lost. Then, when the Branch Davidians least expected it, the agents would deploy, execute a dynamic assault on the property, and arrest Koresh.” CROTHERS, *supra* note 44, at 104. However, the agents committed a laundry list of blunders that completely eliminated the element of surprise: the hotels in Waco “filled with heavily armed ATF agents” days before the raid; a reporter asked a mailman for directions to the compound, explaining that a raid was being launched later that day, causing the mailman, a Branch Davidian, to go warn other members; and a helicopter began circling the compound early in the morning in anticipation of the raid. *Id.* at 105.

71. *Id.* at 104–05.

72. *Id.* at 105–06.

FBI strategy where agents used tanks to insert flammable tear gas into the compound, causing a massive fire.<sup>73</sup> The exact fatality count is unknown because no one knows exactly how many Branch Davidians were in the compound at the time of the fire, but it is undisputed that at least seventy-five men, women, and children perished in the fire.<sup>74</sup> Militia members and sympathizers considered the raid at Waco to be “evidence of an ongoing pattern of federal abuse and murder,” and the unusually ample evidence of a cover-up “made the government guilty and the militia necessary.”<sup>75</sup> The federal government subsequently attempted to expand gun control, which further energized the already hyperactive militias and increased extreme anti-government sentiments.<sup>76</sup>

The post-Waco surge of militia action culminated when Timothy McVeigh, an ardent militia supporter, bombed the Murrah Building in Oklahoma City.<sup>77</sup> While Ruby Ridge and Waco were more clearly assaults by the federal government that resulted in defensive militia action, the Oklahoma City bombing was essentially an offensive move. However, as with Ruby Ridge and Waco, militia members and supporters immediately began promulgating conspiracy theories that implicated the federal government.<sup>78</sup> Whether the bombing of the Murrah Building proved too violent for militia members’ and supporters’ sensibilities, or the government was not so clearly culpable, or because of some other combination of factors, the militia

73. *Id.* at 109–10. For a more detailed account of the standoff and final raid, see *id.* at 104–110.

74. *Id.* at 110.

75. DEES WITH CORCORAN, *supra* note 29, at 73; CROTHERS, *supra* note 44, at 116. For a list of the ostensible evidence of a cover-up, see CROTHERS, *supra* note 44, at 116–18.

76. See CROTHERS, *supra* note 44, at 121–22 (listing significant actions militias took nationwide in response to Waco).

77. *Id.* at 123–26. It is important to note that the Oklahoma City bombing is not merely correlated with Ruby Ridge and Waco because it was a successive event inspired by anti-government animus; McVeigh expressly admitted to being strongly influenced by the events at Ruby Ridge and Waco to mastermind and perpetrate the attack. *Id.* at 128–29.

78. *Id.* at 134–35. These conspiracy theories included ideas of a general cover-up, like with Waco, as well as theories that the United Nations was involved or that the government bombed the Murrah Building to frame the militia movement. *Id.* Others, like Louis Beam, blamed the government in more indirect ways:

Blaming the bombing in Oklahoma City on the militia, or unnamed ‘patriots,’ is an obscenity . . . [f]or it was, after all, the taking of lives by the government at Ruby Ridge and Waco that provided the innocent blood that gave birth to the militia and the associated anti-government feeling currently sweeping the nation.

DEES WITH CORCORAN, *supra* note 29, at 174.

movement ultimately lost momentum and support by the end of the 1990s.<sup>79</sup>

Though the era of the violent militia was over, rightist, conspiracist, anti-government groups did not disappear; rather, they chose to change tactics from outright violence and arming for a violent government takeover to more subtle, if equally damaging, strategies. Groups calling themselves “freemen” or “common-law activists” began targeting federal, state, and local officials.<sup>80</sup> These tactics did occasionally include shooting at law enforcement officials but more often centered on filing false liens against public officials.<sup>81</sup> When county clerks would not allow false liens to be filed, militia members—or, perhaps more accurately, “freemen”—would threaten violence against the clerks and their families, or shoot their cars and slash their tires.<sup>82</sup> These tactics remain a large part of contemporary sovereign citizens’—descendants of the militia movement—strategies to fight what they perceive as a corrupt and overreaching government.

## II. SOVEREIGN CITIZENS

Sovereign citizens emerged after the decline of the militia movement in the late 1990s, and today the movement has some 300,000 active members, with many more who arguably fit the broadest definition of “sovereign citizen.”<sup>83</sup> It is particularly difficult to calculate sovereign citizens’ numbers, because though there are some local, organized groups of sovereign citizens,<sup>84</sup> the majority of sovereign citizens have no official affiliation and learn tactics through the Internet or in-person seminars.<sup>85</sup> In addition, because most sovereign citizens’ appearances in court are pursuant to minor claims such as child support or traffic violations, it is likely that for every sovereign citizen that is apprehended or haled into court, there are many more who have not been caught breaking the law or who have

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79. CROTHERS, *supra* note 44, at 141.

80. *Id.* at 142–43.

81. *Id.*; see James Brooke, *Officials Say Montana ‘Freemen’ Collected \$1.8 Million in Scheme*, N.Y. TIMES (Mar. 29, 1996), <http://www.nytimes.com/1996/03/29/us/officials-say-montana-freemen-collected-1.8-million-in-scheme.html?src=pm>.

82. CROTHERS, *supra* note 44, at 142–43.

83. See *Sovereign Citizens Movement*, S. POVERTY L. CENTER, <http://www.splcenter.org/get-informed/intelligence-files/ideology/sovereign-citizens-movement> (last visited Apr. 9, 2015) [hereinafter SPLC I].

84. Several of these groups are discussed in more detail *infra* text accompanying note 90.

85. SPLC I, *supra* note 83.

been released without being recorded as such by law enforcement or the courts.<sup>86</sup> Indeed, many false liens are filed in rural counties where they go unnoticed, and bogus incorporations can be filed online with little to no oversight.<sup>87</sup> Irrespective of current membership, experts have hypothesized that sovereign citizens have been experiencing and will continue to experience a meteoric rise in membership due to economic strife, the ease of accessing materials on the Internet, and the movement's rise in prisons.<sup>88</sup> Indeed, "[t]he movement has proliferated beyond its traditional antigovernment base, expanding aggressively among an unlikely mix of black separatist fringe groups, disgruntled police officers and IRS agents, con artists capitalizing on the mortgage crisis, and wholly unclassifiable figures . . . ."<sup>89</sup> As the movement grows and diversifies, many sovereign citizens enter into groups with other sovereigns.

Though many sovereign citizens are not affiliated with any one sovereign citizen group, there are a large number of groups that sovereign citizens are tied to that have varying beliefs and levels of activity. Common groups include the Moorish Nation, the Aware Group, Washitaw Nation, the Republic of United States of America, Freeman, Freemen on the Land, Sons of Liberty, and the Aryan Nation.<sup>90</sup> Each of these groups subscribe to some level of sovereign citizen ideology—generally that the federal government's authority is invalid—and each of the groups could be explored in greater detail than this Comment endeavors to do. For the purposes of this Comment, it is only important to note that these groups tend to serve as a conduit for unique conspiracy theories and routine sovereign citizen tactics. This Part begins with subsection A, discussing the varied beliefs that inform sovereign citizens across the United States. subsection B then lays out the most common sovereign citizen tactics, from paper terrorism to terroristic violence.

