

counterpunch

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One Nation, Under Prosecutors

Guilty When Charged

By PAUL CRAIG ROBERTS

While enjoying the Christmas season in the comfort of your home, take a minute to say a prayer for the wrongfully convicted.

American prisons are full of wrongfully convicted persons. Many were coerced into admitting to crimes they did not commit by prosecutors' threats to pile on more charges. Others were convicted by false testimony from criminals bribed by prosecutors, who exchanged dropped charges or reduced sentences for false testimony against defendants.

Not all the wrongfully convicted are poor. Some are wealthy and prominent people targeted by corrupt prosecutors seeking a celebrity case in order to boost their careers.

Until it happens to them or to a member of their family, Americans are clueless to the corruption in the criminal justice (sic) system.

Most prosecutors are focused on their conviction rates, and judges are focused on clearing their court dockets. Defendants are processed accordingly, not in terms of guilt or innocence.

"Law and order conservatives" wrongly believe that the justice (sic) system is run by liberal judges who turn the criminals loose. In actual fact, the system is so loaded against a defendant that very few people, including the totally innocent, dare to risk a trial.

Almost all (95-97%) felony indictments are settled by a coerced plea. By withholding exculpatory evidence, suborning perjury, fabricating evidence, and lying to jurors, prosecutors have made the risks of a trial too great even for the innocent. Consequently, the prosecutors' cases and police evidence are almost never tested in court. Defendants are simply intimidated into self-incrimination rather than risk the terrors of trial.

According to Yale University law professor John Langbein, "The parallels between the modern American plea bargaining system and the ancient system of judicial torture are many and chilling." Just as the person on the rack admitted to guilt in order to stop the pain, the present day defendant succumbs to psychological torture and cops a plea, whether he is innocent or guilty, in order to avoid ever more charges.

Michael Tonry, director of Cambridge University's Institute of Criminology, reports that the US has the highest percentage of its population in prison than any country on earth, including dictatorships, tyrannies, and China. The US incarceration rate is up to 12 times higher than that of European countries.

Unless you believe Americans are 12 times more criminally inclined than Europeans, why is one of every 80 Americans (not counting children and the elderly) locked away from family, friends, career, and life? Part of the answer is the private prison industry, which requires inmates to fuel the profits of investors. Another part of the answer is career-driven prosecutors who want convictions at all costs. Yet another is the failure of judges to rein-in prosecutorial abuses. Another part of the answer is the hostility of Americans to defendants and indifference to their innocence or guilt.

The US invasion of Iraq has brought the breakdown in American moral fiber to the fore. The horrific tortures and abuses at Abu Ghraib prison, the public justifications of torture by the president and vice president of the United States, and the CIA kidnappings and torture of detainees in secret prisons put the American "liberators" in the same camp as Saddam Hussein. It is ironic that mistreatment of Iraqis is one of the justifications that Bush uses for overthrowing Saddam.

In his book, "Constitutional Chaos: What Happens When the Government Breaks Its Own Laws," Judge Andrew P. Napolitano reports on cases of torture, psychological abuse and frame-ups that he discovered as presiding judge.

I have reported a number of wrongful convictions. Anytime a new offense is created, the word goes out to "produce convictions." Over a decade ago William R. Strong, Jr., was made a victim of Virginia's new wife rape law. Strong discovered his wife in an affair with her boyfriend and was about to serve her with divorce papers. She found out and struck first, accusing him of rape. Mr. Strong has been trying to get a DNA test for many years, confident that the semen in the perk test is that of the lover of his unfaithful wife, but Virginia's criminal justice (sic) system is unresponsive.

Another innocent victim of Virginia justice (sic) is Chris Gaynor. Gaynor took his skateboard team to a competition. When one of the kids tried to buy drugs, Gaynor threatened to tell his parents. To preempt Gaynor, the kid accused him of sexual abuse. There was no evidence against Gaynor, and the entire team knew the real story. However, Gaynor was framed by a corrupt prosecutor, reportedly a man-hating lesbian, with the connivance of a corrupt judge, who intimidated Gaynor's young witnesses by jailing one of them without cause. Gaynor's innocence was of less importance to the criminal justice (sic) system than a desire to increase convictions for child sex abuse.

In America, defendants are no longer innocent until they are proven guilty. They are guilty the minute they are charged, and the system works to process the guilty, not to determine innocence or guilt.

Americans in their ignorance and gullibility think that only the guilty would enter a guilty plea. This is the uninformed opinion of the naive who have never experienced the terror and psychological torture of the US criminal justice (sic) system.

Paul Craig Roberts has held a number of academic appointments and has contributed to numerous scholarly publications. He served as Assistant Secretary of the Treasury in the Reagan administration. His graduate economics education was at the University of Virginia, the University of California at Berkeley, and Oxford University. He is coauthor of *The Tyranny of Good Intentions*. He can be reached at: paulcraigroberts@yahoo.com

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