

July 26, 2006

To The Eminent Members of the Joint Subcommittee Studying the Commonwealth's

Program for Prisoner Reentry to Society

Dear Esteemed Ladies and Gentlemen,

With over 600,000 individuals returning from incarceration to normal society every year in the U.S., reentry is a major issue with many different views as to how to approach the actual mechanics and procedures. In the late 1930's, U.S. Attorney General Homer Cummings gave a public address entitled "They All Come Out." His address is still so on target today, more than sixty years later, that the Federal Probation journal reprinted his address in its entirety.

I can't even begin to imagine the overwhelming plethora of information and material that is presented to each committee member for consideration on the subject, either in the form of proposed legislation or ideas for proposed legislation. I am grateful to each and every member for the gifts and wisdom they bring to the process.

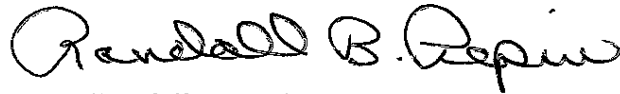
My interest in the reentry process stems from my membership in Va. C.U.R.E. under the leadership of Jean Auldridge, my studies at Virginia Commonwealth University specializing in Offender Assistance through a Bachelor of Interdisciplinary Studies program, and my volunteer work at Boaz and Ruth-a Richmond organization dedicated to helping people move from a life of incarceration and struggle into a life of leadership and self sufficiency. Hopefully this will be my second career, as I have retired from 21 successful years as a craftsman working with wallpaper and paint in Charlottesville, Richmond, and Northern Virginia.

Along with all the other voluminous material y'all have reviewed, I hope the members of this committee would find a few moments to review the material I have researched this past semester. Maybe y'all will find some small important facet that hasn't been touched on in your own research, or you may see something in a new light or expressed in a new way. Thank you

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each and every one for your selfless dedication and sacrifice to serve on this very important committee. Bless all of you.

Sincerely,

A handwritten signature in black ink that reads "Randall B. Pepin". The signature is written in a cursive style with a large initial 'R' and a distinct 'P'.

Randall B. Pepin

Successful Offender Reentry

“Locking up offenders without rehabilitating them won’t reduce crime.

That’s like fighting a deadly disease by building more cemeteries.”

Thurgood Marshall

One of the most important and basic services that a government can provide for a society is public safety. These services include prisons and jails to hold, for a time, those citizens who have committed crimes against their communities. A basic fact is that most everyone who is incarcerated will come out. To protect the safety of our community, we must ask, what are the results when they do? Ayelish McGarvey, a writing fellow for The American Prospect, a scholarly journal co-founded by Robert Reich, Secretary of Labor under Bill Clinton, has this to say in “Reform Done Right” of those released: “Recidivism studies conducted by the Bureau of Justice Statistics show that the highest rate of re-arrest occurs in the first six months of release. Two thirds of ex cons will commit new crimes within three years” (McGarvey). For the sake of society we must change those statistics. Changing offender reentry strategies and programs could begin to change for the better the success rate of offenders not just coming back into, but staying in the community by converting problem individuals into productive individuals.

Within our criminal justice system there have been pendulum shifts between various focuses. Robert Coates, Mark Umbreit, and Betty Vos, professors at the University of Minnesota School of Social Work in the Center for Restorative Justice, inform us in “Restorative Justice Systemic Change: The Washington County Experience” that those shifts of focus have been of “...public safety, punishment, deterrence, offender rehabilitation, responding to victims needs, and prevention” (Coates, Umbreit, and Vos16). As the public turned to their elected officials to

bring this new upsurge in criminal activity under control, the response was to turn the focus from rehabilitation programs to lengthening prison terms, abolishing parole, and building new prisons to hold the influx of an exploding population of prisoners. "Today, more than 2 million people are doing time in America. During the past 30 years, there has been a fourfold increase in the per capita rate of imprisonment in the United States [...]" (McGarvey). Today the focus needs to be a combination of deterrence, punishment, and accountability with a strong emphasis on rehabilitation in prison, and strong support once released.