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86. See, e.g., *id.*; FBI, *supra* note 19, at 22; Sullivan, *supra* note 17, at 798.

87. Sanchez, *supra* note 21 ("Many bogus liens are filed in rural county courts, where officials with little or no knowledge of the movement often fail to notice them. Fake incorporation papers, among other legal documents, can be filed digitally with state business bureaus with virtually no oversight.").

88. See SPLC I, *supra* note 83; FBI, *supra* note 19, at 23; Sanchez, *supra* note 21; see also Goode, *supra* note 19 ("The convergence of the evidence strongly suggests a movement that is flourishing . . . . It is present in every single state in the country.'").

89. Sanchez, *supra* note 21.

90. SOG I, *supra* note 16, at 1.

### A. *Beliefs*

The only ubiquitous sovereign citizen belief is that federal, state, and local governments are illegitimate—indeed, most sovereign citizens believe that these governments operate illegally.<sup>91</sup> Much like the militia movement, sovereign citizens have constructed several elaborate conspiracy theories that purport to explain how current governments have been corrupted and why they have no lawful power.<sup>92</sup> The most pervasive theories, often employed together, are the “Admiralty Law Theory” and the “Redemption Theory.”<sup>93</sup>

Sovereign citizens believe that at some point—by some accounts in the 1800s around the time of the Civil War,<sup>94</sup> by others in the 1930s during the Great Depression<sup>95</sup>—a new governmental regime based on admiralty law replaced the “common-law legal system” they ascribe to the Founding Fathers.<sup>96</sup> This Admiralty Law Theory in many ways echoes the militia movement’s ideas about a shadow government or the New World Order; that is, both conspiracy theories ascribe a malicious motive to the government, which they claim was corrupted after its legitimate beginnings at the hands of the Founding Fathers.<sup>97</sup> Sovereign citizens believe they are free under a common-law regime and “slaves” under admiralty law.<sup>98</sup>

Redemption Theory, which, for many, is a corollary of Admiralty Law Theory, is the claim that the “federal government has enslaved its citizens by using them as collateral against foreign debt.”<sup>99</sup> More precisely, sovereign citizens subscribing to this canon believe the United States went bankrupt when it abandoned the gold standard for currency in 1933 and began using its citizens as collateral in trade agreements with foreign nations.<sup>100</sup> Under this theory, the United

91. See, e.g., Goode, *supra* note 19; FBI, *supra* note 19, at 20.

92. See SOG I, *supra* note 16, at 1–3; SPLC I, *supra* note 83.

93. See SPLC I, *supra* note 83; SOG I, *supra* note 16, at 2.

94. SOG I, *supra* note 16, at 2.

95. SPLC I, *supra* note 83.

96. *Id.*

97. See Hsu, *supra* note 43; text accompanying note 43.

98. See Hsu, *supra* note 43; text accompanying note 43. It is unclear why sovereign citizens believe the current legal system is one of admiralty law, or whether proponents of the theory understand what admiralty law is; similarly, it is not clear what makes the system sovereigns believe in a “common-law” system. Irrespective of their understanding, vocal sovereign citizens consistently reference illegitimate “admiralty” or “maritime” law. See SOG I, *supra* note 16, at 4–5 (listing the words and phrases sovereign citizens commonly use in court filings and documents, such as “In Admiralty” and “Notice of International Commerce Claim Within The Admiralty . . .”).

99. Sanchez, *supra* note 21.

100. FBI, *supra* note 19, at 21.



States Treasury sets up an account for each citizen at birth and pledges some amount of money on that account.<sup>101</sup> This securitization creates two separate identities—the corporate account, or the “strawman,” and the “common-law,” or core, identity.<sup>102</sup> The government then pays down its loans with the money each strawman pays in taxes.<sup>103</sup> Sovereigns believe that any identification bearing one’s name in all capital letters represents the strawman identity.<sup>104</sup> This includes Social Security cards, passports, driver’s licenses, and tax forms.<sup>105</sup> Sovereign citizens thus believe that they are not bound by or to such government-issued identification and documents, as such documents represent only their strawman identity. Sovereigns believe they must split their strawman identity from their “flesh-and-blood” identity in a process they call “redemption.”<sup>106</sup> Many sovereign citizens also believe that, under Redemption Theory, there are methods of tapping into one’s strawman government account to “make fortunes with the use of certain documents.”<sup>107</sup> The supposed methods of tapping into one’s government account—commonly called “freeing money from the strawman”<sup>108</sup>—are some of the most popular topics for sovereign citizen seminars and Internet forums.<sup>109</sup>

The levels of sophistication among sovereign citizens vary greatly. The narratives of two sovereigns attempting to gain access to their purported government accounts are illustrative of this discrepancy in sophistication. One somewhat sophisticated sovereign citizen, Ernest Glenn Ambort, taught tax seminars across the country instructing participants to attain tax exemption by claiming non-resident alien status on federal tax returns.<sup>110</sup> Ambort then helped participants fill out tax forms claiming refunds for past years’ taxes.<sup>111</sup> “For these efforts, Ambort was indicted for one count of conspiracy

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101. SOG I, *supra* note 16, at 2.

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. SPLC I, *supra* note 83. The process of “redemption” is discussed *infra* Part II.A.

107. Sanchez, *supra* note 21; J.J. MacNab, ‘Sovereign’ Citizen Kane, S. POVERTY L. CENTER (2010), <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2010/fall/sovereign-citizen-kane> [hereinafter SPLC II], (“[B]y filing a series of complex, legal-sounding documents, the sovereign [believes he] can tap into that secret Treasury account for his own purposes. Over the last 30 years, there have been hundreds of sovereign promoters packaging different combinations of forms and paperwork, attempting to perfect the process.”).

108. FBI, *supra* note 19, at 21–22.

109. *See id.*

110. Ambort v. United States, 392 F.3d 1138, 1139 (10th Cir. 2004).

111. *Id.*

and sixty-nine counts of aiding and assisting in the preparation of false tax returns.”<sup>112</sup> Though Ambort’s arguments are plainly frivolous,<sup>113</sup> they are grounded in bits of American history and a loose interpretation of the tax code.

