

Broadcast Ten, ¶ 5: The reported information on conviction rates of murder defendants was obtained from statistics compiled by the Texas Criminal Justice Policy Council. Duncan Aff. ¶ 87.

[5] In 1983, McLennan County also had the lowest rate of sending convicted murder defendants to prison. Half went to TDC, the other half got probation. While Dallas and Harris Counties seldom refuse to charge a person arrested for DWI, each year Fezell turns away about 100 DWI suspects arrested by police or the DPS.

Duncan has produced no evidence, other than his own self-serving testimony, to back up his claim for the "fair accounts" privilege.

Where are the statistics?

They are not in Summary Judgment Evidence.

86. Part 10 continues:

"Feazell has been criticized for plea bargaining a probated sentence for a man who entered this Waco home, shot and killed his estranged wife, and then wounded another person. The Texas Criminal Justice Policy Council reports McLennan County had the highest dismissal rate in the category of murder and voluntary manslaughter of all counties surveyed."

"In 1983 McLennan County also had the lowest rate of sending convicted murder defendants to prison. Half went to TDC, the other half got probation."

I learned of the case described in the first part of this quote from Bill Johnston. The defendant in question, Sheldon Mark Herring, was a Waco banker who killed his wife and shot a man named J.D. Carter and then attempted to commit suicide. Mr. Herring was recovering in a nursing home when the plea bargain was consummated; Waco police officers told me that if the trial had been delayed, Mr. Herring could have stood trial for killing his wife and attempting to kill Mr. Carter. A true and correct copy of the records I obtained on Mr. Herring's case is attached hereto as Exhibit 52.

87. I obtained the statistics from the Texas Criminal Justice Policy Council either from the Council directly or from an administrative aide to a state senator. The number of counties included in the survey was quite large. That Council report also contained the figures on McLennan County having the lowest conviction rate for murder.

88. The series concluded: