

## "No More Criminal Justice Reform Tommyrot (The People MUST Insist)"

### Introduction

It truly was shocking to be found guilty of crimes that never occurred. Much trust was put into the criminal justice system (CJS) as it was clear by the way of the evidence that the outcome of the trial would be in my favor; this was my consensus. However, my consensus proved to hold no weight. The truth is that the goings-on of the CJS of Cleveland, OH is appalling. The misconduct of prosecutors was the most shocking aspect as it relates to my case, but even more shocking was discovering that prosecutors are ensconced by prosecutorial immunity. Thus, this essay will address issues concerning prosecutorial misconduct (PM) and what should be done to ameliorate such issues. In addition this essay will address over-crowded jails/prisons and the importance of the tax payers being the leading proponents for reform.

### The Fast-Food Worker Scenario

Picture this: a young lady gets her first job at a fast-food restaurant. After working there for several months she concludes that the only way she'll be able to get herself a nice car is to work more hours. The problem is that no extra hours are available and it will probably be several more months before she has enough seniority to be in a position to obtain the hours. She devise a plan. She collude with a good friend whom is a co-worker. They agree to clock one-another in and out whenever either of the two are not scheduled to work. So when one is scheduled to work on a certain day but one is off on that same day, the one whom is off will be clocked in as if they were there for an entire shift. It seems to be the perfect plan for the two young adults and their paychecks are significantly higher. Eventually their scheme is discovered by a shift manager and they are impromptu called into the office. The two workers are given a stern warning but are allowed to keep their jobs even though, because of their Machinating, labor cost are extremely high which leads to other workers having their hours cut. And since some workers are getting their hours cut, that means employees whom do have to work must work twice as hard, including the two persons whom are responsible for the unethical doings that resulted in these debacles. Mind you, the employee whom devised the plan so that

she would be able to purchase a new car, was able to do just that. Now her co-workers bear witness to the 'rewards' of cheating, and as bad as it seem, they are intrigued.

The moral of the story is when foul deeds go unpunished, the doers of those deeds are indirectly encouraged, while encouraging others, to continue in their unethical doings. This is what is happening with prosecutors as it relates to immunity laws that ensconce them.

### The Question of Prosecutorial Immunity Laws

When it comes to the CTS it seems conviction is the 'new car' a particular prosecutor covet. In order for that conviction to be achieved evidence must be solid. But often prosecutors discover evidence of a particular case is wanting, especially if a defendant have not committed a crime at all. Here is where we equate lack of hours in the case of the fast-food workers to achieve a goal, with shoddy evidence of a prosecutor. The prosecutor then devise a plan. The plan may include colleagues of the prosecutor, defense attorneys, and sometimes even judges. The plan may be highly complex as it may entangle issues of law that easily elude persons whom are untrained in judicial proceedings. However, success of such machination will significantly improve a prosecutor's conviction rate giving him/her the appearance of being prolific in their profession. Suppressing evidence, fabricating the truth, acting-out during trial, or flat-out lying are some tactics that may be deployed; but they must get that 'new car'. When this vileness is exposed, in particular during a civil case, and other levels as well, legal precedent asserts prosecutors may conduct themselves immorally with impunity.

Jeffrey Deskovic who founded the Jeffrey Deskovic Foundation for Justice over in a article — "Survivors Guide to Prison" — that was printed in Prison Legal News: "Prosecutorial misconduct is a major cause of wrongful conviction. It's the single thread which runs through almost all wrongful conviction cases. There's no deterrence, there's no oversight, there's no punishment for prosecutors. So they can break the law and they don't face criminal penalties even when they engage in withholding evidence of innocence, threatening witnesses, coercing witnesses. They're above the law."<sup>1</sup> All, or stealing money in the case of the fast-food workers, when allowed to go unchecked, will denigrate the fabric

of otherwise sensible operations which will eventually morph to dysfunction and other major quandaries.

As mentioned by Deskovic, iniquities of prosecutors without question go unpunished. Moreover, there's a under-tone of accolades for this behavior and colleagues take strict notice. Colleagues will see that a new car is achievable even after being found to be entangle in violations as it relates to judicial proceedings; they will now be willing to eschew truth and facts as long as it leads to suspiciousness. Consequences of such behavior may be grave. In the case of the fast-food workers it led to high labor cost, and co-workers whom had to work twice as hard as management attempted to lower labor cost by doling more off days to employees than usual. (It should be noted that when employees are made to work more hours, and/or harder while others have their hours cut, a whole host of issues may arise). In the case of unethical prosecutors, consequences may vary and have nuances when bad behavior goes unchecked. But for certain there will be others whom feel compelled to emulate this bad behavior.

