

Punishment, Rehabilitation, and Restorative Justice
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"The purpose of sentencing is PUNISHMENT!" I remember those words very clearly. They were spoken by a prosecutor during one of my (many) sentencing hearings. This particular one was in the early 2000's in Stockton, California. I had pled guilty to evading the police during a high speed chase and was looking at a few years in prison.

The prosecutor was getting frustrated at the amount of people that had come to my sentencing hearing to speak up on my behalf. They all kept saying how well I had been doing since my release from prison and were asking the judge to give me a chance because it would be in my best interest to go to a drug program (I was high on Crack during the chase) rather than send me back to prison. Neither myself nor the people who came could understand why I should be sent back to prison after so much evidence had been presented showing that I had been working, paying my bills, going to church, and had been ready to begin college in a few months. I had simply relapsed on drugs and ran from the police. I didn't steal or rob anyone. The constant litany of "rehabilitation" versus "incarceration" prompted the prosecutor's exasperated statement.

The judge did however, sentence me to state prison. A light sentence of two years with half-time, but prison time nonetheless. And he was right to do so. The law clearly stated that the purpose of sentencing was punishment, and I met none of the factors that would have induced the court to give me probation instead of a prison sentence.

A few years after that the California Department of Corrections Changed its name to The California Department of Corrections and "Rehabilitation", CDC was now CDCR. My first thought though, was that the name change was pretty much meaningless, because the penal code still said that the purpose of sentencing was punishment. Apparently I was not the only person who thought so because in 2016 AB 2590, The Restorative Justice Act of California, was passed by the California legislature and signed into law by then California Governor, Jerry Brown. The Bill, among other things, deleted language in the Penal Code stating that the purpose of incarceration is punishment and replaced it with language stating that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice.

The bill itself states in pertinent part:

"1170 (a) (1) The Legislature finds and declares that the purpose of sentencing is public safety achieved through punishment, rehabilitation, and restorative justice....

(2) The Legislature further finds that programs should be available for

inmates, including, but not limited to, educational, rehabilitative, and restorative justice programs that are designed to promote behavior change and to prepare all eligible offenders for successful reentry into the community. The Legislature encourages the development of policies and programs designed to educate and rehabilitate all eligible offenders. In implementing this section, the Department of Corrections and Rehabilitation is encouraged to allow all eligible inmates the opportunity to enroll in programs that promote successful return to the community. The Department of Corrections and Rehabilitation is directed to establish a mission statement consistent with these principles."

I was particularly pleased when I saw this piece of legislation. I believe that all three elements; punishment, rehabilitation, and restorative justice are necessary components of an effective and just Criminal Justice System. Without rehabilitation we simply return to society with the same maladaptive behaviors we came in with, and without a restorative justice component the victims of our crimes are often forgotten, and punishment by incarceration (in spite of the current debate about its usefulness) is a legitimate means of deterrence and for those who are not willing to be rehabilitated it is at least a way to stop them from harming society for the time that they are actually incarcerated.

There do seem to be some problems with the bill. One problem is that the bill nowhere defines what it means by punishment, rehabilitation, or restorative justice. I wrote a letter to the bill's primary author, California Assembly Member Shirley Weber, asking if she had any specific definitions in mind when the bill was authored, but I did not receive a response.

Another is the lack of Restorative Justice Programming. So far, at least in the prison I am currently housed at, there seems to be a big push toward rehabilitative programs. There are however, no programs specifically geared toward giving victims of crime a voice. Yes, we should be rehabilitated so that we can become contributing members of society instead of burdens that society must bear, but there seems to be an appalling absence of focus on the fact (especially on the part of prisoners) that we have committed crimes against PEOPLE, and those people are being left out of the process.

Another problem is that there seems to be (again, at least in the prison I am incarcerated in) a lack of understanding of the Department's mission statement, which is supposed to have been established as a result of the passage of AB 2590. There is a pervasive attitude held by most of the guards at R.J. Donovan that we are here **so that we can be punished**. The law however, states that **being here** is the punishment. As a result of having committed a murder, I have lost a number of the rights that are the common inheritance of citizens of this great country; and I must earn them back. I don't believe I should just "do my time" and then get out. I should demonstrate that I am no longer a menace to society and that instead of preying upon its members, I will be a productive contributing member.

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I am constantly aware that most guards are of the opinion that we should "do our time" and then go home and get rehabilitated. My experience is that that does not work; either for prisoners or society. I have served four prison terms and on each one I waited to go to a "program" until I was released. I made no effort to change while I was inside. The results were not good.

The Restorative Justice Act of California is a major step in the right direction and if it is implemented correctly will be a model that other states can follow.

Author Bio: Joseph Scheinuck has served fourteen years of a 25 to life sentence for first degree murder in the California Department of Corrections and Rehabilitation (CDCR). Joseph is committed to living the rest of his life as a contributing member of society, beginning now, while in prison, and to sharing with others the Gospel of Jesus Christ and the biblical method of behavior change that has changed his life. Joseph believes that one of CDCR's and society's, greatest assets are prisoners who have been rehabilitated. You can contact him at Joseph Scheinuck #G64012, 480 Alta Rd. San Diego, CA 92179.