

Solitary Watch

Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2010/07/30/no-legal-defense-for-the-poor/>

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by [James Ridgeway](#) | July 30, 2010

Even among advocates of criminal justice reform, most (ourselves included) tend to focus on the draconian punishments that await the convicted when in practice, it is the trial process that finishes off the accused, who is sold down the river after going through a mockery of justice. The crisis in defense of the indigent informs much of the work of the [Southern Center for Human Rights](#), a leading advocate for the rights of prisoners and of the accused, which deals with what is effectively a caste system within our criminal justice establishment, where one kind of justice is offered to the wealthy and another kind to poor. This inequality may be nothing new, but the structures designed to mitigate the system by which lawyers are appointed to defendants who cannot afford them is reaching new lows.

Earlier this month, a Georgia Superior Court Judge, ruling in a case brought by the Southern Center for Human Rights, wrote: The Georgia indigent defense system is broken. It is a mega-bureaucracy adrift with no rudder. No business, nonprofit organization or government agency could survive under the present scheme. Judge J. David Roper wrote earlier this signed a consent order to provide better legal representation to the poor in Georgia's Northern Judicial Circuit. According to the [Atlanta Journal-Constitution](#):

Among other things, [the order] calls for the state public defender agency to provide counsel in the Northern circuit within 24 hours after a defendant is found to be indigent. It also sets case load limits for lawyers and monitoring of their performance.

A lawsuit, one of a number slapped on the state public defender agency, was filed last year on behalf of Northern circuit defendants. It said funding problems that have plagued the agency for years had eroded its ability to provide prompt representation for the poor.

In 2008, defendants sat in jail for prolonged periods because there were no lawyers to represent them at bond hearings, according to testimony at a hearing in March. Sometimes indigent defendants appeared at their criminal arraignments without representation, almost shutting down criminal prosecutions.

This case, dealing with one rural judicial circuit in one state, highlights what is merely a somewhat extreme version of a nationwide problem. In June, the American Constitution Society, at its annual convention, presented a panel discussion on the federal role in improving indigent criminal defense. The panel included Steve Bright, who heads the Southern Center for Human Rights and has spent his life representing the interests of poor prisoners in the South, along with Laurence Tribe, the Constitutional scholar from Harvard Law School who is now working within the Justice Department to improve legal representation for the poor, along with several others. A [link to the video of the panel is here](#), while an American Constitution Society Issue Brief proposing federal action to reform indigent defense can be found [here](#).

Bright painted a dismal picture of the judicial system: There is no advocate system in many parts of this country, he said. Most of the cases involving indigent defense are in the state system, where the accused are dependent on the government the same government which is trying to put them in jail. There are few public defenders and they receive scant funding; in Miami, for example, prosecutors get \$4.3 million a year as opposed to \$150,000 for public defense. The loyalty of the lawyers tends to be to the judge, not the client, since lawyers literally cannot afford to alienate the judge. There is often no chance to raise a defense, Bright said. The cases are rigged like professional wrestling matches.

During the 1960s, the Justice Department was known for its support of civil rights movement, and the federal courts were seen as sanctuaries for the victims of state injustice. That is no longer true today. The 1960s was also the last time and probably the only time anyone in this country spoke seriously of providing widespread, accessible defense services to the poor. This happened as part of Lyndon Johnson's anti-poverty program, with the creation of the neighborhood legal defense teams to give people in localities advocates for all sorts of problems with landlords, police, government bureaucracy. It was in Chicago, Obama's home town, where Saul Alinsky fought Mayor Richard Daley tooth and nail in an effort to make the new poverty program work. At that time, the lawyers were paid by the federal government to represent the poor. After Johnson, Republicans successfully ripped these programs to pieces. They became principal targets in the right wing's defunding campaign. Now nobody talks about them; instead of financing any defense, the government literally seeks to privatize defense advocacy by recruiting well-heeled law firms to do their part pro bono.

James Ridgeway (1936-2021) was founder and co-director of Solitary Watch. An investigative journalist for over 60 years, he served as Washington Correspondent for the Village Voice and Mother Jones, reporting domestically on subjects ranging from electoral politics to corporate malfeasance to the rise of the racist far right, and abroad from Central America, Northern Ireland, Eastern Europe, Haiti, and the former Yugoslavia. Earlier, he wrote for The New Republic and Ramparts, and his work appeared in dozens of other publications. He was the co-director of two films and author of 20 books, including a forthcoming posthumous edition of his groundbreaking 1991 work on the far right, Blood in the Face.

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Mirilla Zhu](#)

October 26, 2022

by [Juan Moreno Haines](#)

October 25, 2022

by [Caitlin Konya](#)

October 19, 2022

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Following up on the influence of money on our national elections that gives the elite undue power of persuasion over us you might view the following with a bit of suspicion.

http://www.nationalpopularvote.com/pages/explanation.php#exp_st-agree

The National Popular Vote bill would guarantee the Presidency to the candidate who receives the most popular votes in all 50 states (and the District of Columbia).

The bill has passed 30 legislative chambers in 20 states (AR, CA, CO, CT, DE, HI, IL, ME, MD, MA, MI, NV, NJ, NM, NY, NC, OR, RI, VT, WA).

In the recent 527 New York State Senate vote on the bill, Republicans supported the bill by a 225 margin (with 3 not voting) and Democrats supported it by a 302 margin.

The bill has been enacted by state legislatures representing 61 electoral votes 23% of the 270 necessary to activate the law (Hawaii, Illinois, Maryland, New Jersey, and Washington).

The bill has been endorsed by 1,922 state legislators.

