

A speed trap in a small Midwestern town, circa 1952. That is how I equate the current state of criminal justice in the United States today. The unsuspecting citizen who explores his options in other states and has little or no roots in the area is easy prey for victimization by the system. The long-hair, the African American, the female, any outsider, even someone like a young independent boy with sagging trousers and an in-your-face sound system in his car thumping rap music - these are the naive who get railroaded because the cute girl who they found eyeing them at the local hang out is actually the daughter of a police dispatcher, or her father doesn't approve of the boy and her uncle is a county sheriff. The boy is too head-strong to be deterred by the threats and suddenly he is in the system, charged with severe felonies and facing years or even decades in prison. It can happen to anyone, any age, in any circumstance. It happens to local citizens also, the adult brother who won't share his inheritance with his sister, the property owner who won't acquiesce to the energy company that invokes eminent domain to the land, the business owner who defies the newly-arrived residents who have joined the local board of commissioners and are now making untenable regulations that impact his livelihood. When you end up accused of a crime and facing the courts, there is rarely fairness or justice involved. It's a closed game where local politics and the buddy system rule the day. Decisions that impact lives are often made arbitrarily and without recourse. When relief is afforded, it may take years or decades. The system we have in place in the US today will be looked back on in fifty years as crude and barbaric.

I have been in the "system" for the greater part of my entire life. It started as the child of a single mother in Southern California in the 1960's. The juvenile justice system was used to get me and my original siblings out of the way of my step-father and the new family he had created with my mother. I ran away and basically never stopped running or bucking the system. The relevance of that is, as a very young boy I experienced first hand how broken the system is. In my travels I discovered that justice is administered at the local level and the system is as different as the people who implement it. As a young teen I felt strongly that the system should be fair, equally applied, and consistent. As it stands, a person accused of a crime in one state may get probation, and in another state or even the next county, receive a sentence of years in prison for the same offense. It shouldn't be at the whim of a pissed off judge or an overzealous prosecutor who has abused his absolute charging discretion.

I advocate for a nationalized system of criminal justice. Not simply allowing the federal government to take over the states - the federal system in place today is in many ways even more hideous. But think about this: Suppose that a consensus were reached among all US citizens that would abolish state control of criminal justice and create a national system that was administered locally. Instead of draconian sentences imposed for

crimes in conservative states, and a nominal sentence imposed for the same crime in a liberal area, let's have a fair sentencing system based upon the severity of the crime and the criminal history of the person. Let's say that right now a minority-class offender in Detroit is convicted of selling crack cocaine, his first offense, and he is given a life sentence. The same person in Seattle would perhaps face a year in jail. If it were his second offense he may face 2-3 years in prison, and his third offense would be set at 5 years. The offender knows going in exactly what he is facing. Upon conviction for his third offense, he's getting some serious time. The poor bloke in Detroit may not have even thought that innocent transfer of cocaine from one friend to another could land him in jail, much less for a life sentence. Let's take the arbitrariness out of sentencing and make it not just uniform, but let's make it reasonable. Face it. There is no place in our advanced society for sentencing citizens to hundreds of years, or life, or without-parole sentences.

Regardless of who you are or what you have done, after 15-20 years of incarceration you simply are not the same person. You deserve to opportunity to redeem your life and start anew. Yes, there are the incorrigibles, those who have committed hideous acts and shown no remorse, those who admittedly will harm or kill again. And yes, they must be isolated for the protection of our society. But again, there needs to be a way for that person to earn his way back to society if he truly changes. We have civil commitment statutes in place in almost every state now where sex offenders may be sentenced for the crime, serve out their sentence, and then involuntarily committed after having completed their sentence. These unfortunate souls are now in limbo, stuck in a prison where they have no release date and no right to resume membership in our country even though they may have already paid their debt to society. Often the statutorily prescribed criteria are that the sex offender must be reviewed every two years for release. To obtain release, the person must pass rigorous testing procedures like the plesmograph (a devise attached to the penis that detects arousal when the subject is shown video or photos of deviant sexual acts) and lie detector tests. This smacks of A Clockwork Orange. Once the offender passes these hurdles, a panel of five psychologists must unanimously agree that the person is not at risk to re-offend. Only then is the offender eligible for release. I challenge you to find five psychologists who are willing to put their careers and reputations on the line to certify that the person will never re-offend. When you watch a horror movie and see people eaten by sharks or chopped to bits by a psychopath with an axe, do you find it stimulating or mildly titillating? Does that mean you are a viable risk for becoming an axe-welding killer? Not likely.

