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TITANS IN THE ROAD:

IDEALIZING "JUSTICE," VICTIM EXPLOITATION, VICTIMIZING TAXPAYERS,

AND SOLUTIONS

by Tracy Lee Kendall (2016)

Perhaps the biggest impediment to progress on the road of criminal justice (including prison) reform in Texas is that the prison system is too large to see. This problem exists because the average citizen does not have the time, or specialized knowledge required to analyze a prison system, nor even the interest to do so. Who can blame them? It basically comes down to a bunch of robbers, murderers, and rapists getting put in prison for their crimes, right? In a simplified way, that is true. However, due to a lack of knowledge and interest, the average Texas citizen does not realize that the Texas criminal justice system is used in a manner which thrives upon exploiting victims of violent crimes in order to fund itself with taxpayer dollars.

Due to the fact that the criminal justice system in Texas extends through every city, county, and multitudes of administrative offices and law firms-- trying to see the entire system is like an ant trying to see an entire human being from an inch away. However, there is an easy way to understand what is occurring. Through analyzing three titan aspects that are often misunderstood by citizens, and used by corrupt public servants to obscure the truth, anyone can see what is going on and be empowered to investigate further. Justice, victim exploitation, and victimization of taxpayers are titan issues in Texas criminal justice, and they are silent to many people--but they are not invisible. Through resolving them, solutions can be found that may not repair the damage done in the past, but could do what a horde of "programs" serving special interests and agendas in Texas prisons have failed to do--namely, anything outside of creating positive appearances to hide what is actually happening.

IDEALIZING "JUSTICE"

What is "justice?" Answering that question in Texas begins by not reaching for a dictionary; nor listening to the philosophical musings of any prisoner attempting to appeal to the emotions of a public they have endangered. And no, the answer is not found in some grassroots zine or hug-a-prisoner website. Here in Texas, the concept of "justice" is not that of the ancient Greeks or John Locke or any of the others we often parrot from some book or professor; and then act surprised when reality does not agree with our idealized notion

of "justice." We prisoners may be the best examples of people who believe they can make justice relative to any agenda--by generalizing some ideal of justice totally out of context. In actuality, "justice," in the Texas criminal justice system, means what a person convicted of a crime receives during the punishment/sentencing phase of their criminal trial. Thus, Justice is the easiest titan of all to see.

The citizens of Texas voted for the lawmakers who set my sentencing guidelines-- Texas has spoken. My justice is 60 aggravated years. Likewise, the same context of justice that applies to convicted felons in Texas, applies to their victims. Thus, my sentence of 60 aggravated years also equals the "justice" for anyone considered my victim by the laws of the State of Texas. So no other definition of "justice" applies whatsoever; unless courts or lawmakers redefine it. Until then, any discussion upon alternate definitions of justice related to the mechanism of the Texas criminal justice system are a waste of time at best; and obstruct progress at worst.

VICTIM EXPLOITATION

What is meant here by, "victim?" The term, "victim," generally means someone who has suffered or died, usually, but not always at the hands of another person. For example, animals and natural disasters can also make victims of people. However, like the term, "justice," "victim," has a specific meaning in the context of criminal justice in Texas. Also like, "justice," the definition is simple: "victim," means the person(s) affected by the crime that another person is convicted of. Ultimately, whether or not a person actually did what they get convicted of does not matter in the eyes of the Texas criminal justice system. Therefore, in Texas, the term, "victim," is a technical term; not necessarily a truth. This reduces the person to whom the label, "victim," is applied, to a legal variable.

Sadly, the closest that many prosecutors and law enforcement in Texas come to respecting victims as people, is when exploiting them. Victims are exploited by various employees and officials in the Texas criminal justice system in two main ways. The first occurs during investigations and trials. Basically, when an incident occurs which may be construed as a crime, investigators and prosecutors work together to "seek justice." Remember, "justice," equates to the sentence given during the punishment/sentencing phase of a criminal trial here. Comically, while law requires prosecutors to seek justice, rather than convictions--"justice" is a technical element that comes after a conviction in Texas! So a victim, who is effectively reduced to a technical element by

Texas law, becomes another weapon in the arsenal of investigators and prosecutors-- who are essentially required to secure convictions (although, "secure convictions," is euphemized into, "seek justice," through legalese).

