

SENTENCING AND PRISON REFORM

Lengthy sentences do not deter crime, and neither do short sentences. What, then, can provide both fair sentencing, AND ensure public safety? If you will allow me to, I believe I can help answer this question from an informed perspective that you may not have considered before.

I am a long-time prisoner. I have been incarcerated within the California State Prison System now for going on 30 years. The first couple of those years were spent in the Los Angeles County Jail. The next 18 years were spent on level IV mainline prison yards, before quitting the mainline, with all of its inmate politics and violence, by entering into the so-called "Sensitive Needs" program. And through my positive programming and rehabilitative efforts, I have worked my way down to a level II facility (even with a Life w/o the Possibility of Parole sentence). So I have amassed quite a bit of experience in what works and what doesn't within the system.

When I entered into prison, the political winds of the day were to get tough on crime and dole out lengthy prison sentences as a punishment and deterrence to criminal behavior. But this approach wasn't as effective as imagined. It really just led to massive incarceration and more prisons. What the tough-on-crime folks didn't understand here was that offenders rarely ever consider the consequences of their criminal act (assuming they would know). Offenders either don't think that far ahead, or believe they will get away with their crime. And some simply don't care due to their self-destructive state of mind from a variety of causes, ranging from perceived hopeless social disadvantage to substance abuse. And yet others suffer from mental disability and mental illness. But whatever the individual reasons, history proves that the penalty itself has never been a deterrent - especially for youthful offenders who are not likely to consider or even know what the penalty is.

The other important fact that the tough-on-crime folks didn't consider was that, even if all of the criminals of one generation are locked away for lengthy sentences, what about the next generation of criminals? Where will California put that generation? And the next? Will California be known as a prison state with an ever expanding prison system to rival even entire countries?

Fortunately, today's leaders acknowledge how unsustainable and embarrassing such a proposition would be. And so there have been attempts at sentencing and prison reforms over the last decade. As a result, many brave lawmakers and district attorneys are receiving a lot of flak for some of them. One can see on the nightly news how such well-meaning attempts as Proposition 47 are being blamed for the increase in brazen thefts from stores. It has become a disaster, because who can deny that such a light penalty for these types of thefts is encouraging them? And I believe the reason why such well-intentioned reforms run into these kinds of problems is because its difficult for the non-offender, working to author these reforms, to fully understand the offender mentality. And its equally difficult for the person who hasn't lived in the prison environment to know how effective rehabilitative efforts by the State really are; and what is lacking to successfully eliminate recidivism. Here is where I think I may be able to contribute to the discussion and imagination of. future reforms.

As mentioned above, lengthy sentences are not effective in deterring crime. And light sentences are not deterring them either. And most justice and prison reforms thus far seem like so many cautious bandages placed over a much larger problem. Eventually, a bold reconfiguration of an antiquated and ineffective justice system will have to be achieved by an equally bold leadership. A clearer definition of what is expected through incarceration needs to be established.

My assumption here is that incarceration is for the purpose of rehabilitation, so that the released offender does not reoffend. In my mind this means that the offender shouldn't be released until he or she is rehabilitated; or what was the point of incarceration? Unfortunately, determinate sentencing is no gauge of how long it will take for an errant person to achieve rehabilitation, if they do at all. In fact, the only group of offenders in prison who do regularly seek and find rehabilitation through personal effort before release are the indeterminately sentenced (lifers). And its because they have to be found "suitable" for release by a parole board, first, before release is possible for them. This means they have to seek rehabilitation through insight into their criminal behavior. In so doing, they come to that best deterrent of crime that exists: Remorse for what they have done. And before lifers go to the parole board they are seen by a psychologist to assess what kind of risk the offender poses to society if released. All of which explains why lifers have the lowest recidivism rate of all released offenders.

The solution that best presents itself here is in the idea of indeterminate sentencing of all felons, to inspire in them the effort toward rehabilitation that is today unique to the indeterminately sentenced. And while this may seem extreme or excessive (because it has the potential of a life sentence for low-level felons who don't want rehabilitation), the fact is, it puts the overall length of incarceration squarely in the hands of the offender based on his or her willingness to participate in and achieving rehabilitation. And if such a reformation were constructed fairly and logically, the offender would not be incarcerated any longer than it takes for his or her rehabilitation. This is much more humane than an arbitrary determinate sentence that does not consider any of this. And it best serves the offender because it offers the possibility of a better and more fulfilling life as the result of his or her rehabilitation. This is preferable to the current product of incarceration, which leaves the paroling offender angry at and alienated from society. Can anyone expect this offender to have a conscience toward the community in this frame of mind? The well-being of society depends upon the offender's rehabilitation before release. Determinate sentencing just doesn't offer this.