Victims of PM will speak to others about their displeasurable experiences which may lead to a bad reputation for an entire city in regards to criminal justice operations; it may cost tax payers millions over the decades to compensate the wrongfully convicted. Prosecutors whom strive to do the right thing may have serious challenges in attempting to overcome the negative stigmas attached to their profession amidst PM, even if they are a person of high morals and ethics; and the entire CJS of a given state/city/nation may be deemed untrustworthy which creates other serious problems. The bottom line — status quo legislation that basically suggest that prosecutors are above the law will not only lead to a continuation, or unraveling, of the items spoke of in these writings, but such legislation have the potential to spur situations that will wreak havoc in unimaginable ways as the people grow less confident in government entities.

### The People Must Insist on Reform

Having said all these things, the CJS is not incorrigible. However, it is up to the people to take a stand and hold state officials accountable. These officials must have their

feet held to the fire. The people absolutely must get involved, especially hard working individuals whom are paying taxes. Government officials are working for you (the tax payer). It is YOU whom are the boss of all government officials. You ought not take the position of the fast-food manager and encourage continued bad behavior by doing nothing to see to it that perpetrators of bad deeds are held accountable. As a citizen of the U.S. you have the absolute right and duty to send letters to state representatives and demand, in a professional manner, that state legislators do the job that the people — YOU — have hired them and is paying them to do. Again, if you pay taxes you are the boss of these political figures. If state legislators/representatives are allowing state prosecutors to conduct themselves in ways that are questionable, or possibly criminal, it is up to the bosses of these state entities, YOU, to see to it that pink-slips are served. It must be a collective effort. Each and every one of us must do our part; petition, picket, join organizations, explain to friends and family the importance of the people, like YOU, being at the helm of all government agencies; although not in a prosaic sense, but then again depending on context, tax payers are, or supposed to be the true lawmakers as a democracy is governed according to the desires of the people — US — YOU!

When a government entity is run in a way that is oppose to what the people, YOU, are willing to accept, tax payers ought not assume that somehow government officials will solve these own problems. If this was the way of the world there would be no need for a boss to rectify situations that arise from recklessness of their employees. In fact, a boss' duties would be resolved if employees functioned as a self-sufficient mechanism. Bosses are necessary to maintain order, rational, and good work ethic. Hence, the reason why we the people' must resume our positions as bosses of government entities such as the prosecutors' office and see to it that those we've placed in supervising positions (i.e., legislators, representatives) of these agencies are addressing specific problems, lest those supervisors may be reprimanded and possibly voted out. Reform starts with the people.

### The Issue of Over-crowded Jails/Prisons

While many, if not most, prisons and jails were designed to house one person per cell or cubicle, the fact of the matter is many, or most, are dramatically over-crowded... housing two

persons in areas designed for one. Over-crowdedness of these facilities lead to highly questionable conditions and inhumane treatment that should otherwise not be a question at all in a developed country such as the U.S. This inhumanity includes: 8 toilets for at least 280 inmates (here at Belmont C.I.); inmates made to sleep on concrete floors, sickness and disease that arise from crowded close proximity, and inmates that are made to eat food labeled "not for human consumption".

In the 21<sup>st</sup> century it seems laughable that in a country such as the U.S. you would find approximately 280 inmates sharing 8 toilets, but this is the sad fact. Sad and ironic when you factor in the increased cases of hepatitis A in the State of Ohio according to the Ohio Department of Health (ODH). On July 17<sup>th</sup>, and August 30<sup>th</sup> of 2018, inmates at Belmont C.I. received emails concerning an investigation by ODH of the outbreak of hepatitis A. One of the emails speak of "cases diagnosed in ODRC facilities", and how the disease "usually spreads when a person ingest fecal matter — even in small amounts — from contact with objects, food or drinks contaminated by the stool of an infected person." Knowing this, it seems that the State of Ohio would do everything in their power to reduce over-crowdedness; especially when you also take into consideration that there are many other inmates with mental and physical conditions, and some of them defecate in the showers on the regular basis.

As previously stated, many correction facilities are designed to hold one inmate per cell or cubicle. Notwithstanding, two persons being crammed into a space for one is a frequent occurrence. One of the two persons are sometimes made to sleep on the floor for up to months or possibly up to a year depending on the logistics of a particular case and cell moves due to ride-outs and other moves of inmates for strategic reasons. This stacking (or warehousing if in reference to prisons built in the 90s) of people can lead to stress as a single cell/cubicle is very tight even for a single individual; and with a mat stretched out on the floor of an area where maneuvering about is already limited, inmates are again in a position where they are prone to infections. Mind you, there's a high probability of brushing up against a toilet that may have trace amounts of human excrement especially while sleeping since the toilet may be less than a foot away from one's head or feet, depending on what end of the mat one wishes to sleep.

As a note — medical staff of a given corrections institution is either apathetic, under-staffed, not duly equipped, or under-trained which leads to an exacerbation of abhorrent conditions as it relates to physical and mental health.