Ironically, investigators and prosecutors are protected from being prosecuted themselves for what would be considered crimes for most citizens in many cases. They are protected by "qualified immunity." It means that they are not legally culpable for anything they do in their "official capacity" (i. e., during the performance of their duties). However, while "official capacity" is supposed to be their designated job duties, courts usually interpret that to mean whatever they do on the job, actual duty or not. Extreme manifestations of this occur in videotaped incidents where this type of magical, reality-bending legalese is used to transform murders and assaults committed by public servants into "job duties." Not surprisingly, courts are usually presided over by direct, or extended colleagues of various officials; which is why lawyers, investigators, prosecutors, and judges are not prosecuted when prisoners are exonerated-- who were convicted due to the misconduct of court officials. Finally, have you ever heard of investigators and prosecutors being rewarded for not submitting evidence and losing cases? Of course not; detection and conviction are the foundation of successful careers in law enforcement agencies and district attorney's offices.

During criminal investigations and trials, victims are routinely exploited when used as devices to elicit emotions and gain support from (both sincere, and agenda-driven) officials and media exposure. This also effects wider public support when there is outcry for someone to be brought to "justice." During this process of exploitation, investigators and prosecutors use the horror of the victim to gain the most intensely emotional reactions from them during interviews and on the witness stand. Rather than presenting evidence and scenarios to victims in a truthful and objective manner, things are construed to horrify and infuriate victims; often, their utility as a tool to serve the agendas of investigators and prosecutors outweighs their value as a human being in Texas criminal justice. Consequently, more emotionally charged victims secure more "justice." All in a days work--every working day around Texas.

The second way victims are exploited is to block the parole of offenders (what prisoners are designated as by the Texas Department of Criminal Justice). Like the previous variables, truth and reality does not seem to matter--only the victim's utility as a tool to serve a politician's agenda. Of course the safety and security of victims should be the foremost priority in determining the suitability of an offender for parole. However, the reality of the situation

is that, after being caught, only a minute number of offenders commit further offenses against their previous victims. In fact, many suspects are out on bond in the same communities or neighborhoods as their victim(s) for years before their conviction. Frequently, investigators with conflicts of interest, or politically motivated prosecutors will contact victims prior to their offender attending a parole hearing; attempting to solicit the victim to protest their offender's parole. This means more horror stories about what could happen; and other attempts to manipulate the system through the exploitation of the victim as a vigilante to keep their offender in prison.

This exploitation is commonplace in the Texas criminal justice system, mostly because district attorneys and judges are elected, and wish to be perceived as protecting the community and satisfying desires of vengeance for constituents. Additionally, it is very easy to do because of the current parole system in Texas, and the way that Texas government gives "pretend pay" through work-time credits that amount to the falsification of government records. Previously in history, the same Constitutional amendment that abolished slavery made involuntary servitude legal when it was declared during sentencing--if part of the punishment--for a felony conviction.

Early on, the amendment was misinterpreted as legalizing the use of prisoners as slaves. Consequently, convicted felons were often sentenced to hard labor. However, slavery and custody are two distinct things; slaves are property, and prisoners are in custody (not as property). Therefore, many states began paying prisoners to work. Other states, such as Texas, pretended to pay out "work-time." In states that pay prisoners to work, work-time is credited to their sentence because they are doing something productive; nothing to do with actual pay for work. In Texas, it is credited towards parole, supposedly.

Often, citizens misunderstand sentencing guidelines for felony convictions. While confinement is the punishment, it is not on a basis of locking someone up and throwing away the key; there are rehabilitative measures, usually relative to work and good behavior. These measures factor into the time credited towards the completion of a prison sentence. In Texas prisons, offenders accumulate flat-time (served day for day), work-time (extra time credited for work), and good-time (extra time credited for good behavior, i. e., a clean disciplinary record). For prisoners serving non-aggravated time, when the three types of time-credits combined equal the number of years required for parole eligibility, the prisoner attends a parole hearing. Prisoners doing aggravated time must do half of their sentence flat-time, day for day, before being eligible for parole. If prisoners are paroled, in Texas they are forced to sign away their

good-time and work-time, or they are not released. So their good-time and work-time are taken and they must serve the remainder of their flat-time on parole.

