

A Sermon on Practical Considerations

Sermon by Rev. Minister Angela Smith of COPE for December 31st, 2023 (and beyond)

Some may feel this sermon amounts to apologist-tripe. But, I reasonably disagree and also understand I arguably opened with a Straw Man by suggesting any reader or party may find this to be apologist-tripe. In many instances when complaining to proper government authorities one is advised to file a civil suit in tort and referred to State Bar Associations to seek legal representation. The reasons for this in terms of crimes that are also torts is that sometimes there is not enough evidence to prove a crime beyond a reasonable doubt, but there is a preponderance of evidence that would prove a related tort in civil court. That's not law enforcement nor prosecutors shirking their duties, that's their recognizing there isn't sufficient evidence to prove the crime occurred beyond a reasonable doubt and their recognition of a preponderance of evidence to prove the related tort.

With civil suits, if a plaintiff cannot afford a retainer, the case is generally handled on a contingency basis with an understanding that a settlement out of court will be sought by the attorney on the plaintiff's behalf. Such settlements often require non-disclosure agreements and where the tortious misconduct is egregious leaves the victims/plaintiffs feeling as if there is no accountability and no justice. Private attorneys have gone bankrupt taking tortfeasors to trial on their own dime where clients cannot afford to pay the retainer. "Attorneys bringing personal injury and other suits on a contingency fee basis often face bankruptcy-related issues. A defendant may be insolvent..." Source: <https://www.law.com/dailybusinessreview/2017/10/18/your-contingency-fee-may-be-at-risk-if-your-client-files-for-bankruptcy/?slreturn=20231118180135> "Most contingency fee arrangements stipulate that the attorney receives no payment if the case is lost. Even if the lawyer has invested significant time and resources into the case, they do not recoup any fees if the outcome is unsuccessful. This creates a strong motivation for the attorney to try their hardest to win." Source: <https://www.johnfoyc.com/faqs/are-contingency-fees-paid-only-when-a-case-is-won> . "No matter the details, most personal injury cases do not go to court. In fact, according to official statistics from the U.S. Department of Justice, only about 3% of all personal injury cases go to trial. Of those cases, 2% are decided by a judge and 1% is decided by a jury." Source: <https://www.fightingforyou.com/resource-center/articles/how-often-do-personal-injury-claims-go-to-court> Lawyers aren't slaves and do get paid for their work. If someone can't afford a retainer and goes with contingency, then there's a 97% chance it will be settled out of court for much less than may be awarded by a judge or jury at trial which an attorney would pursue if they were on retainer.

The sense of injustice where the poor can't afford a trial and can't prove a crime beyond a reasonable doubt, but can prove the related tort by a preponderance of the evidence, results in feeling as if the guilty tortfeasors get away with it with no public accountability at all and what amounts to a financial slap on the wrist at best. But, the reasons for this are practical and not personal nor evidence of disenfranchisement or injustice per se. Everyone must be paid for their work and people can represent themselves in tort suits but will need to afford filing fees. For small claims in WA State where damages sought

are less than \$10,000, the filing fee is \$35-\$50 depending on County of jurisdiction. In small claims cases, plaintiffs represent themselves as do defendants without attorneys. There are multiple filing fees depending on causes of action in any lawsuit that begin at \$240 for general civil action and multiply that for each cause of action just to file the case and that's in Washington State, not a civil suit in federal court. It is \$350 minimum per cause of action to file a tort suit at the federal level. So, if you have 10 causes of action such as false imprisonment, battery, assault, infliction of emotional distress, and harassment, the attorney on a contingency basis who files will be paying \$2400-\$3500 out of pocket just for initial filing fees which don't include processing or other court fees. The case will need to objectively net enough where their contingency percentage and fees potentially awarded at trial will cover/reimburse which may take months or years if unable to reach a settlement. Generally, the expenses defendants/respondents have is \$75-\$125,000 just to respond if it goes to trial and so settling for less than \$75,000 before contacting their own representation is what they deem most fiscally responsible even if they believe they would succeed in their defense at trial. If you were a lawyer, would you pay thousands of dollars of your own money to take a case to trial on a contingency basis for any clients and would you even if you could afford to do so at any given time? If not, don't be a hypocrite in expecting others do what you would not under same circumstances.