In contrast, sovereign citizen and federal prisoner Brandon Shane Gravatt’s arguments to the Court of Federal Claims represent the less-nuanced approach to redeeming the money he is allegedly owed.<sup>114</sup> Gravatt contended that his birth certificate was evidence of a trust for which he was “both the grantor and the beneficiary and that his social security number is evidence of a contract under which the United States has borrowed money from him.”<sup>115</sup> The court recounted several of Gravatt’s many theories under which Gravatt believed he was entitled to redeem the money from his purported government account, including a Uniform Commercial Code “financing statement with the California Secretary of State naming ‘Brandon Shane; Gravatt(c)1995’ as the secured party and ‘BRANDON SHANE GRAVATT(c)1995’ as the debtor, along with several documents purporting to establish that [he] was a sovereign citizen and not a citizen of the United States.”<sup>116</sup> The court ultimately dismissed all of Gravatt’s claims.<sup>117</sup>

In addition to the prevalent narratives exemplified by Gravatt and Ambort’s arguments, sovereign citizens believe that there are two types of citizenship—“sovereign” and federal.<sup>118</sup> Sovereigns believe that “[t]heir inalienable natural rights are recognized, secured, and protected by [the] state Constitution against State actions and against federal intrusion by the Constitution of the United States of America.”<sup>119</sup> Under this theory, “states” are not what most people recognize as the fifty American entities sharing sovereignty with the federal government—they are entities independent of the federal

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112. *Id.*

113. *The Truth About Frivolous Tax Arguments – Section I (D to E)*, IRS (Mar. 2014), <http://www.irs.gov/Tax-Professionals/The-Truth-About-Frivolous-Tax-Arguments-Section-I-D-to-E> (debunking popular anti-tax arguments similar to those Ambort raised).

114. *Gravatt v. United States*, 100 Fed. Cl. 279, 282 (2011).

115. *Id.* at 283–84.

116. *Id.* at 284.

117. *Id.* at 289.

118. SPLC I, *supra* note 83.

119. Sullivan, *supra* note 17, at 797. *But see* Randy Stroud, *Do You Consent to Be Governed? Myths and Facts (You Are a Slave)*, SOVEREIGN TACTICS, [http://sovereigntactics.org/?page\\_id=47](http://sovereigntactics.org/?page_id=47), archived at [http://web.archive.org/web/2014071205024/http://sovereigntactics.org/?page\\_id=47](http://web.archive.org/web/2014071205024/http://sovereigntactics.org/?page_id=47) (arguing that the Constitution does not apply to those who did not sign it and consent to it).

government with colorful names like “Republic of North Carolina.”<sup>120</sup> The notion of federal citizenship is based on the ratification of the Fourteenth Amendment, which sovereigns believe was a ploy to coerce citizens to renounce their state citizenship for the oppressive federal alternative.<sup>121</sup> So-called federal citizenship, alternately referred to as Fourteenth Amendment citizenship, includes “all federal employees and residents of the District of Columbia, Guam, and other areas of the United States that have not attained statehood.”<sup>122</sup> In addition, everyday people—that is, people who do not subscribe to sovereign citizen ideologies—who enter into contracts with the government renounce their sovereign citizenship and therefore become federal citizens.<sup>123</sup> Finally, sovereigns believe that under the Fourteenth Amendment/sovereign citizenship dichotomy, African Americans and other non-white Americans are “permanently subject to federal and state governments.”<sup>124</sup> Being a sovereign—not federal—citizen therefore seems to be central to sovereign citizens’ notions of freedom from a purportedly corrupt and corrupted government.

In addition to the more popular notions of citizenship, Redemption Theory, and Admiralty Law Theory, sovereign citizens subscribe to a number of diverse conspiracy theories and bizarre beliefs. One recurring theory is that because military flags have golden fringe, the fringe on the flags in federal courts is not decorative—it signals that that nation is indeed under admiralty law.<sup>125</sup> Another particularly interesting belief is that red ink has special significance to the federal government. Sovereign citizens who believe this sign documents in red ink to “signify that they are cancelling the bond attached to their birth certificate or corporate self.”<sup>126</sup> Even something as peculiar as red ink illustrates the diversity of sovereign citizens’ beliefs. Some sovereigns believe that red ink

120. See SOG I, *supra* note 16, at 3. The boundaries are the same as the fifty states, just with different names and complete sovereignty from the federal government.

121. *Id.* at 2.

122. Sullivan, *supra* note 17, at 797–98; see, e.g., *Annoying Guy Provokes Court Officials Gets What He Deserves*, YOUTUBE (Sept. 19, 2012), <http://www.youtube.com/watch?v=s5V2i1LbU4Q> (“Bailiff: ‘Are you a U.S. citizen?’ Sovereign Citizen: ‘No, I was not born in Washington, D.C. or any of the federal territories under federal jurisdiction, so no, I’m not a U.S. citizen.’”).

123. Sullivan, *supra* note 17, at 798.

124. SPLC I, *supra* note 83.

125. *The Sovereigns: A Dictionary of the Peculiar*, S. POVERTY L. CENTER, <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2010/fall/sovereign-idioticon-a-dictionary-of-the> (last visited Apr. 9, 2015).

126. *Id.*

represents the blood of their “flesh-and-blood person.”<sup>127</sup> Still others believe that signing documents in red crayon exempts the documents from United States law.<sup>128</sup>

Like militia-era conspiracy theories, these sovereign citizen theories attribute sinister motives to the federal government, arguing that the government either wants to make a profit at citizens’ expense or act maliciously for the sake of being evil.<sup>129</sup> Setting aside that these theories are absurd, far-fetched, and utterly infeasible, these arguments are internally incoherent even if taken as true. For example, sovereign citizens believe that the United States government has perpetrated a massive fraud to deprive its citizens of their liberty, including surreptitiously forcing citizens to enter into contracts and pledging them and their children as collateral to foreign nations.<sup>130</sup> Taken as true, these allegations bear out a markedly dishonest and pernicious—and also quite sophisticated—government that is set on exploiting its subjects. Despite this, sovereign citizens seem to believe that this same government will leave them alone if they can simply avoid submitting to the government’s purportedly evil will through technicalities and legal sleights of hand like writing in red crayon.<sup>131</sup>

It is also unclear whether African American sovereign citizens are aware of the Fourteenth Amendment theory that African Americans are permanent federal citizens, or if they simply do not subscribe to that version of the theory or the Fourteenth Amendment theory in general. Equally unclear is whether African American sovereign citizens are aware of the patently racist predecessors of the sovereign citizens—the Posse Comitatus and the militia movement—and their theories. These inconsistencies might be explained in part by many African Americans’ membership in exclusively African American sovereign citizen groups, such as the Moorish Nation.<sup>132</sup> These groups often have unique origin stories and leadership structures, while retaining the same tactics and beliefs about oppressive federal government as other sovereign citizens.<sup>133</sup>

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127. *Id.*

128. Sanchez, *supra* note 21.

129. *See id.*

130. *See supra* notes 99–102 and accompanying text.

131. *See Sullivan, supra* note 17, at 811.

132. *See SOG I, supra* note 16, at 3 (“Moorish sovereigns tend to be black . . .”).

133. *See, e.g., Washitaw Nation Comes Under Investigation*, S. POVERTY L. CENTER, <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/1999/spring/born-on-the-bayou?page=0,0> (last visited Apr. 9, 2015) [hereinafter S PLC III] (explaining the Washitaw Nation’s paper terrorism tactics and describing the “empress of the Washitaw”).

*B. Tactics*

Sovereign citizens' belief in their ability to avoid subjection to the federal government is core to their status as sovereign. Thus, tactics to avoid consenting to the perceived oppressive government's rule are central to sovereign tactics. Sovereigns believe that individual citizens must consent to the federal government's authority and, conversely, that not consenting precludes government officials—prosecutors, judges, and police officers—from having any authority over them.<sup>134</sup> Sovereigns believe that they avoid consenting to the government's jurisdiction and retain their common-law identities by creating their own driver's licenses, adding their thumbprints to documents, using colons and hyphens when writing their names, adding “Bey” or “El-Bey” to their names, and creating their own license plates with titles like “Republic of North Carolina,” “Kingdom of Heaven,” and “Washitaw Nation.”<sup>135</sup> To avoid “consenting” when forced to sign an official document, sovereign citizens will write their names, followed by “UCC 1-207” or “UCC 1-308,” references to the Uniform Commercial Code, which they believe has supplanted all other constitutional and statutory law.<sup>136</sup> These tactics, they believe, demonstrate their status as a “flesh-and-blood” person, as opposed to the strawman personalities that official documents purportedly represent.<sup>137</sup> There are do-it-yourself tutorials and document templates online,<sup>138</sup> as well as for-profit websites to which one can send photos and, for a small fee, receive sovereign citizen identification such as birth certificates, “Motorized Conveyance Registrations,” and passports.<sup>139</sup> These tactics could be referred to collectively as preparatory—their primary purpose appears to be to prepare sovereign citizens for interactions with public officials in order that the sovereigns not waive their sovereignty and avoid incarceration or further oppression by government agents.

When the bogus documentation fails to stop the police from pursuing charges, sovereign citizens turn to response tactics.

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134. See SOG I, *supra* note 16, at 2.

135. See *id.* at 3–4; Goode, *supra* note 19.

136. See Sanchez, *supra* note 21; see also SOG I, *supra* note 16, at 5 (listing UCC 1-207 as a sovereign citizen “buzzword”).

137. SPLC I, *supra* note 83.

138. See, e.g., FREEDOM DOCUMENTS, <http://keystoliberty2.wordpress.com/> (last visited Apr. 9, 2015) (providing templates for documents to submit to the IRS and other government agencies in order to retain sovereign status).

139. See, e.g., SPLC III, *supra* note 133 (describing the Washitaw Nation's lucrative false document production business).

Sovereigns will go to court, almost exclusively *pro se*, file “long and rambling,”<sup>140</sup> “unintelligible”<sup>141</sup> motions and pleadings, and generally act obstinate during their court appearances.<sup>142</sup> Sovereigns also almost universally reject representation by licensed lawyers, preferring instead to rely on their interpretations of select cases and Black’s Law Dictionary.<sup>143</sup> Predictably, this behavior is often unsuccessful for the combative litigants, and thus they employ the most famous and insidious sovereign citizen tactic: paper terrorism.

Paper terrorism, the filing of fraudulent liens and frivolous lawsuits against public officials, is sovereign citizens’ “weapon of choice,”<sup>144</sup> borrowed from their predecessors—the Posse Comitatus, militias, and freemen.<sup>145</sup> Anyone can file a lien under the Uniform Commercial Code, and sovereign citizens tend to file liens against the homes and land of public officials who participated in or were complicit in their legal proceedings.<sup>146</sup> The monetary amount of these liens tends to have no basis in reality and instead is usually in preposterous amounts like \$5.1 million<sup>147</sup> or \$100 billion.<sup>148</sup> Some

140. *Procup v. Strickland*, 792 F.2d 1069, 1070 (11th Cir. 1986).

141. *Goode*, *supra* note 19.

142. *See, e.g., Sweeney & Meisner, supra* note 10 (“Judge Shadur, sitting at a conference table in his courtroom in shirtsleeves, explained in excruciating detail to Phillips the process of picking a jury and general trial procedures. ‘I do not consent to the procedure,’ Phillips said in a matter-of-fact tone.”); Complaint at 3–4, *Pierce El-Bey v. City of Greensboro*, No. 1:10CV291 (M.D.N.C. Apr. 16, 2010), *available at* <http://www.digtriad.com/news/pdf/ticket-lawsuit.pdf> (listing the sovereign citizen Plaintiff’s outlandish causes of action, including “[i]ntentional infliction of Emotional Distress and deliberately inflicted emotional distress on Plaintiff by interfering with his rights and conspiring against him, thereby destroying his trust in the judicial system”); *Sanchez, supra* note 21 (“Even as he faced the possibility of serious prison time, [sovereign citizen] Gonzalez didn’t hold back, ripping up a copy of the Bill of Rights on the witness stand and sarcastically telling the judge: ‘You want me to say I learned my lesson? I did. The lesson is you don’t fuck with the government.’”).

143. *See Do You Need a Lawyer?*, NATURAL-PERSON, <http://www.natural-person.ca/lawyer.html> (last visited Apr. 6, 2015) (“If you use a Lawyer, you remain within the artificial-person domain and therefore are subject to the full force of all the statute laws. You only have a small chance of winning any proceedings, and usually at great expense, because you have to deal with every law, most of which have taken away the rights and freedoms of the natural-person.”); *see also* SOG I, *supra* note 16, at 2 (“A sovereign citizen may carry a copy of Black’s Law Dictionary as a reference resource for their common law views.”); *Proof That You Are Legally Dumb*, YOUTUBE (Dec. 24, 2013), <http://www.youtube.com/watch?v=PV7XvhLMvHU&feature=c4-overview&list=UUxvxnNaSYrTqRBYGq71YCOg> (depicting a sovereign citizen interpreting entries from Black’s Law Dictionary).

144. SPLC II, *supra* note 107.

145. *See supra* Part I.A.

146. *Goode, supra* note 19.

147. *Id.*

148. *Sweeney & Meisner, supra* note 10.

sovereigns file false liens as a method of intimidating public officials to keep them from bothering sovereigns in the future; others seem to file liens out of spite or anger when their legal strategies do not work, evidencing a “desire to punish anyone who cross[es] them.”<sup>149</sup>

Sovereign citizens do not cease their tactics once they have failed with police and court officials, even if the sovereigns are imprisoned for their bizarre actions or paper terrorism. The sovereign citizen movement is “thriving” in prisons, where sovereign ideologues are “successfully indoctrinat[ing] fellow prisoners.”<sup>150</sup> Consequently, “traditional” criminals are adopting sovereign citizen tactics to try to get out of prison or to retaliate against the public officials who put them in prison.<sup>151</sup> Aside from incarcerated sovereign citizen proselytizers, some sovereign citizen organizations sell literature to inmates. For example, *America’s Bulletin*, a sovereign citizen newsletter, sells *The Prison Packet*, a green, spiral-bound notebook filled with variations on typical sovereign citizen theories, for twenty-two dollars.<sup>152</sup> Chief among these theories is that “[b]y filing a blizzard of liens and complaints . . . inmates can not only free themselves, but also walk away with hundreds of thousands of dollars.”<sup>153</sup> In addition to the pervasive *Prison Packet*, non-inmate sovereign citizens manage to meet and proselytize to prisoners under the guise of religious outreach.<sup>154</sup>

Like their immediate predecessor, the militia movement, sovereign citizens have at times resorted to extreme violence, albeit much less frequently than the militia movement did. One notable recent instance of sovereign citizen violence is the case of Jerry Kane. Jerry Kane was driving through Arkansas with his son in 2010 when two police officers pulled them over.<sup>155</sup> After a brief argument with the officers, Kane’s son exited the vehicle with an AK-47 assault rifle, then shot and killed both officers.<sup>156</sup> Roughly an hour and a half later the police located the Kanes, still driving their car, and engaged in a

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149. *United States v. Ulloa*, 511 F. App’x 105, 108 (2d Cir. 2013) (describing one particular sovereign citizen’s vindictive motive); *see, e.g.*, Goode, *supra* note 19 (observing that liens are “being employed more frequently as a way to retaliate against perceived injustices”).