In reality, if an offender has aggravated time, work-time and good-time, although credited on a piece of paper, have no effect whatsoever; because a prisoner with agg-time has to do half their time day for day before becoming eligible for parole. This also means that those with the most violent crimes, and the lowest recidivism rates, are receiving the least amount of rehabilitation and being kept in prison, when suitable for parole and safe for society--while those with the highest recidivism rates, for their crime and other types, are being released. Furthermore, the Texas parole board has the "discretion" to deny parole to any offender, agg or non-agg, regardless of the time they have served or their disciplinary record in prison. So "work-time" in Texas prisons is a pretend thing a person may or may not actually be given for their work. Ironically, in the State of Texas, employers who fail to pay wages to their employees can have liens put upon their property; but the State is not about to enforce that upon itself. Also ironic is the fact that the work-time and good-time on every prisoner's time-sheet who does not receive the time, amounts to a felony--falsification of a government record, per Texas Penal Code 37.10. Additionally, with so many State employees involved, it amounts to another felony--organized criminal activity, per Texas Penal Code 71.02. How ironic that felonies help perpetuate the Texas criminal justice industry--both felonies that prisoners are convicted of, and those that State employees unceasingly commit.

What this means for prisoners is that nothing they do towards rehabilitation means anything to the State of Texas. Officials can say what they want, but good-time and work-time mean nothing. What this means for victims is that rather than seeking to help and heal them, the State encourages them to continue to define their lives, indeed, live their lives according to the trauma caused by their offenders; and whatever horrors and hatred that investigators and prosecutors have fostered in the victims' psyches in order to further agendas and careers in Texas criminal justice. What this means for the public is that rather than the likelihood of further crimes being committed, prisoners are being released according to how well a victim can be manipulated into protesting their release--with no regard for a victim's state of mind or whether their quality of life is destroyed indefinitely.

VICTIMIZING TAXPAYERS

So what does all of this madness effect? Why, a criminal justice industry, of course. Wait a minute--who pays for it all? Well, the taxpayer, of course! So it goes beyond the exploitation of the victim, and begins to victimize the entire public. How exactly? By creating the largest prison system industry in the world--at their expense. Just as the economy of the slave plantations gave way to the oil and cattle industries in Texas, many of the old plantation properties now hold prison units, where prisoners are fed and kept in designated areas, just like the cattle in feedlots. Likewise, the State gets money from having prisoners, just like cattle-ranchers do from their cattle. However, where cattle go to livestock shows to get sold to buyers, prisoners are used to acquire approximately \$30,000.00 a year each from taxpayers, and far more if they have medical conditions that more can be claimed for. This is in addition to all of the other revenue through appropriating further taxdollars and using prison industry in various capacities. Since funding comes from State and federal sources, every taxpayer in the United States of America is being victimized to perpetuate the Texas criminal justice industry. The Texas Department of Criminal Justice is not an agency with the safety of, and responsibility to the public as its highest priority or main agenda--it is a corporation founded and sustained by taxpayer dollars; seeking more taxdollars to perpetuate an industry that is grossly unnecessary and wasteful. Indeed, the Texas criminal justice industry amounts to one big criminal enterprise.

Who works in Texas prisons? A variety of people, including: career criminal justice professionals (wardens, classification specialists, etc.), law enforcement workers making extra money aside from their main jobs as sheriff's deputies, police officers, etc. Also included are a host of people who basically do not possess the social skills to work normal jobs. Additionally, there are a large number of prison employees who work in prisons when jobs are unavailable in a given oil field. These employees usually go back to work in the oil industry when jobs are available in their area.