One of the most shocking of all inhumane conditions of state prisons is food labeled "not for human consumption" being served regularly. It may sound unbelievable but as of November, 2017, a federal class action lawsuit was still pending in Oregon as Gov. Krome's inmates accused Two Rivers Corrections Institution in Umatilla, Columbia River Corrections Institution in Portland, the Oregon State Penitentiary in Salem, and Coffee Creek Corrections Institution in Wilsonville of serving chicken and fish intended as "bait food". At least one former inmate of Coffee Creek said when she was incarcerated in 2013, she witnessed food marked "not for human consumption" being prepared to serve to inmates. Prison Legal News published an article by Monte McCoin in Nov., 2017 titled: "Lawsuit Alleges Four Oregon Prisons Served Food 'Not For Human Consumption'".<sup>2</sup> Also see: Lyons v. Peters, U.S.D.C. (D. Ore.) Case No. 3:17-cv-00730-SI.

All businesses are apt to do whatever is in their power to cut cost, but when prisons are so over-crowded that inmates are served food meant for livestock, something's amiss.

Popular rumors at Lorain C.I., Corr. Reception Center, and Belmont C.I. (where author of this essay is housed), all of Ohio, is oatmeal, grits, and/or corn are always labeled "not for human consumption". The rumors hold weight since they are usually uttered by persons whom have worked in kitchens of given institutions. (Note: There are other inhumane or highly questionable happenings that take place in U.S. prison institutions, including extreme profiteering, and extremely unsanitary conditions which have culminated in correction officers using bio-hazard bags when moving an inmate to the medical center).

When prisons are filled beyond capacity, conditions are ripe for rioting, inmates being denied ample access to lawyers (or public defenders whom have too many clients to properly manage), and inmates being denied ample access to the law library.

In popular opinion, many believe the bottom line is a money issue. I.e., many believe states are concerned with losing major federal funding if the prison population is reduced. If this is true it speaks volumes to the morals of state officials, and also hint at a CJS with an agenda to take away an individual's freedom, not because they are necessarily a danger to society, but rather because an individual's incarceration may affect a monetary bottom line; privately owned prisons may be tied to more sophisticated monetary arrangements. Hence, the people are given even more reason to lobby the officials of the state and demand reform. (Note: Talk of CJS reform is often in regards to changing sentencing guidelines and releasing the non-violent; inmates convicted of violence however, especially as it relates to sex crimes, often were not violent at all in their crimes. Instead particular inmates are victims of strategic tricky wordings of revised codes and legal precedents which enables prosecutors to claim sexual violent predator, or repeat violent offender. At other times prosecutors are able to convince courts of their (the prosecutors') interpretation of precedent and take on a immoveable posture as convictions with a violent element amounts to greater prosecutorial achievement. PM and capacity filled institutions are rarely, if ever, front-and-center in prison reform talks. Palpable reform must focus on broader items and the people must be the driving force in implementing reform beyond changes in sentencing and releasing so-called non-violent offenders).

### Conclusion: They are not Above the Peoples' Law (Reform Still Starts with YOU)

As appalling as these revelations are, the chance of change is slim and none if the people — YOU — do not get involved in calling for change. We have untold power and influence when we stand together as a single unit and demand that our employees (state/government officials) perform their jobs in a acceptable and morally correct way. One should think of the example being set for our children. They hear our complaints and see our strife, yet they witness their parents standing idle. The acquiescence we display to our kids is the acquiescence they'll readily adopt. Before long we'll become a nation of people whom are so complacent in our acceptance of state entities and how they choose to govern, change even in our own view will seem ridiculous at mere contemplation. Should we the people revert back to this medieval way of

government? — of course not! Let us — the tax payers — whom are the only undisputed bosses of state officials, whether governor, legislator, prosecutor, judge, mayor, or the likes, lay the foundation of true reform.

Again, get your family and friends involved, vote, write letters, send petitions to state representatives, organize protest, report unethical behavior of state officials; 'we the people' own the CJS. Let's do what a boss is supposed to do — keep employees in line with values of the company; the company is the democracy of the United States of America. Reform begins with the head of the company — the boss — YOU.

### References

- 1 Horn, Steve (February 2018); Prison Legal News, Vol. 29 No. 5; "Survivors Guide to Prison", by ~~Matthew Cooke~~
- 1 Horn, Steve; (May, 2018); Prison Legal News, Vol. 29 No. 5; "Survivors Guide to Prison", by Matthew Cooke, director (Gravitas Ventures, February, 2018); pg. 24
- 2 McCain, Monte; (Nov., 2017); Prison Legal News; "Lawsuit Alleges For Oregon Prison Served Food "Not For Human Consumption"; pg. 35