150. Sanchez, *supra* note 21.

151. *Id.*

152. *Id.*

153. *Id.*

154. *Id.*

155. SPLC II, *supra* note 107.

156. *Id.*

shootout, ultimately killing the Kanes.<sup>157</sup> What is notable about these events is that the Kanes were ostensibly average, if quite active, sovereign citizens: at the time of the shooting, the Kanes had been driving across the country giving seminars to fellow sovereign citizens on how to avoid paying taxes and how to avoid mortgage foreclosure.<sup>158</sup> There were no prior indications of the Kanes' violent tendencies, and it is not clear that the Kanes would have ever resorted to violence had they not been pulled over.<sup>159</sup> In point of fact, around the time of his death, Kane's common-law wife was involved in a (non-violent) dog-licensing dispute with the state wherein she filed ten nonsensical documents in two months.<sup>160</sup> Her actions resulted in the prosecutor dropping the case, which Kane's wife characterized as a victory.<sup>161</sup> Whether the Kanes would have continued driving around conducting trainings—or fighting municipal dog ordinances for that matter—without violence remains unclear. What is clear is the volatility of at least some seemingly ordinary sovereign citizens.

Though the Kanes may have thrust sovereign citizens back into the focus of law enforcement and the public, their case was certainly not the first instance of sudden and extreme sovereign citizen violence. In 1995, a sovereign citizen in Ohio pulled a gun on a police officer, who then killed the citizen.<sup>162</sup> Two years later, a New Hampshire sovereign citizen killed two police officers and two civilians, and wounded three additional officers before killing himself.<sup>163</sup> In 1999, a sovereign citizen in Alabama shot and killed a police officer who encountered him sleeping in a parked car.<sup>164</sup> Most recently, in August of 2013, a Las Vegas sovereign citizen couple conspired to kidnap police officers and detain them in a makeshift jail they had constructed in their home.<sup>165</sup> Though these incidents of violence are relatively sporadic, particularly considering the strength of the sovereign citizen movement, they tend to show that affiliation

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157. *Id.*

158. *Id.*

159. *See id.* (“Kane had met a Floridian named Donna Lee Wray at one of his foreclosure seminars three months earlier, and they had fallen in love. Father and son were headed, they thought, to a bright new life.”).

160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Selected Incidents of Lone Wolf Violence and Terrorism in the U.S.*, ANTI-DEFAMATION LEAGUE (Apr. 14, 2014), <http://www.adl.org/combatting-hate/domestic-extremism-terrorism/c/selected-incidents-of-lone-wolf-violence.html>.

165. McClam, *supra* note 13.



with a far-right anti-government group can prove to be highly volatile at a moment's notice.

### III. STOPPING THE SOVEREIGN CITIZEN THREAT

As the sovereign citizen movement grows, bringing with it increased violence and paper terrorism, law enforcement and court officials have scrambled to find effective methods to deter and punish sovereign citizens. Some notable methods include the increase in the grade of crime—misdemeanor to felony—or punishment for filing fraudulent or frivolous liens, and the move to allow clerks discretion in deciding whether to accept liens.<sup>166</sup> Though this type of law fulfills the retributivist goal of punishing offenders for their crimes,<sup>167</sup> the deterrent effect is questionable. That is, how effectively can a law deter offenders who do not believe in the validity of the government or its laws? This Comment argues for the necessity of “soft” solutions—in addition to heightened punishment—to curb sovereign citizens’ litigiousness, not only because of the probable ineffectiveness of deterrence, but also because even incarceration is probably counterproductive because of the prevalence of sovereign citizen proselytization in prisons.<sup>168</sup>

#### A. *Can Deterrence Work for Sovereign Citizens?*

Deterrence—the process of discouraging certain behaviors by fear of criminal punishment<sup>169</sup>—through steepening punishment for common sovereign citizen crimes is unlikely to be effective against sovereign citizens and thus should be set aside in favor of different solutions. Generally, “increasing the certainty, severity, and celerity of legal sanctions should result in lower levels of crime”;<sup>170</sup> however, this theoretical model only works if the actor believes the laws rightly apply to him or her. In other words, deterrence often works for the law-abiding general public but may be ineffective for sovereign

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166. See, e.g., Goode, *supra* note 19 (“More than a dozen states have enacted laws giving state filing offices more discretion in accepting liens, and an increasing number of states have passed or are considering legislation to toughen the penalties for bogus filings.”). Before these laws, secretaries of state, and thus clerks and other filing agencies, had no discretion and were forced to accept any lien without assessing its validity. See *id.*

167. Cf. Matthew Haist, *Deterrence in a Sea of “Just Deserts”: Are Utilitarian Goals Achievable in a World of “Limiting Retributivism”?*, 99 J. CRIM. L. & CRIMINOLOGY 789, 793–94 (2009) (describing the retributivist theory of criminal justice).

168. See *supra* Part II.B.

169. BLACK’S LAW DICTIONARY 544 (10th ed. 2014).

170. Raymond Paternoster, *How Much Do We Really Know About Criminal Deterrence?*, 100 J. CRIM. L. & CRIMINOLOGY 765, 787 (2010).

citizens because of their subversive ideologies. In fact, sovereigns are told and generally believe not only that the laws and the government are invalid, but also that if they use certain strategies, they will not be held accountable for violating the purportedly invalid laws.<sup>171</sup>

It is also worth noting that general deterrence may be more easily realized in prisons than in the general public when inmates are deciding whether to affiliate with sovereign citizens or be newly converted. Because prisons have enhanced control with regard to inmates' affiliation, many prisons are able to prohibit inmates from associating with sovereign citizens given their classification as a "security threat group."<sup>172</sup> For example, a Wisconsin inmate convinced five of his fellow inmates to file sovereign citizen paperwork, but when the inciter was put in isolation and written up for his sovereign citizen affiliation, the other inmates quickly withdrew their paperwork.<sup>173</sup> However, the prison system is anomalous in its ability to deter sovereign citizens because of the immediacy of consequences—that is, an inmate can be written up or put in isolation without so much as a hearing—and because of the prison system's ability to restrict association more than the government can outside of prison.