Notwithstanding the problems with this civil commitment scenario, the same principle could be applied to violent offenders and the there-strikes or so-called career criminal. Prisons document behavior patterns of

inmates, and caseworkers and parole boards use this information to determine risk before granting parole. The prison system looks at the offender who takes advantage of self-improvement programs that may be offered and other factors to see if the person is amenable to treatment and change. When the person is caged with a three-hundred year sentence, ineligible for parole, or sentenced to life, there is no incentive to change. All the programming in the world won't help the person with a life-without-parole sentence. We need to abolish draconian sentences and remove discretion from the tag-teams of prosecutors and judges who have wide-ranging statutes they can arbitrarily apply. The judge should function only as a referee of the law during the trial proceedings. The jury should function as the finder of facts. The statutes should set an equitable range of incarceration, and the parole committees should determine when the offender has earned the right to again live in our society.

The second part of this criminal justice reform model is rehabilitation. Most prisoners are simply warehoused until they can be released. Private, for-profit prisons have sprung up like mushrooms across this country where state prisoners are shipped anywhere in the United States that the state chooses to contract with these companies to store them. Conditions are appalling. Food is provided and apportioned based on the bare minimum and the most cost-effective way to slop the kennel. The diet can consist of nearly 100% processed foods and canned goods. Fresh fruit or meats are never purchased to feed these masses. In some private prisons, the consideration of cost cutting even applies to sanitation. Inmate janitors are instructed to dump and reuse trash bags instead of installing a new liner because at one half-cent apiece, this adds up to a drain on the profit margin. Medical care is another place that the states cut costs to lower the expense of maintaining prisoners. Adequate medical and dental care is usually statutorily mandated to be provided for prisoners by the state. The cost can be very substantial, and when there are mistakes or failures that cause severe injury or death, the resulting lawsuits and settlements can add millions to the tab. Once again, private companies step up to provide these services at a bargain rate. The contracts include all necessary medical and dental services, and assume costs for litigating any suits or settling any malpractice claims. Prison Health Services, Corizon Corp. are two major names in private for-profit prison healthcare providers. They have appalling track records of allowing inmates to die instead of paying for treatments that are readily available to free people, ignoring treatable cancers until it is too late, refusing AIDS or Hepatitis C treatment, discontinuing necessary medications altogether or substituting them for cheaper alternates that don't work - such as asthma or diabetes medications, and performing temporary cavity fillings or extraction of teeth while refusing caps or dentures. A lifer gets all his teeth pulled and then has to gum his processed food for the rest of his sentence.

Even a prisoner of means cannot pay for his own medical care to overcome this travesty. And prisoners that are veterans and have full VA benefits are not allowed to access to the free healthcare they are eligible for. For further details on the national track records of these private companies, reference Westlaw® or Lexis® case citations, or visit the archives of Prison Legal News @ PLN .com.

States seem unwilling to reduce their prison populations by enacting early release programs, award additional good time credits, or deal with the problem at the district court level by utilizing community corrections or other alternatives to imposing prison sentences. They continue to warehouse inmates for longer sentences and build more institutions to keep up with the flood of new arrivals from county courts. These caged souls sit in limbo in crowded cells and sardine-can pods, milling about and losing their health from poor diet and a sedentary lifestyle. Often the staff, be they medical, administrative, program, or prison guard are a little more than psychopaths with uniform and a government job. We like our prisons to be located in bleak and sparsely populated areas. That doesn't present much of a labor pool to draw from. Who wants to work in a correctional system anyway? There are the rare socially conscious caseworkers or perhaps a person with a background in law enforcement that considers several years as a correctional officer as a stepping stone. But many are unemployable in the private sector due to emotional or skill deficits. Even if you can't function tending to the fryer at a fast food restaurant, you can land a government job with benefits at the local prison. When a large proportion of the Department of Corrections is staffed by these defective personalities, the system becomes arbitrary and irrational. Try reforming good people who have made a serious mistake in their lives when they are subjected to this environment for years on end. Every waking hour becomes a series of grievances and insults. The negativity is like a dark cloud that hovers over the person, and he or she carries it to the streets when they are released.