Creating jobs is good, right? It depends; if the jobs equate to productive work that contributes to society it is. However, the Texas Department of Criminal Justice is being used in a manner that preys upon victims and society alike. Sure, there are success stories, and lots of important people say things about the criminal justice system in Texas that sound like they really want to change the system for the better--or that it is working good. In reality, the Prison Rape Elimination Act (P.R.E.A.) had to be enforced by the federal government--because Texas officials refused to stop the corruption, rape, murder, and other violence in Texas prisons. P.R.E.A. has nearly eradicated the rape and

other forms of violence in Texas prisons--compared to what it used to be like. Of course, everything from administration, to prison chaplaincy departments, to peer educators (prisoners who teach about health and P.R.E.A. regulations) attempt to take credit for the change; but it was the federal act and fear of prosecution that improved prison conditions. Safety inside prisons will continue to improve due to P.R.E.A. Sadly, victims and taxpayers outside will continue to suffer at the hands of the Texas criminal justice industry, knowingly and unknowingly, until something is done to stop it.

SOLUTIONS

And just how can it be stopped--now that the titan are clearly seen in the road? The answer begins with the realization that victims and taxpayers have been abused the worst by the Texas criminal justice industry; and therefore, should be given priority in the solutions. Next, it must be realized that just as justice is quantified as punishment, victims are quantified as tools, and taxpayers are quantified as taxdollars by the Texas criminal justice system--politicians, elected officials, and lawmakers quantify human beings as "constituents," i. e., votes. Furthermore, these selfsame politicians, officials, and lawmakers have had it in their power to change things, are totally aware of the situation through committees, etc.--and are the ones allocating and managing your taxdollars in the Texas criminal justice industry. Therefore, unless it is true that society is now deluded in a state of post-truth, the first step is to contact Texas politicians, officials, and lawmakers about the nature of "qualified immunity," sentencing trends that rival or surpass most dictatorships, why they perpetuate such a corrupt system founded upon the exploitation of victims and victimization of taxpayers, etc. Then, if they refuse to stop perpetuating all of these things--simply vote for someone else in the next election. Every person involved in this sick mess, who has done nothing to stop it, must be replaced with an honest and qualified counterpart if anything is to change.

This mess could change overnight with the eradication of "qualified immunity," adopting a rehabilitative (rather than punitive) basis for penology in Texas prisons, and the application of both good-time and work-time to the time credited to all sentences in Texas prisons--in a mandatory fashion, rather than the pretend/maybe farce it is now. That would ease the prison population and free up funding to put towards helping the victims of violent crimes, instead of exploiting them to keep prisons filled with prisoners who insure taxdollars continue to flow into the Texas criminal justice industry. Realistically,

the money does little more than create non-productive jobs that amount to welfare for those who refuse to adopt a strong ethic and standard of professionalism that are required for anything short of being a criminal in society.

Solutions inside prisons could make society safer and improve productivity as a whole through prisoners who are released after effective rehabilitation. Currently, programs in Texas prisons are largely operated according to political and/or religious agendas. Recidivism rates are conveniently pulled out of thin air. For example, a hundred prisoners are ran through a re-integration or other program. Then, ten of them are actually released. Five of them come back, which is actually a fifty percent recidivism rate. However, officials who favor the program will include the ninety prisoners who were not even released, and report a five percent recidivism rate. Or, if they do not favor the program, they can just report the actual fifty percent recidivism rate and get rid of the program.

To fix this requires both auditing programs in an objective manner and dealing with elements peculiar to the Texas prison system. For starters, Texas government operates a punitive, not rehabilitative system. Texans have historically favored punishment rather than rehabilitation--because pro-prison industry officials and criminal justice professionals have been very effective in convincing the public that they need to spend money to lock a lot of people up. That is why the population of the Texas Department of Criminal Justice is greater than the entire population of some countries. Most other prison systems, inside and outside of the United States, are based upon rehabilitation--not the stock exchange. Therefore, especially with the payment of prisoners for work in many other prison systems, it is usually pointless to use their data and statistics in attempting to alleviate the current situation in Texas prisons. However, adopting a change made in a foreign prison system could reform the Texas prison system into the twenty-first century.