What has determinate sentencing traditionally inspired in the offender? Those with determinate sentences rarely have any desire or motivation to work for their rehabilitation. Because they know they are getting out anyway. In most cases they are just sitting around, waiting for their parole date to arrive so they can go home to the same life they were living before arrest. And these offenders are usually substance abusers and addicts who very much desire the life they lived before prison. This was the norm until the recent credit earning schemes which reduce a prisoner's sentence if he or she participates in education and rehabilitative programs and earns Milestones, etc. This has largely been

successful in motivating prisoner's to participate in these positive activities. Unfortunately, these programs don't do enough to ensure the rehabilitation of these offenders, who are in most cases just doing it to get out sooner. Rehabilitation itself is not a factor for them.

Another blind spot to lawmakers, who believe the safest focus and effort is in finding ways to release the so-called nonviolent offenders, is the fact that every nonviolent offender is just a crime or two away from becoming a violent offender. If you look into the backgrounds of most violent offenders you will see many nonviolent crimes and convictions. What this means is that there should be no consolation in the fact that nonviolent offenders are being released rather than violent offenders. The bottom line is that a life of crime eventually leads to a violent offense. And that's why it is equally important to rehabilitate the nonviolent offender as it is the offender who has ended up committing the violent offense.

And what does meaningful rehabilitation look like? As an offender, I know it means reaching the point where you gain insight into why you were the person you were when you committed your crime; insight into the pain you caused the victims and society; and developing that all-important remorse that makes you never want to commit crime again. And not only that, but learning how to live successfully without having to commit crime to get the things you want out of life. These convictions come from two sources: (1) Learning how to succeed in life without crime by learning a marketable skill, and how to handle money responsibly by learning personal finance. These are basic life skills that the overwhelming number of offenders just don't know, and (2) Offenders need to learn and believe that they are a part of society rather than outsiders that nobody wants. They need to learn that the community they belong to depends on law and order for the well-being and happiness of all of its citizens. This may seem ridiculous to some who see this as self-evident, but crime largely has its roots in ignorance of the most basic life skills and understanding of a person's connection and value to society. Most offenders in here have no idea of how to legally succeed in life, or feel connected to successful society. This is key to rehabilitation.

Since the beginning of my incarceration I have been shocked to see people parole who still didn't know how to balance a checkbook, how to financially plan for their future, or even have a work ethic or skill to find employment. I have been told by so many paroling offenders that they are scared to parole for just these reasons. They don't know how to survive except through crime! Yet they are released because they are nonviolent or because they have finished a determinate sentence. This does not serve society or the offender because it is a tragedy waiting to happen. Nobody wins. And it has been so sad to see some of these same people, whom I got to know as good at heart, back in prison later. And some with much more serious offenses.

How, then, can we prevent this recidivism by inspiring all offenders toward rehabilitation? To effectively answer this question, it will require you to look through a specific lens that we only look through when one of our own children or family members gets into trouble. Imagine if your son, daughter, brother, sister, mother or father committed a felony for some reason. You would instantly be filled with worry and compassion

for your loved one. Because no matter what they did, you know the good side of that person. And through your disappointment and embarrassment, your love and understanding for them would want mercy for them, and another chance. If we looked at every offender through that lens, I doubt we would have merciless sentencing, life sentences, or even the death penalty, because we wouldn't want that for our own loved ones if they committed a crime. Instead, we would want a rehabilitative environment for them, which offers another chance at life for those who can show that they have rehabilitated themselves. And from my experience, the motivation for this begins with an indeterminate sentence, and a rehabilitative environment for the offender.

Viewed through this lens, prison can no longer be seen as a tool for punishment and revenge. Because how does an offender develop a social conscience when he or she believes that society hates them and thinks they are just animals to be locked away? Prison needs to be viewed as a rehabilitation center to teach the offender what he or she doesn't know or believe: That society values him and her as human beings and wants to teach them how to succeed in life. To teach them what it means to be a citizen and part of society. To help that person develop a "social conscience." Society and the offender can be no better served than by this approach.