Governments at all levels of society have been struggling with falling revenues and increasing costs. The first programs to be cut are those that benefit the "unworthy" of our society like those who break the law. As our offender populations rose, the programs most necessary to prepare them for reentry were cut. While our communities have experienced some improvement in safety for a time because of longer prison sentences, these offenders are beginning to come back to our communities in ever increasing numbers. John Larivee is the CEO of Community Resources For Justice, a private community provider of resources for released offenders in Boston, Massachusetts, and he informs us that "Each year 600,000 inmates are released from state and federal prisons" (Larivee 43). These same communities are being overwhelmed, not just by the sheer numbers, but by the unpreparedness of those returning. They are coming out of violent and dangerous prison societies with more problems than when they went in, and there are few programs to address those problems or give them any new skills.

For the most part, most inmates leaving the system and returning to society have no savings, few immediate job prospects, and will experience trouble finding housing. Joan Petersilia is a professor of Criminology, Law and Society in the School of Social Ecology at the

University of California, Irvine, is a much published author whose work is often quoted in articles written by other criminologists, and she has this to say:

Returning prisoners will have served longer prison sentences than in the past, be more disconnected from family and friends, have a higher prevalence of untreated substance abuse and mental illness, and be less educated and employable than their predecessors. Legal and practical barriers facing ex-offenders have also increased, affecting their employment, housing, and welfare eligibility. Without help, many released inmates quickly return to crime (Petersilia "Hard Time" 4).

They don't have the necessary paper identification such as social security and birth certificates necessary for any kind of application like for a drivers' license, job application, bank account, or apartment rental form. This frequently leads to homelessness, and an inability to obtain a job.

Many inmates are released with a small amount of spending money and a bus ticket to the community where they were arrested, and usually late at night when a new shift of guards is coming on. This sudden change in status and loss of structure can lead to very high levels of stress. "For newly released prisoners, the smallest logistical details can make or break their reintegration into life on the outside" (McGarvey). So the question before America today is, what policy innovations and reentry programs can the criminal justice system and government propose for prisoner reentry/reintegration that will improve outcomes for individuals, families, and communities?

Reentry begins long before actual release and continues for quite some time after. It is not simply a matter of program participation. "Seiter and Kadela [...] defined reentry programs as those that: 1) specifically focus on the transition from prison to community, or 2) initiate treatment in a prison setting and link with a community program to provide continuity of care"

(Petersilia "Hard Time" 5). If you were to talk with an ex-inmate about the first days or even weeks on the outside, they might tell you how difficult it is to adjust. Going from the rigid rules of prison with an assigned bed, meals, and work to having to find these things and learning to be self reliant and following directions rather than orders is a daunting task.

There is a unique program in Brooklyn that addresses these transitional issues as a specific focus. Bruce Western, a former professor at Cornell University in the Center for the Study of Inequality and presently a professor of Sociology at Princeton University, alerts us to the benefits of this unique program in The American Prospect in his article "Lawful Reentry". The Community and Law Enforcement Resources Together (ComALERT) program is run by Brooklyn District Attorney Joe Hynes with a full time social worker administrating day to day business. ComALERT works in partnership with local police, criminal justice officials, parole officers, and Doe Fund which is a welfare-to-work community organization. First contact for program participants is in prison between case workers and offenders for a pre-release interview. The Doe Fund makes provision for released prisoners to receive room, board, and drug treatment upon release. (Western)

ComALERT provides minimum wage low skilled employment such as street cleaning. It is the immediate beginning of a foundation of building a work history and steady employment. Participants deposit some of their wages in a savings program run by Doe Fund that can be withdrawn upon completion of the program. ComALERT refers participants to job placement services once a continuous time of employment is established. ComALERT is cost effective at a time when government budgets are being cut back to avoid program shortfalls. The welfare system in Brooklyn provides the services needed with the help of other community service

organizations, and the program is reported to be effective. This one little program can speak to the effectiveness of rehabilitation under community supervision (Western).

This program essentially kills two birds with one stone. While gainful employment is one of the essential keys in coming back into society and staying without committing any new crimes, it is not the main or only goal. We must convince those who still believe that punishment alone will achieve public safety, that a program like ComALERT will improve public safety, increase tax revenue through increased employment, and decrease the cost of combating crime by turning problem individuals into productive individuals.