That said, it is possible that sovereign citizens who receive harsh prison sentences—proselytization in prison notwithstanding—could be specifically deterred. A relatively non-entrenched Minnesota husband and wife who were each sentenced to twenty-three months in prison for filing fraudulent liens, for example, may not re-offend when they are released for fear of further prison time.<sup>174</sup> However, this possibility is made less likely by the prevalence of sovereign citizen leaders who have spent time in jail and actively affirm and teach that they will continue fighting for the cause.<sup>175</sup> Indeed, as discussed above, even after her common-law husband was killed in a large-scale police shootout, Donna Lee Kane continued to engage in sovereign citizen tactics with regard to a dog-licensing matter.<sup>176</sup> She also issued a semi-coherent "press release" claiming that there was a massive cover-up involved in the shooting death of her husband and

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171. See *supra* Part II.B.

172. Sanchez, *supra* note 21.

173. *Id.*

174. See Goode, *supra* note 19.

175. See, e.g., *Man on the Land Executor Advocate Revocate* [sic] *Republic for Arizona*, YOUTUBE (May 11, 2011), <http://www.youtube.com/watch?v=jC9mbr-c5oo&list=PL298AFB2458557680> (depicting a sovereign citizen who claims he has gone to jail and will continue using the same tactics with regard to police and court officials).

176. See *supra* notes 160–61 and accompanying text.

his son.<sup>177</sup> If events as terrible as sovereign citizens shooting police and subsequently being killed by police do not deter, but perhaps actually vindicate, sovereigns, it is difficult to imagine what would be a successful deterrent.<sup>178</sup> It is important to remember that there are many non-entrenched sovereign citizens, some of whom simply do not hold up to the pressure of direct police interaction and will capitulate when confronted.<sup>179</sup>

### B. Pre-Filing Injunctions

The judicial system has also employed pre-filing injunctions to combat sovereign citizens' abuse of the legal system. In *El-Bey v. City of Greensboro*,<sup>180</sup> the judge, evidently jaded from repeated interactions with sovereign citizens in general and the plaintiff in particular, noted that it was immediately apparent from the pleadings that this lawsuit was another of the plaintiff's "baseless, frivolous, and vexatious" lawsuits.<sup>181</sup> The judge then declared that "the time has now come to put [the plaintiff's] abuse of the federal judicial system to rest."<sup>182</sup> The judge's chosen method of preventing such abuse in this case was a pre-filing injunction.<sup>183</sup> Pre-filing injunctions, also known as "gatekeeper orders," prevent litigants from filing new lawsuits or

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177. See Press Release, Donna Lee Kane, Where's the Dashcam Video, available at <http://s3.documentcloud.org/documents/10676/statement-of-statement-of-donna-lee-kane-regarding-west-memphis-police-shootings.pdf>; see also *Operation Fast and Furious / SPLC Cover Up – The Kane Incident*, YOUTUBE (Oct. 7, 2013), <http://www.youtube.com/watch?v=VzWKULQ-LOE> (depicting sovereign citizens, including Kane's wife, discussing the ways in which the Kane shootings were cover-ups).

178. Indeed, these same concerns about deterrence apply equally to the imposition of Federal Rule of Civil Procedure 11 sanctions on sovereign citizen litigants. For an argument that "[f]ederal court judges sitting in South Carolina should levy Rule 11 sanctions against sovereign citizen litigants who file frivolous or improper claims . . .", see, for example, Michelle Theret, *Sovereign Citizens: A Homegrown Terrorist Threat and Its Negative Impact on South Carolina*, 63 S.C. L. REV. 853, 881 (2012).

179. See, e.g., SOG I, *supra* note 16, at 4 ("When stopped by an officer or otherwise asked by an official for identification, the person may produce the fictitious driver's license first but then when backed into a corner will pull out a real license."); see also Heidi Beirich, *Two North Carolina Detectives Build Program for Dealing with 'Sovereign Citizens'*, 147 S. POVERTY L. CENTER, <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2012/fall/dealing-with-sovereigns> (last visited Apr. 9, 2015) ("Sixty to 70% of [sovereign citizens] are not going to be combative. They're not going to sue officers, they are just going to give us lip service and give the standard paperwork. And then you've got the others, 25-30% that are going to actively resist arrest, fight officers, sue officers.").

180. No. 1:10CV572, 2011 WL 4499168 (M.D.N.C. Sept. 27, 2011).

181. *Id.* at \*2.

182. *Id.* at \*3.

183. *Id.* at \*1.

papers without prior leave of the court.<sup>184</sup> Courts have the inherent authority to issue these injunctions to prevent abuse of the judicial system and to protect other parties to frivolous or malicious lawsuits.<sup>185</sup> The All Writs Act authorizes federal district courts to withhold judicial access from parties who repeatedly file frivolous suits.<sup>186</sup>

To be valid, gatekeeper orders must provide for a method for the party to file legitimate actions in the future.<sup>187</sup> These methods can include requiring a specific judge's approval before filing or requiring a lawyer's certification that she has read the filing and the gatekeeper order.<sup>188</sup> In order to have practical effect, the order should instruct the clerk's office on how to handle improper filings, including directives to reject filings from particular persons without signed approval from a judge or lawyer.<sup>189</sup> These injunctions may be the most effective method to incapacitate sovereign citizens, considering the above-mentioned concerns about prison and deterrence vis-à-vis strengthened false lien laws. Because these orders "need[] to specify the history that led to [their] entry," they require that the litigant against whom the order is filed have engaged in some sort of misconduct with regard to court filings.<sup>190</sup> In the case of sovereign citizens, this means that each sovereign citizen would theoretically have to file frivolous papers at least once before a pre-filing injunction could be ordered. Thus, the greatest flaw of this approach is that it only prevents burdensome, frivolous filings by sovereign citizens after they already have abused the system. However, that being the case, courts at least will be able to stop offenders from reoffending multiple times, which sovereign citizens have been known to do.<sup>191</sup>

There is very little discussion of pre-filing injunctions by North Carolina appellate courts, primarily because the litigants that are subject to the injunctions almost universally appear in court *pro se*

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184. Michael Crowell, *Gatekeeper Orders (Pre-Filing Injunctions)*, UNC SCH. OF GOV'T 1 (Nov. 2012), <http://www.sog.unc.edu/sites/www.sog.unc.edu/files/Gatekeeper%20orders%20Nov%2012.pdf> [hereinafter SOG II].

185. See 28 U.S.C. § 1651(a); SOG II, *supra* note 184, at 1.

186. SOG II, *supra* note 84, at 4.

187. *Id.*

188. *Id.*

189. *Id.*

190. *Id.*

191. See, e.g., *Armstrong v. Koury Corp.*, 16 F. Supp. 2d 616, 617–18 (M.D.N.C. 1998) (listing the plethora of lawsuits that the plaintiff had filed previously).

and thus often fail to preserve these issues for appeal.<sup>192</sup> Their actions are then dismissed on procedural grounds when they do attempt to appeal.<sup>193</sup> Nonetheless, the North Carolina cases that have examined gatekeeper orders treat them as valid.<sup>194</sup> In addition, several federal circuit courts have upheld pre-filing injunctions and have laid out criteria that are to be considered when imposing such an injunction. In *Safir v. U.S. Lines, Inc.*,<sup>195</sup> for example, the court held that when deciding whether to grant a pre-filing injunction, district courts should consider the following:

- (1) the litigant's history of litigation and in particular whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation, e.g., does the litigant have an objective good faith expectation of prevailing?; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties.<sup>196</sup>

The ultimate inquiry, the court notes, is “whether a litigant who has a history of vexatious litigation is likely to continue to abuse the judicial process and harass other parties.”<sup>197</sup> In the case of sovereign citizens, the answer to the last inquiry is likely to be affirmative.