We know that indeterminate sentencing provides the incentive toward rehabilitation. Because we know that the vast majority of people in prison want to be free again. As mentioned above, lifers have to take rehabilitative classes, complete self-help courses to develop insight and remorse, and are expected to participate in basic education and vocational classes. They also have to see a psychologist to determine how mentally sound they are and what sort of threat they represent to society before seeing a parole board to be considered for release. This all works to inspire rehabilitation in the offender who wants to see freedom again. And this should be the case for all felony offenders before release.

What would this look like in practice to be effective and fair? To begin with the penal code would be simplified in that all felony offenses, and multiple repeat misdemeanors that become a felony, would result in an indeterminate term, to be completed upon the offender's rehabilitation. This means there would be no more need for extreme sentencing, life without parole, or death sentences. Because there will be the potential for a lifetime prison sentence for offenders who choose to remain a menace by refusing rehabilitation. And a release of all offenders who do seek to change, and achieve rehabilitation. And so it will be up to the offender how long they will potentially stay in prison. What sentence could be more fair to both the offender and society? It serves both compassionate sentencing, yet also protects society from the release of still-dangerous people.

However, the risk of abuse in keeping people beyond their rehabilitation (for potentially life) due to politics or bias is always a cruel and discouraging possibility, because people aren't perfect. This necessitates the development of an unambiguous criteria for all levels of offenders, by better minds than mine, as well as a fair appellate process. Without these, indeterminate sentencing would just devolve into extreme sentencing again, without regard for rehabilitation; another opportunity for cruel people to be cruel.

Today, when an offender enters into the prison system, what satisfies the attempt to provide rehabilitation is arbitrary. Basically, wherever there is a job or educational opening, the offender will be assigned there for "institutional convenience" rather than to facilitate the offender's rehabilitative interests and needs. This means the offender could be assigned to work in the kitchen or as a building porter, while still never learning how to read or learn a marketable skill. And even if the offender is fortunate enough to be assigned to a vocation, it is usually never one they are interested in or want to learn. It is, again, a matter of institutional convenience. The result, of course, is that the offender is where he or she doesn't want to be. They know they were just thrown in there to fill a space because nobody actually cared enough to consider their interests. And when they are met with a teacher who is burned out trying to teach offenders who don't want to be there, what do you think the outcome is? Of course, there will be those who might cynically argue that the offender was nevertheless given the opportunity to learn "something*" and could have taken advantage of it. But couldn't many who make that argument have said the same thing when they sent their kids to college and they dropped out to pursue something else? Did they disown or condemn their children to failure then? Coming back to the lens, you can't expect people to be inspired to learn what they don't have any interest in as a career. So what is the point in trying to teach someone a vocation they don't like and will never use once released as a marketable skill? Isn't it more fruitful to teach someone a skill they are interested in and will actually use to make an honest living once released rather than resorting back to crime?

What would a rebuilt, rehabilitative system look like? To begin with, when an offender enters into the prison system they should be met with both a psychologist and a "Guidance Counselor." The purpose of the psychologist is to develop a consistent examination and treatment plan with the offender to get to the root of why they became the person who committed their crime. And determine what that offender's treatment needs will be to help them resolve any psychological trauma or issues they suffer from (a common problem among offenders). Coming to terms with issues that are unaddressed and psychologically buried, and resolving them, have fundamentally positive effects on people. It is something that lifers experience, largely through their self-help and rehabilitative courses. It helps them finally become better people who can better control their emotions and reactions to stress and other stimuli.

And linked with mental health should be the meaningful treatment of substance abuse and addiction. This would also be the proper forum for addressing any violations of rules against substance use, rather than punishment. Punishment doesn't work to help people who are substance abusers and addicts. If anything, it only adds to the reasons of why they keep using. And it should come as no surprise that the majority of offenders are substance abusers.