What about initiating treatment in a prison setting and linking with a community program? In his article "Reform Done Right" in the journal The American Prospect, Ayelish McGarvey instructs us about just such a link. In Chicago the Safer Foundation works in conjunction with the Illinois Department of Corrections to produce such a link. Safer operates an adult transition center that looks on the outside very much like an urban high school campus. Men selected for the Safer program are still serving time behind bars, and may serve out their last six months or so at the ATC. At the Safer facility, new arrivals spend their first thirty days obtaining all necessary forms of identification, and taking batteries of cognitive and behavioral tests to determine readiness for work. Once the evaluations and assessments are in, there are courses offered for basic education and job preparation. There are also links to private and public social service agencies for substance abuse and other counseling needs.

Once all the preparatory issues are addressed, each individual begins to work with a job counselor who, make referrals for their clients to companies in the private sector. The companies that Safer has established a relationship with like receiving prescreened employees. When employment is obtained, the job counselor checks with the employer every day to validate

attendance. As part of the program each participant pays 20% of what they earn to the state as reimbursement for housing, and another 20% is placed in a mandatory savings account that can be accessed upon release from Safer (McGarvey). As the day approaches for completion of program and sentence, the participant gets help finding suitable and affordable housing. As most of Safers' budget comes from government contracts, it is helpful for Safer to be able to show state policy makers that adult transitioning costs less than regular incarceration (McGarvey). The impact is even more dramatic and compelling when Safer graduates successfully reintegrate into society and reduced recidivism adds up to more savings for the state.

Washington County, Minnesota has added one more element to the reentry mix. The system that has been developed there is referred to as restorative or community justice. Robert Coates, Mark Umbreit, and Betty Vos are professors at the University of Minnesota School of Social Work in the Center for Restorative Justice and Peacemaking. They give us a look inside the community justice approach in the journal Federal Probation, in their article "Restorative Justice Systemic Change: The Washington County Experience". Over the years victims have obviously played an important part in the criminal justice system as witnesses to the commissions of crime. Other than that, however, the system wanted them in the background so as not to bring a wealth of emotion to what was seen as a process of obtaining the facts and handing out justice in a deliberative manner. The community justice approach embraces the role of the victim as part of the rehabilitation process for the offender, by introducing victim-offender conferencing and mediation.

In addition to the necessities of providing the tools of education, training, and treatment to enable the offender to become productive, there is a psychological aspect to the process of reintegration that includes accountability. The thrust of victim-offender mediation or

conferencing is to bring the offender to understand the impact that his/her actions had on the life of the victim, and on the larger community. This process is so important as many times it leads an offender to mature somewhat emotionally when they can empathize with the victim.

The key word in the community justice method is partnership. Washington County established a Community Corrections Advisory Board, which is composed of ordinary citizens, judges, and representatives of probation, community services, public defenders, law enforcement, and the county attorneys' office (Coates, Umbreit, and Vos). This way everyone has a voice and many different viewpoints are heard. Concerns are voiced and possible new directions are explored, and no one who has a stake in the outcome is left on the sideline. To enhance the efficacy of these efforts, the Center for Restorative Justice and Peacemaking, School of Social Work at the University of Minnesota was invited to participate to assess and evaluate the program and to make suggestions for change and/or improvement (Coates, Umbreit, and Vos). This is unique as assessment and evaluation is usually done from the outside and not as an integral part of the program.

We have looked at the subject of reentry in general, what the lack of preparation of those reentering has done for the rate of returning to prison for new crimes, and what education, training and treatment can do to change the outcome. However generalities don't give us a total and complete picture of the subject. To give us a fuller understanding, we need to look at a breakdown of three sub-categories of those who are affected by incarceration and reentry. The first are the men in the African American community. The public debate about the problem of crime and the solution to reduction of that crime isn't complete, until some of the facts of race and ethnicity are taken into consideration. Eric Lotke, the Research Director of the Justice Policy Institute (a Soros Justice Foundation subsidiary), helps open the door on that subject in his article

“Hobbling A Generation: Young African American Men In Washington, D.C.’s Criminal Justice System-Five Years Later”, published in the journal Crime and Delinquency.

