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When trouble hit paradise, Nissman was there

David Marshall Nissman began his career as a student intern in the Lane County, Ore., district attorney's office in 1976. He was not a typical student prosecutor.

In those days, insanity and diminished-intent defenses were much more common than they are today. Nissman made a study of these defenses, doing the research for senior prosecutors that enabled them to effectively cross-examine experts. Soon these prosecutors were giving the cases to Nissman, and he ended up trying dozens of felony cases under Oregon's student-appearance rule — an unheard of accomplishment for a law student.

After obtaining his law degree in 1978, Nissman began a successful career as a state prosecutor. He was one of the few prosecutors to aggressively use state racketeering and forfeiture laws to attack drug traffickers and their enterprises. He was active in statewide legal issues affecting prosecutors, working tirelessly on victims' rights ballot measures, and at the age of 31, running (unsuccessfully) an unabashedly pro-law enforcement campaign against a sitting Oregon Supreme Court judge. His work as a prosecutor was later recognized by the Oregon District Attorney's Association with a Lifetime Achievement Award.

Nissman also served as a special assistant U.S. attorney for the District of Oregon, handling significant federal methamphetamine prosecutions while continuing to carry a full caseload as a state prosecutor. In late 1987, with a competing offer from the Oregon U.S. attorney's office, Nissman chose to

become an assistant U.S. attorney on the American law enforcement frontier — the U.S. attorney's office in St. Croix, U.S. Virgin Islands.

At that time, St. Croix was still reeling from the Fountain Valley Massacre of the mid-'70s (seven tourists were murdered on a local golf course). Fountain Valley was followed by a string of violent home invasions and murders. For several years in the mid-'80s, the office was staffed with short-term employees. Nissman was captivated by the charm and challenge in St. Croix. The courthouse was the last under the U.S. flag to have chickens in the courtyard.

Because of the West Indian dialect spoken by some Virgin Islanders, Nissman had to acquaint himself with a new language and old customs. Because the witnesses were speaking English, there were no formal interpreters. But the informal interpretation by case agents would usually occur in incremental whispers as the witness testified. He quickly adapted. For example, by 1989 his ear had developed to the point that he tried back-to-back murder cases to successful verdicts in two days. With such trial wins, Nissman steadily gained the respect of the law enforcement community, the local bench, the defense bar, and his colleagues.

In 1989, Nissman was appointed chief of the St. Croix branch office, and it turned out to be a tumultuous year. After engineering the first U.S. extradition from Dominica on an arms dealer, the criminals struck back and firebombed the U.S. attorney's office in St. Croix. Nissman ran into the burning building to recover valuable documents that allowed the case to proceed to trial the following day.

The following month, Hurricane Hugo, a category 4 hurricane with sustained 140-mph winds, gusting to an incredible 217 mph, stalled out over the island. When the storm finally passed, St. Croix looked like it had been struck by a nuclear bomb. Not a green leaf remained on the island's indigenous mahogany trees, most of which were upended. Even the grass had been scalded to a dirty brown by the winds. Untold thousands of gallons of rain had flooded the St. Croix office through a hole in the roof. Most of the buildings on the island were severely damaged or destroyed. There would be no electrical power for more than three months. Phone service would take even longer to restore.

In the hours that followed the passing of the storm, the island's residents emerged to an incredible scene of devastation. Panic set in. The island was literally cut off from the outside world. Few members of the local National Guard and police reported for duty. Guards at the local prison followed suit. With no staff — and with the prison's chain-link fences destroyed by the storm — the warden responded by releasing all prisoners (including many that Nissman and his colleagues had prosecuted).

Island-wide looting snowballed. Over the next three days looters stripped virtually every retail establishment of its inventory. The law enforcement response was ineffective.

Due to the catastrophic damage, there were no flights in or out of the airport. The island's governor resided on St. Thomas and was unaware of how badly St. Croix had been struck. His public messages — which Nissman picked up by battery-operated radio — indicated that all was well. In reality St. Croix was in a state of chaos, and it appeared that it would only get worse.