The so-called "Guidance Counselor" would be just that: a counselor who sits down with the offender to find out what their interests are and tailor an educational and vocational plan that, once agreed to, the offender will be expected to accomplish as part of their rehabilitation. This means all reasonable efforts should be made to place the offender in a facility where those educational and vocational opportunities exist so

they can be enrolled there. The successful completion of these efforts should be rewarded with graduation ceremonies and certificates of completion to affirm the offender's successes and foster positive feelings of achievement. The development of self-esteem is a key ingredient to rehabilitation, because it allows the offender to see and have confidence in their ability to succeed in life without committing crime. And from here there should also be guidance in how to find employment in the desired field(s).

Which leads us into the need for all inmates to learn the very basic skills to succeed in life. Because it doesn't seem right to lock someone up for committing crime, yet not teach them how to do things like manage money, balance a checkbook, teach them how credit works, how to fill out a job application, generate a resume, or interview for a job. Most offenders don't know how to do these things, and is why many of them resort to crime to get what they want out of life. Is it fair to just release them without these basic skills, hand them a few hundred dollars and say, "good luck?" And then at the same time be appalled when that person fails and comes back to prison for another criminal act? I've never understood this. Learning these basic skills should be requisite to release. Doesn't the State assume this responsibility when it incarcerates people under the guise of rehabilitation, and will one day let them back into society?

Another aspect of the current prison system, that never facilitated rehabilitation, is the restrictive nature of incarceration. What I mean is that offenders are so far removed from normal human life as to foster an isolation and an artificial state of being. For instance, in the name of "institutional safety and security," offenders can't wear regular clothes, can't have access to knives, glass, or practically any of the implements that normal people use in everyday life. The logic behind these restrictions is that offenders would try to harm each other or correctional staff if they had access to them. But does this really make sense? If an offender is at a state in his personal development where he or she would do something like that, wouldn't you want to know that "before" they got out of prison? Why should society be the experimental ground for this? Incarceration should be an inclusive environment where life is as "normal" as possible so the offender can learn how to behave in a social environment not very unlike what he or she will experience again when released. Release should not be a culture shock for the offender. Imprisonment should be as close to the free world as possible. This means monitored access to technology like the internet, use of all normal dining utensils, and normal clothing, etc. In fact, there should be very few restrictions to normal, everyday items of life as are in use in society. Because using these things responsibly will be a proof of a person's rehabilitation. And misuse will be proof of more rehabilitative efforts being necessary before the offender's release. Temporary restrictions from the item(s) being misused will result and be earned back. The point here is that when you give people the opportunity to misuse things and they don't, you have a proof of rehabilitation. And you have proof of otherwise if something is misused. Waiting until the offender gets out to see if they will misuse these things is a strange logic, because it is a certainty that some offenders will indeed misuse them. Identifying those people before release at least allows for a

correction and targeted rehabilitation before the offender is released into society. And imagine the relief to the court dockets and potential crime victims throughout the State by catching these people before they are even released to reoffend? This should be the mission of corrections. And the idea is not so different from the European model of incarceration that enjoys a rather high success rate.

And when parole finally arrives for the offender, they will require more than a few hundred dollars and freedom. In this, I have always wondered why the State doesn't offer rehabilitated offenders jobs in State projects to facilitate apprenticeships and on the job, paid training until the offender can go out on their own? And why does treatment in sober living homes come after incarceration rather than during? And shouldn't release also come with a temporary community service where the ex-offender shares his or her experiences and enlightenment with at-risk youth in troubled neighborhoods to help deter them from crime? The State wastes a valuable resource here in its crime prevention efforts, because these are just the kinds of people that troubled youth identify with.

Parole should really just entail job and educational assistance as well as the mentioned community service. And it shouldn't last longer than a year. And after five years of not being in trouble, the ex-offender should automatically be pardoned so they no longer have a felony on their record and can move on with a more successful life. Why should a rehabilitated person who has done well be branded a felon for the rest of their life?. Rehabilitation is a rejection of past criminal thinking and behavior. The State should allow such a rejection to have its full effect.

I know I have only scratched the surface of the massive reforms I have proposed here. But it is my intention to merely offer a view from inside of the system, separate from the charts, graphs, and opinions of those educated in a much different school. I see with my own eyes what works, and what doesn't before you see the effects out there in society. So I hope I have been able to contribute to the conversation of justice and prison reform in a positive way, and am always open to do so.

Thank you for your time.

Sincerely,

Michael Williams
CDCR #J13637
CSATF, A2-17-4up
P.O. Box 5248
Corcoran, CA 93212