

A Sermon on Playing Devil's Advocate

Sermon by Rev. Minister Angela Smith of COPE for March 7th, 2021 (and beyond)

The intention of this sermon is to help everyone who reads it recognize their own humanity and fallibility. One of the mental exercises required of those who engage in debate, including lawyers, is to consider all available evidence and all sides. So, even if you are representing an angelic position, you will want to consider from the devil's advocate's perspective the details of any controversy. And, you will want to have the best argument if you wish to win over the majority in any setting. The best argument requires readiness to address questions asked in cross-examination or statements made that contradict your own data. The great thing about congressional hearings is that there is no cross-examination, only information presented by all with an interest in the matter at hand and discussion on whether or not congress can legislate to help address any government deficiencies when it comes to enforcement if that's the issue.

Below are questions I believe the header named entities or bodies would ask or issues they would raise when discussing how to address fraud and abuse in segregated congregate care (i.e. group homes, treatment centers, boarding schools, etc) and that being prepared to respond with solutions to any concerns raised is the mark of a savvy lobbyist who may actually succeed:

GOVERNMENT QUESTIONS/COMMENTS:

1. How many survivors were adjudicated (convicted of crime) and chose a diversion program rather than jail/detention? What percentage of the overall survivor community were convicted of crime? (This one involves a court order and the placement was made properly without violation of the youth's due process rights.)
2. How many survivors were foster care youth? Why were they placed in segregated congregate care? What other options were available, if any? Are there other options available now? (So, the government has to find willing family homes to take foster kids and when we can't we look for available beds for the age group needing to be placed even if it isn't the best environment and only the best option actually available. It is a matter of practicality and working with everyone to try to meet the needs of foster kids when foster family homes aren't available. In addition, the government prefers private contractors because if the private contractors are bad, they have to pay for it and not the government. But, it all needs to be reported to the proper enforcement bodies in order for private contractors to be held accountable.)
3. How many survivors were enrolled on an At Risk Youth (ARY) or Child In Need of Services (CHINS) petition to social services? (This one also involves a court order and the placement was made through social services/family court/mental health court.)
4. How many survivors were expelled from other schools leaving the parents to choose from any academic services provider that would accept them so their children aren't truant and are at least getting some education as required by law?

5. How many survivors were victims of domestic violence, abuse, and/or neglect where the legal guardians continued to fail them by enrolling them in a fraudulent and abusive program? Who is responsible in that case? Is it the parents at law? (Yes.)

6. Is homelessness better than institutionalization for the youth? Is it better for society? (Both of these are weighed by the government when determining how to address it. But, a university study in Colorado does show that homeless youth are better off than their institutionalized counterparts. They are more independent and graduating high school at much higher rates than those in foster care group homes. Source: <https://www.denverpost.com/2014/09/13/colorado-foster-care-youth-less-likely-to-graduate-than-homeless-kids/> . But, the homeless population is excessive in major cities around the country and most people believe that meeting the basic needs of youth is better than leaving them entirely on their own.)

7. Are and/or were the survivors/youth competent at law and ready for emancipation?

8. Have the survivors/victims reported crimes and torts to the proper enforcement bodies within the statutes of limitation? If not, why? If so, what happened with the reports? (There are ample examples at <http://www.beyondbusiness.net/youarenext.htm> of programs that were reported properly and/or that lost enrollments due to public information available informing consumers so they choose against enrollment. So, HEAL Mission has helped close more programs than are still on the active watch-list. We do this by helping survivors/victims with reporting it properly and providing information to consumers in hopes they choose not to enroll in any programs on our watch-list. But, HEAL Mission and COPE is NGO.)

9. Given law enforcement can't search nor seize private property of citizens (corporate or individual) without a court order and must rely on voluntary self-reporting as well as consumer complaints/complaints to the respective regulatory/enforcement bodies to become aware of violations and follow due process protocols, can we really be more transparent than the online public notices of agency action like in Utah now (see: <https://hslic.utah.gov/notices-of-agency-action>) without violating the US Constitution and/or HIPAA (Health Insurance Portability and Accountability Act)?

DEFENSE ATTORNEY FOR PROGRAMS AND/OR PROGRAM STAFF:

1. Who enrolled you? What reason did they give for the enrollment? (I'd object as irrelevant to the matter at hand unless there was a court order, then I'd accept it. In the event that would be hearsay, likely those responsible for the enrollment would be called to testify. I actually asked to go because I was misled by false advertising and thought it would be a better option than my abusive home environment at the time. I was wrong.)

2. Were you adjudicated and chose this program as an alternative to jail or prison? (Asked and answered. No, I was not adjudicated and have never been charged nor convicted of a crime. I have had and paid parking and speeding tickets.)

3. Were you expelled from other schools? What options were available for school for you so you and/or your legal guardians avoided fines or jail for truancy? (I'd object as irrelevant to the matter at hand. But, my answer to this one is also no.)

4. Can you identify what staff member or members caused you bodily harm and under what circumstances? Were any of your peers involved? Who initiated the physical altercation?