Simultaneously, most states have another government entity that often functions at a disproportionate ratio of cost-verses-production. I am referring to the Highway Department. Who hasn't seen a road crew fixing potholes that consists of a truck driver, a loader operator, three or four employees holding shovels, two or three employees setting out cones or collecting them, and two employees holding signs that instructs passing cars to stop or go slowly? And all making top wages for laborers or operators, and collecting full government employee benefits. Why not nationalize the system and abolish the highway department, combining it with the department of corrections and creating a system that puts prisoners to work. Instead of a young person with no education and no work experience sitting in prison for five years and then telling his parole officer that he can't even get a job at Taco Bell because they don't want to hire a felon, that same young prisoner could be allowed

to work and earn. The prerequisite would be a GED, earned in classes before being eligible for the work program. The reward would be an income. The prisoner would be paid a minimum wage that would amount to enough earnings to pay off his child support, restitution, and court costs. Some room and board and medical expenses can be deducted, a fair percentage placed into a release account, leaving the prisoner with his debits and obligations paid, and several hundred dollars he can spend as he wishes.

When he or she is paroled, the prisoner is debt-free, current on child support, has say \$10K. in savings, and is an experienced equipment operator. The prisoner is competent, dependable, physically fit, and has developed a pattern of getting out of bed and working full time. The prisoner is employable, skilled, and dependable. The gate money provides for a vehicle, apartment, clothes, tools, etc. He or she is ready to resume their place in society and doesn't need to depend upon social services to put food on the table.

We could get back to the place where we value our citizens as worthwhile human beings and focus on rehabilitating them as productive members of our society. We could stop paying employees just to show up and get actual return on our investment. We could let our prison system become a self-sustaining factory of rehabilitation, rather than an overpriced dog kennel that churns out anti-social and angry miscreants.

We have become a society that has little or no concern for its most valuable resource - its citizens. Our judges, prosecutors, police forces and citizens all seem to agree that if a person runs afoul of the law, that person has forfeited the right to be human and deserves to freeze to death in the dark while being brutalized by fellow convicts. Even our comedians and television shows regularly depict law breakers being raped or killed in prison. In reality, our federal court and prisons have become a nightmare of injustice. Federal laws and sentencing schemes have created a system where arrested people are offered a downward departure for cooperating with the state by informing on others and pleading guilty. If an innocent person insists of his right to remain silent and have a jury trial, the courts increase the prison sentence for exercising that right. Federal conspiracy charges carry the same weight as the actual crimes themselves. If someone earns a downward departure by claiming that you were involved in criminal acts, that testimony becomes the basis of a conspiracy conviction. By asserting your innocence, if you are convicted, you may increase your sentence from one decade to three.

Once in the federal prison system, the conditions are inhumane. The prisons are violent and depraved. Prisoners are routinely shipped from one facility to the next, spending time in half a dozen institutions across the nation in the space of one year. Or, they are just constantly on the transport. Moved in shackles, handcuffs and waist chains on a bus or van for several days and then dropped at a holding facility, weeks or months later

the prisoner is again transported several hundred miles and then held again. This can go on for years, preventing the inmate from maintaining contact with family or friends, and often even the mail cannot catch up with the prisoner. We are accustomed to hearing sporadic reports about our state prisons: an inmate passed away or attempted to escape, a guard was caught bringing in contraband. But there is a media blackout on the federal USPs. Body bags are a weekly and sometimes daily occurrence in the federal system. You never hear about it. Unless it's a quick quip about Unibomber Ted Kazinski at the Supermax in Florence, Colorado, or Timothy McVey being executed at Terre Haute, Indiana, the public hears nothing. In an Orwellian twist, we truly have become a society where one pre-dawn raid on a residence results in the person being taken away to the building with no windows, and never being seen again.

Let's find a way to get back to the principles of fairness, justice and rehabilitation before this unsustainable model we have embraced spins completely out of control and contributes to the downfall of our great nation.

JCC  
Steve De Logé

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