And what change is that? Maybe the Texas prison system should be more like that in the Netherlands. In the last few years, the Netherlands closed at least half of their prisons, while lowering crime rates. How? Through individualized treatment plans. While Texas prisons do have "individualized treatment plans," they are generalized and repetetive, and composed of programs that serve agendas, or just fulfill a policy on paper. This fails to address individual variables which differ from person to person--even those with the same type of crime and substance abuse history. More specific methods, with more professionals involved is crucial to actual rehabilitation.

Professionals are another solution needed in Texas prisons. The current practice

is to use volunteers or prisoners who often do not have the experience and qualifications to teach what they are being allowed to teach. For example, prisoners who have never raised children, nor even led responsible lives in the free world, are not qualified to teach others how to raise them--even if they are "raising" them from prison. It is not the same as being there for the child and taking immediate personal and financial responsibility for them in the world. Another example is prisoners who did not support themselves through stable employment in the world--who are utilized to teach other prisoners how to get jobs and keep them. They lack the experience and immediate knowledge to effectively teach about employment. They may help in some ways, but ultimately, they are partially effective at best, or totally detrimental at worst.

More qualified professionals can be brought into Texas prison by simply complying with existing policies and laws. Per policy and law (such as the Religious Land Use of Institutionalized Persons Act of 2000), prison chapels, unlike freeworld churches, exist to serve the rehabilitative and faith-based needs of prisoners--with equal facilitation of both secular and religious programs. Currently, programs containing religious elements will often be given secular names and presented as secular. Also, rather than results, success is often construed from attendance, and how great everyone convinces each other things are--without any focus whatsoever upon rehabilitation.

This is perpetuated by the fact that, rather than a balanced ratio of religious and secular employees amongst Texas prison chapels, there is overwhelmingly one religious preference among employees therein. Rather than having business, employment, behavioral science, criminology, and other types of professionals in at least half of the chapel positions--with the other half made of a balance of ministers from various--the chapels in Texas prisons are just one big EOE violation. Currently, there is a "smoke screen" wherein certain volunteers are paid a stipulation, and construed effectively as employees. This situation is the sole reason that Texas prison chapels have produced more smiling manipulators than rehabilitated prisoners. Correcting this is vital because prison chapels in Texas are one of the biggest arenas where rehabilitation programs are possible.

It comes down to whether or not the public wants a better society, or they literally wish to keep paying for the exploitation of victims and victimization of taxpayers. The victimization does not just include the wastage of their taxes through the Texas prison industry--it can also occur directly when the wrong prisoner is released who commits a crime against someone. Another way people suffer is when they are forced to support someone someone who is released, but did not obtain anything in prison beyond a rudimentary education from

an unqualified individual. While there are basic educational programs and college (mostly requiring pre-payment in a system that does not pay prisoners for their work), it says something when the failures outweigh the successes.

On the Texas scales of "justice," there are four balancing factors: the victim, the taxpayer, the prisoner, and the criminal justice system. Effectively, these are all reduced to two factors, because there is so little counterweight to the industry being operated in the Texas criminal justice system. So the system is on one scale plate--and the victims, taxpayers, and prisoners are on the other plate--because the system is victimizing them all. Perhaps another titan stands taller than the others--vindictiveness. Can the free public stomach enough humanity towards prisoners--in order to ease the suffering caused by the exploitation of victims and victimization of taxpayers? To change anything, it will have to, if there is to be a heavy enough counterweight to the Texas criminal justice industry.

Victims should be helped, and the public should be safe. Obviously, the best was to ensure that is by not perpetuating the suffering of victims, and preventing the creation of new ones. Unfortunately, the criminal justice system in Texas operates upon the intensity of the hell it can induce within victims of crime. This hell can be stopped through feasible solutions: accountability for criminal justice professionals who perpetuate it, appropriate responses to convicted felons based upon their conduct, actual results-based program evaluation, dissolution of non-essential pet-project programs, addressing EOE violations with legal compliance, and replacing ineffective personnel involved in rehabilitation work with qualified professionals.

The beginning of the transformation of the Texas criminal justice system is in recognizing that the rehabilitation of prisoners with criminal tendencies is the most effective way of rehabilitating victims of the trauma which the prisoners caused. Then, the titans can be removed from the road of progress, and victims and taxpayers can begin to recover what the Texas criminal justice industry took from society.

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