There are 708,001 police officers in the US and that includes all jurisdictions. Source: <https://www.statista.com/statistics/191694/number-of-law-enforcement-officers-in-the-us/#:~:text=How%20many%20police%20officers%20are,from%20660%2C228%20the%20previous%20year>. There are 35,000 FBI agents and investigators total. Source: <https://www.fbi.gov/about/faqs/how-many-people-work-for-the-fbi/#:~:text=The%20FBI%20employs%20approximately%2035%2C000,join%20us%20at%20FBIJobs.gov>. That's a total of 743,001 official crime-fighters in the US. There were 1,200,000 violent crimes reported to law enforcement in the US in 2022. Source: <https://www.statista.com/topics/1750/violent-crime-in-the-us/#topicOverview> That's about 1.61 violent crimes per potential investigator in 2022 alone. Nearly half of murders go unsolved. Source: <https://thehill.com/homenews/3878472-nearly-half-of-us-murders-going-unsolved-data-show/> Law enforcement must prioritize and does prioritize investigating violent crime, but must have enough evidence to prove beyond a reasonable doubt at trial to pursue prosecution. So, while they'd love to help get justice for everyone wherever crimes have occurred and take it to a judge or jury even with a preponderance of the evidence suggesting a particular suspect is to blame, they just can't unless we expand law enforcement and/or better fund or establish state-run mediation services for those who want a public record to hold the guilty accountable as well as some mediated settlement which a private attorney could handle but potentially without there being any public record of the complaint. You can create a public record of any complaint and still sue privately making a non-disclosure agreement a moot point. But, you really shouldn't blame law enforcement for requiring evidence beyond a reasonable doubt before prosecuting anyone accused because if they didn't require that it would violate the US Constitution and rights of everyone to due process.

There are 240 million 911 calls to law enforcement each year. Source: <https://www.nena.org/page/911statistics> That amounts to 323 calls per each law enforcement officer or agent per year whether local, state, or federal because that's combined. And, that's just 911 calls. There are 260 work days in a year for those working 40-hours per week and that's before vacation and sick days. LAPD gives officers 15 days of vacation per year through 9th year of service and after the 10th year of service they have 23 days of vacation per year. So, 245 days or 1960 hours full-time leaves about 6 hours to attend to each emergency call and any case that results where each individual enforcement officer handled 323 calls each per year. We need to expand the justice system and potentially create a public mediation option for torts so those become public record or simply continue with private mediation on a contingency basis with personal injury attorneys so Justice Department funding isn't diverted for matters not as serious as murder or multi-million dollar fraud.

It may not be as personally satisfying to hire a personal injury attorney and settle out of court, but it is practical and if the family of a murder victim found out law enforcement was spending time on your complaint should you have one, what would they say to you or to law enforcement? Would you prioritize your own complaint in full context if in their shoes?

Still not satisfied? A settlement offer is an admission of guilt whether the official documents say so or not, but it also evidences being fiscally responsible in settling where a trial would cost more which is why the disclaimer on most settlements. The fact a lawyer takes your tort suit at all on a contingency basis is your validation on your claim and that lawyer will consider the settlement a win, maybe you should too in such cases.

Happy John Wycliffe Day! And, Happy New Year too!

For those interested in starting #TaoFu Self-Defense Exercises, please see <https://www.cope.church/taofu.htm> and begin at any time.

There are opportunities to send messages, receive mystery bonus blessings, and more with or without donating available now on our "Pass the Basket" page at <https://www.cope.church/basket.htm> . Thank You.

"And ye shall know the truth, and the truth shall make you free." John 8:32 KJV Willful blindness is an abomination.

COPE accepts Feedback, critical and complimentary. Learn more at <https://www.cope.church/feedback.htm> . For the sake of keeping myself and others humble, a sense of humor is welcome on all sides.