The Fourth Circuit Court of Appeals adopted the *Safir* factors in *Cromer v. Kraft Foods North America, Inc.*,<sup>198</sup> while cautioning that “such a dramatic remedy must be used sparingly,” especially when the subject of the order is a *pro se* litigant.<sup>199</sup> In addition, the court clarified that, to be valid, a pre-filing injunction must be narrowly tailored to fit the particular circumstances of the case in question, and the subject of the order must be given notice and an opportunity to be heard.<sup>200</sup> Evidencing the difficulty of crafting a suitable gatekeeper order and the caution that courts employ when reviewing them, the

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192. SOG II, *supra* note 184, at 1–2.

193. *Id.* at 2.

194. See, e.g., *Smith v. Noble*, 155 N.C. App. 649, 650–51, 573 S.E.2d 719, 720 (2002) (dismissing an appeal of a lower court's gatekeeper order); *Wendt v. Tolson*, No. COA03-1680, 2005 WL 1949629, at \*1–2 (N.C. Ct. App. Aug. 16, 2005) (acknowledging validity of gatekeeper orders generally but remanding due to lower court's lack of findings of fact).

195. 792 F.2d 19 (2d Cir. 1986).

196. *Id.* at 24.

197. *Id.*

198. 390 F.3d 812 (4th Cir. 2004).

199. *Id.* at 817.

200. *Id.* at 818–19.

gatekeeper order in this case was not found to be narrowly tailored because it restricted the litigant from filing any lawsuit without court approval, despite the finding that the only “vexatious” litigation in which he engaged was related to his employment discrimination lawsuit.<sup>201</sup>

In *Procup v. Strickland*,<sup>202</sup> the court, wary of pre-filing injunctions’ constitutional implications, suggested an array of alternatives to enjoining litigants from filing.<sup>203</sup> These alternatives include enjoining litigants from relitigating specific claims or claims arising out of the same factual circumstances, limiting the number of filings by particular litigants, and requiring litigants to “accompany all future pleadings with affidavits certifying that the claims being raised are novel, subject to contempt for false swearing,” among other possibilities.<sup>204</sup> Gatekeeper orders remain a viable option for courts to employ to prevent repetitive and frivolous litigation by sovereign citizens, though it is evident that such orders must be very narrowly tailored, even in seemingly clear-cut cases of abusive litigants.

### C. *Soft Solutions*

The sovereign citizen movement shows no signs of letting up in recruitment, paper terrorism, or violent tactics. In addition to increasing punishments for filing fraudulent liens—the net effect of which remains to be seen—and judiciously using gatekeeper orders, there are a number of “soft” solutions that could prove useful against this resilient threat. This subsection starts by addressing procedural justice as one “soft” solution, and then proceeds in Subpart 2 to discuss the possibilities of general systemic reform.

#### 1. Procedural Justice

Any approach to combating sovereign citizens in courts must take seriously procedural justice. Social science research has shown that “defendant compliance with court orders depends more on the

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201. See *id.* at 819 (“[The injunction] not only enjoins Cromer from making ‘any and all filings’ in the present case; it also enjoins him from making any future filings in any *unrelated* case in the United States District Court for the Western District of North Carolina, without first obtaining permission from the magistrate judge who issued the injunction.”).

202. 792 F.2d 1069 (11th Cir. 1986).

203. The court held that the pre-filing injunction in this case could have had the impermissible effect of “foreclos[ing] [the defendant] from filing any suits at all.” *Id.* at 1071. The court did not, however, make any broader ruling on the permissibility of pre-filing injunctions, suggesting only possible alternatives. See *id.* at 1072–73.

204. See *id.* at 1072.

‘procedural justice’ with which the sanction is delivered than on the certainty and severity of the sanction itself.”<sup>205</sup> Individuals are significantly more likely to comply with the court’s ultimate decision when they perceive the court proceedings to be fair—irrespective of defendants’ view of the outcome as right or wrong.<sup>206</sup> Conversely, “[i]f people feel unfairly treated by a court, they will perceive it as less legitimate and as a consequence obey its orders less frequently.”<sup>207</sup>

One commentator has outlined the most important “building blocks” of procedural justice as (1) the opportunity to state one’s case and be heard; (2) the impartiality of the relevant legal authority—almost always the judge; and (3) “respectful, ethical treatment by legal authorities.”<sup>208</sup> The presence of these factors tends to lead to the perception that “authorities are moral, legitimate, and . . . deserving of compliance.”<sup>209</sup> Yale Law School professor Tom Tyler describes the ways in which the perception of fairness in process outweighs the perception of fairness in outcomes:

People will be concerned with whether they receive fair outcomes, arrived at through a fair procedure, rather than with the favorability of the outcomes. A normative perspective is supported to the extent that people want justice from police officers and judges, and evaluate those authorities according to whether they get it. If people have such a normative perspective, police officers and judges can maintain their authority by acting in ways that will be viewed as fair.<sup>210</sup>

Such a normative perspective differs from the instrumental perspective that people will only be satisfied if they experience a personally favorable outcome—that is, if they win.<sup>211</sup> A normative perspective focuses on “people’s internalized norms of justice and obligation,” whereas an instrumental perspective “regards compliance as a form of behavior occurring in response to external factors.”<sup>212</sup> Accordingly, the instrumental view suggests that one’s assessment of the fairness of a procedure will be based on the favorability of the

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205. Deborah Epstein, *Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System*, 11 YALE J.L. & FEMINISM 3, 46–47 (1999).

206. *See id.* at 47.

207. *Id.*

208. *See id.* at 47–48.

209. *Id.* at 48 (citation omitted).

210. TOM R. TYLER, WHY PEOPLE OBEY THE LAW 5 (1990).

211. *See id.* at 4.

212. *Id.*

outcome to the assessor.<sup>213</sup> The normative view, on the other hand, focuses less on outcomes and more on factors like “neutrality, lack of bias, honesty, efforts to be fair, politeness, and respect for citizens’ rights.”<sup>214</sup> This Comment adopts the normative view in assessing sovereign citizens’ probable future compliance with laws.

It is perhaps jarring to hear that an anti-government group that resorts to violence at worst and outward disdain and disrespect for the federal government system at best, should be dealt with by deliberately and outwardly fair treatment. Indeed, there surely are myriad examples of sovereign citizens being treated fairly and nonetheless reoffending. However, particularly for non-entrenched sovereign citizens, fair processes and treatment may provide the necessary incentive to not reoffend and may even signal the legitimacy of the judiciary—at least to the extent that sovereigns believe that courts will not summarily strip citizens’ rights as a matter of course. From a normative perspective, police officers and judges can maintain their authority by treating sovereign citizens with respect. Though it is doubtless tempting to scoff at sovereign citizens from the bench, an approach that takes seriously procedural justice must dissuade public officials from such behavior as it does not meet the standards of respectful, fair, unbiased behavior that procedural justice demands.