On the day following the storm, Nissman was able to help a neighbor erect his toppled ham radio tower. The two of them borrowed a generator. Nissman was able to cobble together a ham radio message to the Justice Command Center describing the volatile situation in terms more realistic than those used by the governor.

Those messages were transmitted to the Pentagon and to the White House, and within three days, President George H.W. Bush dispatched 1,100 troops to St. Croix. As the troops dispersed, the looting stopped. A team of 75 FBI agents and 75 deputy U.S. marshals from the Special Operations Group flew in. They apprehended the prisoners who had been released and began investigating the most egregious looting cases. The U.S. marshal's plane evacuated the families of DOJ personnel on the island, as well as any assistant U.S. attorneys who wanted to leave. Most of the remaining assistants all moved into Nissman's home, which miraculously did not lose its roof.

By January the court, which had declared an emergency and suspended the Speedy Trial Act, was reopened. The remaining prosecutors tried a lengthy series of looting cases, focusing on those who had taken high-ticket luxury items during the chaos following the storm.

Life eventually returned to normal.

As a postscript, a state-of-the-art federal courthouse with superb security has since been built for St. Croix, but, sadly, there are no longer chickens in the courtyard. The U.S. attorney's office was recently renamed the David Marshall Nissman Justice Center.

Throughout his tenure in St. Croix, Nissman had a keen interest in legal education and often participated as an

instructor for the Executive Office of the United States Attorney's (EOUSA's) Office of Legal Education (OLE). The author of three books, "Beating the Insanity Defense," "The Prosecution Function," and "Law of Confessions," Nissman took a particular interest in the practical skills written material available to prosecutors. He had a series of discussions with Carol DiBattiste, then the director of the EOUSA, that led to his being sent to Washington in 1995 to set up the OLE's Publications Unit.

The first project was the production of the OLE's Litigation Series, originally published in three-ring binders, and later as paperback books, practical skills manuals written by prosecutors for prosecutors. The Publications Unit was soon asked to edit the United States Attorneys' Bulletin, at that time essentially an EOUSA newsletter. Under Nissman's leadership, it was transformed into its present magazine format, with articles focusing on a single legal topic for each issue.

The next order of business was the revision of the United States Attorneys' Manual, at that time published in five loose-leaf binders.

Although Nissman would be the first to credit the many people involved in this massive project, he played a central role in reducing the manual to one volume, creating the associated Resource Manuals, and converting the entire product to its current online format. As a clerk for Nissman, I edited parts of all the foregoing, wrote several articles for the Bulletin and a chapter in the Federal Homicide Prosecutions manual.

These initiatives have dramatically upgraded the support environment for working prosecutors, and he was recognized for these accomplishments with an EOUSA Director's Award.

In 2000 Nissman returned to work as a prosecutor in St. Croix. He served as first assistant U.S. attorney until April of 2002, when he was selected by President Bush to serve as U.S. Attorney for the Virgin Islands. A tireless and persuasive advocate, Nissman built coalitions and alliances for his office, where none had existed previously. His tenure was noted for innovative environmental and public corruption prosecutions that were enthusiastically received by the community. He also continued to write prolifically and conduct regional law enforcement training courses, with a particular focus on terrorist-financing prosecutions.

Nissman was last in Chicago when he served on the attorney general's Advisory Subcommittee on Terrorism, chaired by U.S. Attorney Patrick J. Fitzgerald. The committee was responsible for proposing policy to the attorney general on many of the formative issues after the Sept. 11, 2001 terrorist attacks. As an outgrowth of Nissman's work in this area, he wrote the DOJ's "Terrorist Financing" book in 2004.

Nissman has begun a new career in business and currently serves as CEO for the Stonetree Group, a financial services firm in St. Croix. He continues to write and publish law books, including "Proving Federal Crimes" and "Follow the Money."

Peter G. Baroni is a principal in the law firm of Leinenweber & Baroni, which concentrates on state and federal criminal defense. Baroni also is a government relations consultant, advocating for clients in the legislative and executive branches of local and state government. Baroni worked for David Marshall Nissman from 1995-96 at the U.S. Department of Justice before becoming an assistant state's attorney in DuPage County.