Recent analysis from the U.S. Justice Department reveals that nearly 3 out of 10 African American men will be admitted to prison in their lifetime. Jerome Miller in Search and Destroy added jails to the calculation...and found that roughly 8 in 10 African American men will spend time locked up during their lifetimes, typically before the age of 40. [...] They will have been arrested, handcuffed, strip searched, fingerprinted, and will have spent at least a night behind bars (Lotke).

No matter the cause, the extreme number of African American men that have or will undergo incarceration and/or justice supervision past present and future is reason for grave concern.

Washington D.C. is a slightly exaggerated but valid example of the disparity in numbers of incarceration between whites and African Americans. According to Bureau of Census figures African Americans are approximately 65% of the D.C. population. (Lotke) “The number of African Americans in custody in D.C. is 36 times greater than the number of whites, relative to their population” (Lotke). Bureau of Justice Statistics reported in their 1997 publication “Prisoners In 1996”, published by the U.S. Government Printing Office, that the rate of African American commission of crimes is about three times that of whites but the incarceration rate is seven times that of whites (Lotke). From these figures we might justifiably conclude that part of the reentry issue for African Americans is not simply preparation for release, but that law enforcement is excessive in communities of color. Even though racial profiling in traffic stops has been found to be illegal, the numbers should inform us that more needs to be done to reform law enforcement policies and overall social policy.

Some of the ideas that have been advanced in the public debate for changing and alleviating this racial dynamic seem to be very well targeted. It has been suggested that prison should be reserved only for violent and serious offenders. Social problems such as drug addiction should be responded to as a social problem, with a non-criminal community response in a treatment facility. Many of those arrested as drug dealers are selling to support a habit, or have no opportunity for gainful employment. These issues can be addressed at the community level with supervision, treatment, training, daily reporting, fines, and house arrest. These options should be available at pretrial and sentencing court appearances. A racial impact statement when changes in justice policy take place would hold officials in the system accountable for being aware of policy consequences. "Proposals such as lengthening sentences for violent drug possession offenses, cracking down on petty crimes, or shifting to federal sentencing standards should all be subject to racial impact statements" (Lotke). These policy decision shifts seem very much like political racial profiling when the ultimate impact falls almost exclusively on minority communities already under a great deal of stress.

Phyllis Solomon is a professor and Jeffrey Draine is a research associate in the University of Pennsylvania School of Social Work. They help introduce us to the second sub-category of those affected by incarceration and reentry, in their article in the journal Health and Social Work entitled "Jail Recidivism In A Forensic Case Management Program". These offenders would be considered multiple-problem clients in a social work setting, rather than in a criminal justice setting. People who would be classified as seriously mentally ill would have at one time been taken care of by the government as someone who was vulnerable and in need of a guardian. Behavioral and substance abuse problems that resulted in contact with law enforcement would normally result in a stay in a mental hospital where a psychiatrist might order involuntary

commitment, and do an assessment to determine the need for medication or other possible long term treatment and care.

In the 1980's that public policy changed, stripping states of the right to involuntarily commit individuals, leaving states with no choice but to handle mentally ill offenders only with police power so as to act to protect the public (Solomon, and Draine). Part of this change in policy was to address "concerns that civil procedures have been strategically used against some criminal defendants who are no longer able to be detained in accordance with criminal law" (Solomon, and Draine). Those who are severely mentally ill many times are off of legally prescribed drugs, abusing illegal substances, and homeless. "Because many of these people live in marginal situations and have limited social networks, an arrest often means a protracted jail stay in situations in which other people receive bail, are released on their own recognizance, or are not arrested" (Solomon, and Draine). Because of multiple problems which go beyond just ending criminal behavior, the mentally ill usually do not qualify for the community resources that the average offenders can tap into upon release. Unemployment and housing will continue to be ongoing issues for this population.

