

# THE COURT IS ALLERGIC TO PRISON

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In this essay I opine upon the chasm, the massive void, and the vast emptiness that exists between courtroom practices and penal mechanisms. I provide interpretations of multiple activities which serve as evidence of this chasm's existence as well as its counterproductive effects on criminality-reduction. Considering that it can only be seen in its entirety by those who share my vista, it's imperative that this vista be taken seriously by those who truly wish to actualize widespread habilitation by streamlining reformative courtroom and prison procedures.

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## INTRODUCTION

The criminal justice system is made of multiple segments. These segments, or "parts" are supposed to complement each other in the quest against crime. From law enforcement, crime scene investigation, and courtroom mechanisms to drug clinics, insane asylums, and probation, incarceration or parole systems, these parts allegedly work together in crime-fighting synergy; they're the spark plugs, pistons, crankshaft, and transmission of the criminal justice "vehicle." It's assumed that they frequently collaborate and overlap, propelling and steering this vehicle down the road of reduced lawlessness.

According to common rhetoric, this is how it works; and when you ponder on it, such cohesion actually makes sense. It's reasonable to think that the proper execution of this sort of teamwork (i.e. the connection of the justice system's parts) would likely produce good results. Unfortunately, the common rhetoric is inaccurate, the justice system vehicle is unreasonable, and the aforementioned "good results" are as elusive as Big Foot. No, I'm mistaken. They're not elusive. They're not mythical because they don't exist. They're as real as the Abominable Snowman. Better yet, they're as real as the Abominable Snowman and the Loch Ness Monster visiting the island of Atlantis to create gold through alchemy and watch the evolutionary missing link ride a unicorn!

This may be a slight exaggeration though; the unicorn is a little hyperbolic. The point is that, in practice, these good results are nonexistent because the criminal justice system's "parts" do not work together. More accurately speaking, these parts are not only disconnected, but they're also comfortably cruising in opposite directions as if they're trying to put as much space between themselves as possible. The gaps between these parts' goals and activities is one of the reasons that the criminal justice "vehicle" has been spinning its wheels for years now.

My aim here will be to highlight the gap between two parts in particular: prison and the courts. I will offer explanations of two ongoing practices and one distinct incident all in support of the notion that prison operations and courtroom customs simply refuse to connect—like two magnets with their positively charged ends facing each other—beginning with prosecutorial use of labeling to pursue convictions.

## LABELING THEORY

Many highly esteemed people (such as Frank Tannenbaum, Robert Merton, Howard Becker, Randall Collins, and Boss Matsumeda) have posited that negative consequences can result from labeling individuals in particular ways in certain contexts. They have contributed much to, and enforced, the school of <sup>thought</sup> that has formed around this idea—a school of thought which has come to be known as labeling theory. Their works support this "school's" foundation, which is the premise that labeling someone as deviant or criminal can produce a deviant or criminal self-image that prompts the labeled person to commit even more deviance or delve deeper into criminality. North Carolina's prosecutorial attorneys routinely use labeling of this nature in ways that have garnered too little scrutiny for far too long now.

(As expected, respected scholars such as Ronald Akers and Walter Gove have generated comprehensive and thought-provoking criticisms of labeling theory; however, the arguments for and against this theory are much too complex and extensive to be presented here in their entirety. This text will center less on the primary dispute of whether or not labeling results in secondary deviance, and more on the way in which labeling is evidence of North Carolina prosecutors' disconnect from prison's structure.)

When prosecuting defendants, these state attorneys habitually highlight suspects' past prison records, often at the very beginning of legal proceedings. This practice is common knowledge that most parties can agree on; it occurs so much that it's considered normal and acceptable. But what isn't common knowledge are the formats in which these past illegalities and punishments are presented. What isn't widely known is that prosecutors actually make a show of such "highlighting" by presenting these past records in the form of a gloomy, one-sided, yet artful and powerfully persuasive monologue.

Although these monologues vary in tone and design, somehow they all maintain the same sense of pageantry and ostentatiousness. Also, their underlying message doesn't change. They aim to coerce onlookers into believing that the defendant is a criminal who has been incarcerated for crimes in the past but he didn't learn his lesson, so this time the punishment should worsen. This is what prosecutors present to the court; this is the color in which they

paint the rehash of suspects' pasts; this is the message that they usually succeed in conveying when they bring up a person's past imprisonment.