The U.S. Constitution gives the states exclusive and plenary control over the manner of awarding their electoral votes. The winner-take-all rule is not in the Constitution. It was not the Founders choice and was used by only 3 states in the nations first presidential election in 1789. Maine and Nebraska currently award electoral votes by congressional district a reminder that an amendment to the U.S. Constitution is not required to change the way the President is elected.

Under the National Popular Vote bill, all the electoral votes from the enacting states would be awarded to the presidential candidate who receives the most popular votes in all 50 states (and DC). The bill would take effect only when enacted by states possessing a majority of the electoral votes that is, enough electoral votes to elect a President (270 of 538). The bill would replace the current state-by-state system of awarding electoral votes with a system guaranteeing the Presidency to the candidate who wins the most popular votes in all 50 states (and DC).

The age old factor at work here is the haves and have-nots. People who have been poor all their lives suffer from more ills than any other. They are guided into a life of misery by those that have.

Millions of people are living no existing in the world in desperate poverty, and the haves could give a rats ass about them. They have declared war on millions of the have nots (making them criminals), because they want to keep having.

Today it is the have-nots that are restless. And they should be. Ive noticed how politicians are blaming the poor for the economic crisis we are in.

The middle class is falling ever more into poverty, the days of good jobs and good working conditions are gone. The poor are once again caught in their pyramid schemes, and our current administration is not up to the task of solving problems.

It was unbelievable to learn that the Mayor of Mandeville, La. was caught ripping off gifts from the Tots for Toys funds. Just how low can our representatives go?

The effects of poverty on justice is clearly described in a book by Jeffery Reiman titled

The Rich Get Richer and the Poor get Prison

The poor are more likely to be arrested and to have a criminal record than the rest of us. Police target the poor because they know they can get away with it since the poor do not have the resources to fight back. This is true even though white collar crime costs society more.

Once arrested the poor are more likely to be held in jail until their trial and then to be convicted. This is primarily due to the fact that it takes money to both post bail and to hire a good lawyer.

Once convicted the poor tend to get harsher sentences than white collar criminals. The bias of the justice system lays in its focus solely on the criminal act rather than society's failure to ease the poverty that was the motivation for the crime in the first place. This is the result of society's mindset that poverty is the fault of the poor not of society itself. This is a faulty assumption because the poor do not have the same access to the mechanisms known to produce financial success that the wealthy have. The most important mechanism of these is a quality higher education.

The failure of society to address the root causes of crime sets in motion a vicious cycle of get tough policies which are doomed to fail. The result of these failed policies is that the public demand more of the same. More police, longer sentences, and new laws.

Laws which are made by and for the elite class with strong connections to business interests only result in protecting the interests of the powerful. These laws are directed against the lower class and political dissenters.

The laws shape the way we think and this is further reinforced by an elite controlled media. The thrust of the media's message is that street crime is the main threat to our way of life. Only by focusing on poor people's criminal behavior the disparities of income and wealth can be viewed as justified by our society as a whole.

Through mass incarceration the poor are made poorer and have fewer prospects.

Is Brian Stevenson correct when he says?

In this country the opposite of poverty is not wealth in America, the opposite of poverty is justice.

The Supreme Court's recent Citizens United decision allows corporations to fund ads advocating a candidate, which you and I cannot afford.

Here is one of the first results, the front page of the Miami Herald Friday, July 30, 2010 reads:

Millions put newcomers in control

With money to spend on TV ads, Republican Rick Scott and Democrat Jeff Greene are surging ahead of their rivals just weeks before the Aug. 24 primaries.

The anti-incumbent winds sweeping the country are kicking up a storm in Florida, where two super-rich, political outsiders are threatening to knock off two veteran officeholders running for governor and U.S. Senate.

Both political newcomers have relied on a simple formula to best their rivals: Spend millions on television ads and watch the poll numbers rise.

Money matters. You can go from nobody knowing you to becoming a front-runner if you spend enough, said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute.

Read more: <http://www.miamiherald.com/2010/07/29/1753010/millions-put-newcomers-in-control.html#ixzz0vJQsgDR2>

In a study titled Confronting Confinement by the Commission on Safety and Abuse in America's Prisons (June 2006) notes, Over the course of a year 13.5 million people spend time in jail or prison, and 95 percent of them eventually return to our communities. High rates of disease and illness among prisoners, coupled with inadequate funding for correctional health care, endanger prisoners, staff, and the public. As a result of poverty, substance abuse, and years of poor health care, prisoners as a group are much less healthy than average Americans. Every year, more than 1.5 million people are released from jail and prison carrying a life-threatening contagious disease. At least 350,000 prisoners have a serious mental illness.

Capturing the degree of failure in California, Dr. Joe Goldenson noted, There are facilities with four or five thousand people that only have two or three doctors. Some physicians are operating on a license that restricts their work to prisons because they are deemed unqualified to provide care in the community.

Unable to bond out no wonder so many uneducated men and women plea bargain in order to escape these conditions which include by the way the constant threat of rape by other inmates or staff. Few of those who first make a plea bargain under these circumstances have given enough thought about the 3 strikes law that could later be used against them to lock them up for life. The system loves to build a rap sheet on those they arrest even if they need to reduce the charge to avoid a trial. The system is more patient than those they arrest because they have jobs and family dependent on their gaining their freedom sooner rather than later.

I would add that there is actually a direct link between the horrendous conditions faced by many pre-trial detainees and the inadequate advocacy they are provided. Many pre-trial detainees are willing to plead guilty simply to get out of over crowded, dangerous jails, for the (extremely relative) better conditions that await them in prison. These extorted guilty pleas to escape conditions which amount to torture may be the only thing keep some public defender systems afloat.

We should be ashamed.

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