The mentally ill have a higher rate of revolving incarceration than the general population of offenders and their needs to be a way of addressing the needs of this minority population other than serial re-incarceration. "For example, Philadelphia jail psychiatric services include a 64 bed inpatient unit, a 50 bed step down unit (an intermediate facility between an inpatient unit and the general population), and outpatient services" (Solomon, and Draine). Rather than entrusting these offenders to the probation and parole system, they need to have mental health professionals who can react in a therapeutic manner as case managers to address this populations' loss of ability to maintain normal or appropriate functioning according to societal demands. The state

should once again choose to act as trustee and caretaker of this vulnerable population, as the punitive approach is not succeeding.

The third sub-category of those affected by incarceration and reentry are the most vulnerable population of all and a population we never hear about. Many of those who are in lockup in our criminal justice system are parents. Families are left behind and its time we began to talk about the costs for the children who cannot care for themselves. “The imprisonment of nearly three quarters of a million parents disrupts parent-child relationships, alters the networks of familial support, and places new burdens on governmental services such as schools, foster care, adoption agencies, and youth-serving organizations [...] Little attention has focused on how communities, social service agencies, health care providers, and the criminal justice system can work collaboratively to better meet the needs of the families left behind” (Travis, McBride, and Solomon). The loss these children experience, of having a parent suddenly disappear and stay away, is devastating.

The parent may have been the sole provider. The child loses financial support, they may have contact with the police in a tense arrest situation in the home, and they may have to move to live with other relatives or to go into foster care. A move could come in the middle of a school year, causing the loss of the support of friends, neighbors, teachers, and familiar school counselors-not to mention a disruption in ongoing schoolwork. The weakened ties to the parent, the changes in family make up, and the possible shame and stigma could lead to problems in school. The long term effects could be problems with parental and legal authority, impaired maturation and ability to cope with stress, and the beginning of a new cycle of intergenerational crime patterns.

Elizabeth McBride is a research associate, Cristy Visher is a principal research associate, and Nancy La Vigne is a senior research associate at the Urban Institute in Washington, D.C. The Urban Institute was chartered in 1968, under President Johnson, as an independent nonpartisan center to analyze the problems facing American cities and its residents, and to recommend solutions. In their article "Informing Policy and Practice: Prisoner Reentry Research at the Urban Institute" published by the journal Corrections Today, we are told that "Families are an important source of both emotional and tangible support for released prisoners, When prisoners were interviewed four to eight months after release, respondents cited family as the most important factor in helping them stay out of prison" (McBride, Visher, and La Vigne). Many times the stress of incarceration will end a marriage or significant other relationship, but the heart ties to a child are not broken. So what can we do now, in the absence of studies to guide us, using common sense, to begin to ameliorate the impact of incarceration on children, knowing that what we do will have an impact on the success or failure of reentry for offenders who are also parents?

Along with programs that address issues of employment, addictions, education, housing, etc., there also need to be programs to teach parenting skills that seriously address the changes taking place in the lives of the children from whom they are separated. There needs to be specific policies put in place that encourage and make it possible for parents to stay in touch with their children by phone, mail, and e-mail where possible. Incarceration should be as close to families as possible and visiting arrangements should encourage parent-child interaction in special settings aside from the regular communal setting of a huge visitors' room. Jeremy Travis, President of John Jay College of Criminal Justice at the City University of New York, in collaboration with Elizabeth McBride and Amy Solomon (a research associate at the Urban

Institute) introduce us to a similar concept in their article “Families Left Behind: The Hidden Costs of Incarceration”, published by the Urban Institute, Justice Policy Center. “In Florida, the Department of Corrections offers a program for incarcerated mothers to maintain weekly contact with their children through videos [...] Each live video takes place weekly over the course of an hour, and is available at no cost to families” (Travis, McBride, and Solomon 6). The system needs to see men as parents, the same way they do women.

Another important parent-child issue is child support. Upon release, most offenders have substantial financial obligations facing them; obtaining housing, transportation, paying fines and restitution, and paying for mandated treatment. Arrears on child support can be more of a burden than an overwhelmed releasee can handle. Failure to pay thousands of dollars of back child support can add another conviction and more jail time, meaning more back child support will accrue and the child loses much needed financial support once again. In a very few states there is a recognition that exemptions need to be granted for child support during incarceration (unless of course child support is the sole reason for incarceration). After all is said and done, it is an absolute necessity to do specific research to uncover the hidden costs and rescue innocent children from unintended collateral damage. This could be the very thing that begins to break the cycle of intergenerational crime patterns.