(In North Carolina, under the structured sentencing system, judges do not decide upon a suspect's sentence. Criminal charges come with pre-set sentences, so the prosecutor in effect determines the punishment when he or she decides what a suspect's charge(s) will be. So when I say that the prosecutor "presents things to the court," I'm not talking about things being presented to a judge; I'm referring to the process of establishing guilt in the jury's eyes — process which occurs in the rare event that legal parties do not settle on a plea bargain.)

They often label defendants as villains who refuse to behave despite past punishment, or miscreants who are averse to reform because they simply haven't been punished hard enough. In reality, these defendants are misbehaving offenders because of past punishment or because they've never been punished throughout their entire lives — instead of helped, guided, and taught. Yet most often the prosecutor's audience takes the "labeling bait" hook, line, and sinker. Confucius once wrote that "the public always respects what they don't understand. The more you talk about what most people don't understand, the greater is their respect for you." This applies well to state attorneys' performances in courtrooms. Their audience — the jury — rarely understands the dark side of the justice system (those most experienced with this dark side — felons — are barred from being jurors) so the prosecutors speak as if they do; therefore, they're considered authority figures on the topic at hand. This perceived authority makes their "labeling bait" very attractive to the criminal justice system outsiders who usually constitute most juries.

But what doesn't get considered is the real reason why the criminal isn't "learning his lesson," why the villain is misbehaving, or why the miscreant isn't reforming despite past confinement. This real reason, this authentic "why," is kept out of courtroom discourse, and the fabricated "why" is its replacement. This fabricated "why" is prosecutors' proclamation that a defendant willingly chose to NOT learn from past punishment, that he or she ignored the opportunities that past punishment (i.e. prison) provided, so therefore this defendant deserves a more intense

punishment. This proclamation implies that prisons are places where lessons are learned, misbehavior extinguished, and people are reformed. From getting courtroom spectators and participants to believe this falsehood, it's only a small step for prosecutors to convince them that the defendant is a criminal not because he or she has never been taught how to be otherwise, but because he's a bad person with a negative mind, a dangerous inclination, and a poisonous soul.

Even though this proclamation, this "why," is basically make believe, it is still deemed complete, sometimes even by the prosecutors themselves. They often don't seem to know that this "why" is usually inaccurate — that neither this proclamation nor its shadow (the previously referred to implication) are productive reflections of reality. Volumes can be written about prison's savagely non-educative, barbaric, and criminality-promoting culture, and it's illogical for someone that's aware of this culture to label someone as deviant simply because they weren't rehabilitated after being immersed in it, yet prosecutors make a career out of doing so. They must not be aware of exactly what prison entails. They must be disconnected from incarceration's deeper oracles. Either that, or they're purposely deceiving and misleading people, enticing courts to send defendants to criminogenic hells while knowing that doing so will only fuel crime.

After much research and experience, I've concluded that the former is slightly more accurate than the latter. This is quite troubling. Prosecutors are dictators of the courtroom but they're no more aware of prison's morally regressive and socially toxic framework than the laity. The fact that they continuously nourish lawless behavior by labeling people without addressing their own states of ~~ignorance~~ unawareness confirms their disconnect from penal mechanisms as well as their blatant exaltation of convictions over the administration of justice.

### MENTALLY INEPT, OR NOT?

I've also concluded that the act of labeling defendants in such a twisted manner isn't the only evidence of the courtroom's detachment from prison. In addition to labeling suspects with the hope of sending them back to a place where they will likely become more criminal, agents of courtrooms also lackadaisically categorize defendants' mental capacities differently than prisons'

Consider that every single inmate that is housed on a North Carolina prison's mental health unit, or that is on some sort of mentally enabling medication, was deemed competent enough to stand trial or accept a guilty plea. The courts said that these thousands upon thousands of North Carolina captives who now rely on regular doses of psychotropic medication to act normal were mentally capable of understanding legal jargon and complex documents, of calculating the risks and rewards of pursuing certain routes of action through this state's legal labyrinth, and of digesting the magnitude of the life-altering determinations that would be made by white guys in suits. (There are no exceptions to this by-the-way, because "exceptions" would be mental hospital patients instead of prison inmates.)