Finally, ensuring a fair process is the best-case scenario for most sovereign citizens in court. Because most sovereigns’ litigation strategies are premised on arguing the illegitimacy of the government, they have very little opportunity for favorable outcomes. Judges who are polite, who show respect for sovereign citizens, and who demonstrate a lack of bias are most likely to convince sovereigns that they have been treated fairly. Thus, even if the sovereigns do not succeed with their argument that, for instance, one is not obligated to have a valid driver’s license or license plate to drive on public roads, they may feel that the outcome of their case was fair—even if unfavorable to their ultimate position.

It is also worth noting that gatekeeper orders are congruous with procedural justice, inasmuch as they require that the subject of the order be given an opportunity to be heard before the order can be entered. Indeed, if a judge is reasonably fair with a sovereign citizen and ultimately decides that she should be barred from filing with the

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213. *See id.* at 7.

214. *Id.*



court in the future, this outcome, though unfavorable for the sovereign, may be accepted as fair.

## 2. General Systemic Reform

Inasmuch as individuals are vulnerable to indoctrination by sovereign citizen ideologies because of poor economic conditions,<sup>215</sup> it is important to ensure there are governmental support systems in place, particularly when there is economic downturn. Having government-sponsored safety nets can prevent unfortunate circumstances, like home foreclosures, that often drive people to sovereign citizen circles in search of solutions.<sup>216</sup> In addition, ensuring that primary and secondary schools teach effective and extensive history and political science may prevent certain people from being susceptible to sovereign citizen ideologies. For instance, more effectively teaching students about the basic nature and structure of government might prevent them from later thinking that they are not bound by the Constitution if they do not sign it.<sup>217</sup> There are certainly sovereign citizens whose blog and video postings on the Internet suggest familiarity with such topics as political science and history,<sup>218</sup> though they presumably learned much of what they believe after and outside of the confines of early education. It is similarly possible that some sovereign citizens learned basic civics and social studies in school and then later rejected it as false or unreliable.

More concretely, given the importance of the Internet for sovereign citizen recruitment and training,<sup>219</sup> it follows that the Internet might also be a locus of prevention. To prevent ordinary citizens from becoming ensnared in a web of sovereign citizen propaganda, some strategists have suggested basic online activism.<sup>220</sup>

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215. Cf. John W. Schoen, *Study: 1.2 Million Households Lost to Recession*, NBC NEWS (Apr. 8, 2010), [http://www.nbcnews.com/id/36231884/ns/business-eye\\_on\\_the\\_economy/t/study-million-households-lost-recession/#.VNtFvFPF8mU](http://www.nbcnews.com/id/36231884/ns/business-eye_on_the_economy/t/study-million-households-lost-recession/#.VNtFvFPF8mU) (reporting no influence of sovereign citizen ideologies on foreclosure victims of the 2008 recession).

216. See, e.g., Goode, *supra* note 19 (“‘It seemed like we were being attacked every day,’ [sovereign citizen Eilertson] said. ‘We needed some way to stop the foreclosure.’”).

217. See, e.g., Stroud, *supra* note 119 (“However, people continue to argue to this day that through the constitution (which we never signed), we all consent to be governed, because we use government sidewalks, we call the police when we are injured, ect [sic] . . . however, do we really consent?”).

218. See, e.g., *14th Amendment Citizenship: Citizen = SLAVE*, YOUTUBE (Jan. 1, 2008), <http://www.youtube.com/watch?v=y4xV4MTnCdC> (citing various passages of the U.S. Constitution and the Founders’ intent in an attempt to bolster sovereign citizen claims).

219. See *supra* notes 83–85 and accompanying text.

220. See, e.g., Sanchez, *supra* note 21.

That is, it is problematic that “someone searching the Internet for ‘UCC sovereign taxes’ or ‘redemption debtor’ is led to a rat’s nest of antigovernment extremist sites” with very few factually based articles to dissuade the searcher.<sup>221</sup> Providing increased access to reputable information about the harms of sovereign citizen ideologies and tactics could instead lead to prospective sovereign citizens finding articles that “scream ‘scam’ and ‘fraud,’” like the results one encounters when searching something like “Nigerian investment E-mail.”<sup>222</sup> Though sovereign citizens have a hyperactive Internet presence—including seething responses to critical articles from websites like that of the Southern Poverty Law Center<sup>223</sup>—a proliferation of more elucidative articles would at least signal to unsure parties that there is cause to be wary.

It may seem intellectually lazy or overly idealistic to suggest somewhat nebulous, large-scale systemic fixes for the problem of sovereign citizens. However, deterrence is particularly difficult for sovereign citizens, and incarceration may be counterproductive.<sup>224</sup> Systemic reforms, along with other soft solutions and gatekeeper orders, are important steps to take in preventing the continued growth of the sovereign citizen movement.

#### CONCLUSION

Sovereign citizens are the latest development in a genealogy of anti-government, largely racist, conspiracy theorists that cause public officials significant problems. At their most harmless, they frustrate police officers with phony identification cards and insist that they are not corporations.<sup>225</sup> At their most harmful, they lure police officers into traps and murder them for the alleged injustices law enforcement has perpetrated against sovereigns. And most commonly, sovereign citizens hold up court proceedings with incomprehensible jargon and theories and sue public officials when their cases get dismissed.

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221. *Id.*

222. *Id.*

223. *See, e.g., A Response to Southern Poverty Law Center’s Finch and Flowers ‘OPINION’ Regarding Sovereignty*, R.V. BEY PUBLICATIONS, <http://www.rvbeypublications.com/sitebuildercontent/sitebuilderfiles/aresponsetofinchflowers.pub.pdf> (last visited Mar. 16, 2015) (“This is the third report we have seen over the past 3 years from the Southern Poverty Law Center. We urge you all to keep in mind that these are their opinions and are not in fact Law!”).

224. *See supra* Parts II.B, III.A.

225. *See, e.g., SOG I, supra* note 16, at 2 (“A sovereign citizen named Fred Jones may say ‘I am agent of Fred Jones’ to inform you that he is not the corporate entity strawman FRED JONES and thus is beyond the court’s jurisdiction.”).

States' responses to sovereign citizens have been dominated by stringent laws that punish the filing of frivolous liens and lawsuits. To be sure, there is value in deterring paper terrorism and punishing those who engage in it. However, there is little indication that these laws have any deterrent effect, and it is therefore crucial that state legislatures and state and federal courts consider other tactics to quell the sovereign citizen movement. Pre-filing injunctions provide a concrete fix for repeat litigants, who congest courts with their abusive and frivolous filings. These, in addition to various soft solutions like procedural justice, general systemic reform, and Internet activism, have a strong chance of being more effective than felony lien laws alone. Sovereign citizens may go extinct on their own like the militia movement, but while they exist it is crucial to control their terroristic tendencies to save public officials' money, time, and, in extreme cases, lives.

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