5. If you were adjudicated and sent to a farm or ranch as part of your rehabilitation or community service requirements, is that human trafficking if you were convicted of a crime given the US Constitution exception for forced labor as punishment for violating the law?

CONSUMERS/GENERAL PUBLIC

1. If it is fraudulent and abusive, why is it still open? Did anyone report it? Why or why not? (The youngest victim to report and testify against their abuser was 3-years old. Source: <https://www.independent.co.uk/news/uk/crime/three-year-old-becomes-youngest-trial-witness-6261012.html>)

2. What alternatives are there? (Preparing anyone to be independently responsible might start with the Emancipation Guide at <https://www.heal-online.org/emancipationprep.pdf>)

The truth is the government does all it can do within the limitations on government authority set by the US Constitution. The government needs people to report violations of the law to the proper enforcement body in the correct jurisdiction (where the violations occurred). To this end, HEAL Mission provides the reporting guide at <https://www.heal-online.org/report.htm> and is adding individualized reporting guides for each individual program/entity on the watch-list.

The justice system is more than willing and able to enforce the law while presuming everyone who testifies is sharing his/her honest perspective regardless of side and that everyone is innocent. The same goes for state and federal regulatory bodies that work with respective law enforcement agencies. On the defendant's side is the devil's advocate who will cross-examine the hell out of the plaintiff(s). On the plaintiff's side is the prosecutor who believed the case was proven beyond a reasonable doubt before entering the courtroom. See, if a prosecutor believes there is reasonable doubt, they won't prosecute. If a personal injury attorney believes the case is winnable based on a preponderance of the evidence, depending on actual damages, they may or may not recommend a settlement and Non-Disclosure Agreement out of court.

Consumers just want more information on which to base their purchases or contracts for service. And, that's just the ones smart enough to exercise due diligence in the first place. The general public and consumers do not understand why fraud and abuse isn't being reported because both are already crimes and torts.

What's the big secret? The legal guardians or whomever signed the enrollment contract (there was a case I assisted on where a non-custodial parent had visitation and lied to a program to enroll their child and then wouldn't disclose where they hid the child and it took over a year to locate the child and bring the child home to the custodial parent) owe the duty at law to act in the best interest of the individuals for which they act as legal guardians. And, that includes reading and understanding any agreements they sign to contract for services from third-parties. And, those not ready for emancipation in the eyes of the law require supervision and that's assumed of everyone who has not yet reached the age of majority when emancipation is automatic. But, a minor can prove himself/herself independently responsible and file for emancipation before reaching age of majority. And, that's the solution at law. The law demands proof. It requires proof of competency at law unless recognition is automatic as a matter of law like in the case of emancipation when reaching age of majority. It requires sufficient evidence that a crime or tort occurred when and how reported. It requires everyone be willing to be cross-examined by opposing counsel for the sake of justice and fairness. And, for those who forfeited the opportunity of justice by letting the statutes of limitation on their causes of action expire, congress is not a substitute. And, they represent entire districts not individuals. Lawyers represent individuals in civil court and the entire population of the county, state or country in criminal court. Crimes are public offenses because they offend everyone (even though convicted of robbery is still angered when his belongings are confiscated in prison, see: <https://law.justia.com/cases/massachusetts/court-of-appeals/volumes/14/14massappct696.html> and <https://www.prisonlegalnews.org/news/2009/apr/15/institutionalized-policy-to-deprive-appeal-of-confiscated-mail-violates-constitution/>). So, an injury to one is treated as an injury to all in a criminal trial.

Congress is a numbers game and the largest estimate known to me of the number of youth in segregated congregate settings in the US was 500,000 per year. That's been cut by approximately 40% since that estimate was provided. So, it is maybe at 200,000 now. And, 200,000 is .0609% of the US population. So, that's about 6 in 10,000 youth impacted by segregated congregate care placement. And, 292 are estimated to die in those placements annually. However, a Fox News Contributor, Geraldo Rivera, recently claimed on an episode of "Hannity" that there are 6,000 such facilities in the US for youth which would average to 1,500,000 (if small are 0-10 (0) capacity and large 500 capacity with average of 250 per facility) but include not just adjudicated youth, foster care youth, at risk youth, and disabled youth, but, also unaccompanied minors who entered the US illegally. 6 in 10,000 works out to 44,520 if applying solely to the demographic of those under age 18 in any segregated congregate care setting. My personal estimate I would use at this time based on multiple sources is 44,520-200,000 youth are currently in segregated congregate care in the US, which may not include unaccompanied minors who entered the US illegally. In addition, when offending entities are properly reported with sufficient evidence, law enforcement and licensing (where there is one) do shut them down. But, congress likes to pretend they are superheroes and some just adore mutual admiration societies that commiserate like champs. The good news is there are Senators like Rand Paul and his staff that let you

know what his office can do and when you've barked up the wrong tree and recognize you are a great watchdog who just needs to be pointed in the right direction. It is law enforcement with the canine units, not congress. I will bark at you and keep vigilant watch at the mission.

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.

For More About COPE and the HEAL Mission, see:

<https://www.cope.church> and <https://www.heal-online.org>