But although the courts supported these capabilities and said that there was nothing wrong with these individuals, less than a week after their legal proceedings they were sent to prison's mental ward and/or loaded up with generic crazy pills. Individuals who allegedly grasped courtroom complexities now need a prison psychiatrist to subscribe them medication so that they can navigate simple prison life - where one just has to eat on time and not stab anyone to function in perpetuity. In prison there is no complicated legalese to interpret nor are there complex risks to calculate. Life for an inmate is simple and very primitive and these convicts need drugs to navigate it even though they were deemed capable of traversing the narrows of courtroom terrains.

Something doesn't add up here. Are they sane or are they mentally inept? Are these convicts of sound mind (like the courts proclaimed), or do they have insufficient gray matter (which is who prison psychiatrists determined)? Whose diagnosis is correct, the court's or the prison's? and why do these diagnoses differ so dramatically? In the correct order, the answers to these questions are "neither," "neither," "neither," and "because of institutional disconnect." Even in doing something as important as determining whether or not a defendant is sane, the chasm between the court and prison causes them to arrive at two different conclusions. They're pulling in different directions and it's shocking that their divergent objectives and practices have remained out

the spot light for so long.

To further illustrate this "part separation," note a recent incident involving a coalition of North Carolina district attorneys led by Phil Berger, Jr. While running errands one day, a district attorney who is a member of this coalition drove past a golf course and noticed a man that he had sentenced to prison. This district attorney, this prosecutorial assistant, knew that this man was still about a year away from completing his sentence, but though he's a prosecutor who "common" people view as a criminal justice expert, he had no idea how a prison sentence could entail a round of golf at a local course.

He was completely unaware of the North Carolina Division of Adult Correction (NCDAC) policy that allows well-behaved inmates who are close to being released from confinement to have supervised visits out into the community for the purpose of easing their transition back into the free society. He didn't know that this state's penal system — in which he's been sending people to reside for years now — made such provisions to help soon-to-be-released inmates avoid instant relapses into criminality, nor that such provisions help in shedding social and psychological manacles of prison life and reacclimating to the free world's customs and activities.

And because of his ignorance he convinced his coalition (along with the right-leaning Civitas Institute) to implore Governor Pat McCrory to abolish this program and change the NCDAC policy that permits it. This coalition didn't once consider the reasons that this program was implemented nor the effects that it has had, and is having, on increasing public safety. In its members' minds, prisoners should be in prison suffering until their scheduled release date, even though such an arrangement has been proven to raise the floor beneath the recidivism rate — research results that this coalition seems to be unaware of. They were unaware of the program, and upon becoming cognizant of it, they sought to abolish it while arrogantly thinking that its purpose and its effectiveness weren't worthy of consideration, even though the absence of this program would apply upward pressure to the crime rate. (This is even more appalling

when one considers that these distinctive district attorneys are the ONLY people in the state that can send people to state prison.) Luckily the governor didn't grant their wishes, but the position still exemplifies their disconnect from the very system that they're charged with repulating — prison.

### CONCLUSION

The separation of the criminal justice system's parts causes much harm here in North Carolina. It strengthens prosecutors' baseless belief that prison is the solution to the problem of widespread illegality. It also causes the system's administrators to overlook crime-reducing initiatives such as community corrections programs, movements like Critical Resistance, and projects such as restorative justice. Unyielding faith in disconnected or conviction-obsessed prosecutors causes people to ignore and refrain from supporting the continuance of prevention, diversion, and community programs which target at-risk individuals here in the state.

Yet despite such ignorance and lack of support, these things have fought against the bureaucratic current and helped convicts and ex-convicts rehabilitate themselves, so just imagine what the effects would be if such measures had the backing of influential and resourceful district attorneys and court systems. Such a structure would prove to be beneficial not only for the individual communities that have been ravished by delinquency, but for the state in its entirety. This will only be actualized to the extent that the justice system's "parts" are connected, unified, and on one accord, working towards a common goal with a shared purpose from an informed vantage point.