A halfway house is one solution that is not made use of frequently enough. The halfway house is a residential program that serves several purposes. It gets an offender back into the community in a setting that helps to shape behavior while transitioning back into a natural environment. It obviates the immediate need for housing. Because there is daily supervision and reporting requirements, high risk behavior is modified in immediate real time. Christopher Lowenkamp is a research associate professor, and Edward Latessa is the division head,

respectively, at the University of Cincinnati Center for Criminal Justice Research. They advocate for broader use of such a resource in “Developing Successful Reentry Programs”, published by the journal Corrections Today. Supervision is augmented by treatment that “[...] provides behavioral, cognitive behavioral or social learning based interventions” (Lowenkamp, and Latessa 73). The “in home” aspect seems to increase the effectiveness of the program when the interventions can be applied on a daily basis if necessary, by in house professional staff. The Ohio reentry programs that were evaluated and that utilized both halfway houses and in house cognitive behavioral treatment were found to be highly effective with as much as a 15% reduction in re-offending/recidivism (Lowenkamp, and Latessa).

The reinvention of probation and parole is a fresh idea whose time may have come. John DiIulio, a professor of politics and public affairs at prestigious Princeton University, sets forth such an idea in his article “Reinventing Parole and Probation”, printed by the Brookings Review. “As Horn (Commissioner of Prisons, Pennsylvania) argues, in most cases there is relatively little that parole agents can do to keep an offender who is determined to commit new crimes from committing them. The flip side is that parolees who want to go straight often can make it if they are literate, civil, and can stay off drugs, remain sober, and get a job. But parole agents often waste time chasing the bad guys rather than helping the good” (DiIulio). Horn’s proposal is to create a model that rewards personal responsibility. Give a released offender a services voucher that would be good for a set period of time of say from six months to two years. The voucher would enable the offender to obtain services through state authorized providers for such things as drug treatment, education, job training etc. For those who wanted to help themselves, they would no longer be held back because of a parole officers’ heavy load and limited time ability to help.

A large part of the recidivism problem is the all or nothing approach that most states take to parole violations. This serious issue is addressed by Laurie Robinson, a former Assistant Attorney General for the U.S. Justice Department, and Jeremy Travis in “Managing Prisoner Reentry for Public Safety”, written for the Federal Sentencing Reporter. “Many jurisdictions have not yet implemented mechanisms to effectively sanction parolees for violating technical and other terms of their reentry agreement without reinstating the remaining portion of their original sentence, which is arguably not a cost effective way to promote public safety or justice” (Robinson, and Travis 258). There is a pilot program under the auspices of the U.S Department of Justice called The Reentry Partnerships Initiative. Under this program there are special reentry courts established at the community level which monitor those reentering society with the help of partnerships with not only corrections officials and local police, but also businesses, faith based organizations, and grassroots organizations. These reentry courts establish a series of graduated punishments and sanctions that seek to deter return to prison for a technical violation. Studies of the success rates where this pilot program has been introduced show an unusually high rate of success.

Sometimes we need to look outside our borders to see what works for other nations, to see if we might be a little myopic. There was a time when criminal records were available only to law enforcement, and only on a need to know basis. With today’s technology there is greatly expanded public access to those same records through the internet. More and more employers and landlords are requiring criminal background checks, and in both instances those with a record need not apply. Homelessness and joblessness are two major factors when recidivism rates remain high. “The United States has the highest incarceration rate of industrial democracies, but unlike all other democracies, it has virtually no practical means of sealing or

expunging adult criminal records [...] In terms of this issue, the United States has the worst of both worlds; higher rates of application of the criminal process combined with no way to move legally beyond its stigmatizing effects” (Petersilia “What Works” 71). In Europe, while each country has its own specific application, universally there is some form of wiping the slate clean after a significant period of time has passed with no new felony convictions.

For those states and localities who have found that punishment alone is not the deterrent to crime they had hoped, the answer more and more seems to be that rehabilitation before, during, and after release is far tougher on crime and, makes for safer communities.

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