

I am a poor white man, with over 55 years behind bars in various types of confinement facilities, including U.S. Army stockades, a Marine Corps brig, city and county jails, as well as California state prisons. In May of 2020, I celebrated the 43rd anniversary of my ongoing incarceration. During that span, I have spent 22 years on Death Row at San Quentin, 11 years at California State Prison-Sacramento (New Folsom), and the last nine years here at R.J. Donovan Correctional Facility. I am not a convicted third striker, but I have served two prior prison terms in California's prison system.

In 1998, my death sentence was overturned. After four more years of litigation by California's top prosecutor in which the state attempted to reverse the 1998 decision, I was resentenced to a term of life without parole. I offer these experiences as my bona fides for the following positions:

- I do not believe any human being should be subject to a sentence of incarceration that exceeds the average human life span.
- No criminal sanction should result in confinement past a person's 100th birthday.
- No sentence(s) should be imposed that cause this milestone in life to be surpassed or that does not include the opportunity for rehabilitation redemption and parole.
- I do not believe in capital punishment or support life in prison without parole.¹

I do believe that every prisoner must have hope. By that I mean a realistic hope, so that if the prisoner is able to reform themselves, make amends to those they have harmed, recognize the error of their ways, and reach the point where they are no longer a threat to themselves or others, the prisoner can hope to be released into the society with the aid, assistance, and supervision necessary to ensure public safety.

For this to happen, there must be a Board of Parole Hearings that is not subject to the whim or caprice of political pressure and is able to determine the point of optimum success in a prison term, at which time the prisoner can be safely returned to society. This is a determination that is not subject to political review (executive action) or reactive legislation based on other crimes of the moment and related public outcry. This must be a board with a mission to prioritize parole, not retention.

With the introduction of several bills to reform California's Penal Code and criminal sentencing that require a two-thirds majority vote in both the Assembly and Senate, I suggest that our representatives go whole hog and scrap the current penal code. Abolish the death penalty and do away with life without parole. In addition, repeal the three strikes law and end all enhancements and alternative sentences. If they have a two-thirds majority in favour of doing it, do it! End the piece meal approach and really start anew.²

I suggest and advocate for a sentence of "One Year to Natural Life" for all violent crimes with the eligibility for parole after seven years. A natural life will be defined as 100 years of life. No criminalized person will be sentenced to a term that surpasses their one 100th year of life for any single crime and/or an aggregate of crimes, no matter their age at the time that the criminal act was committed.³

A violent crime will be defined as an act in which a human being is physically injured or killed. All other felonies will be classified as serious or simple felonies. Although a threat of violence is not a violent crime, it is classified as a very serious crime. Serious and simple felonies will be punished with a determinate sentence of imprisonment that does not exceed the offender's 100th year of life. Such determinate terms will be based on current base terms enumerated for non-violent crimes.

There will be no enhancement of sentences now or in the future. Any alternative sentence will be permitted in lieu of imprisonment. There should be no alternative sentences that increase a term of confinement. A determinate sentence (flat time) will no longer be a free ride with automatic release. All persons convicted of non-violent offences will be subject to a public safety determination before they are released. If any offender appears to be a threat to public safety, they shall be subject to continued monitoring for a period of six months to three years with periodic review of the need to be monitored. This monitoring function will be similar in nature to a probationary period following release.

Additionally, any sentence for a simple or serious felony that exceeds seven years in itself, or in aggregate, will be subject to periodic review for possible recall of commitment and re-sentencing for purpose of early release. These periodic reviews will be conducted by a public safety committee who will also review all persons convicted of non-violent offences.⁴

To accomplish this new mode of rehabilitation and release, we must have a prison system which provides the means for all prisoners to reach the point

of suitability for release. The prison system's mission must be to focus on rehabilitation rather than punishment. There will be no more warehousing of human beings. Ideally, no prison will exceed its design capacity or, better yet, house no more than one prisoner per cell.

Lastly, the policies of restitution collection must be changed. The current rate of 55 percent of any income is not only punitive, it is oppressive and extortionate, and needs to be reduced to the original setting of 22 percent at most.

With these changes to California laws and policies, the potential to regaining one's freedom will depend on a person's ability to reform themselves and prove that they are no longer a risk to public safety and are suitable for release into free society. All of these changes will be retroactively applied to all prisoners, parolees, and probationers whose sentences are impacted following the enactment of laws to accomplish these goals.

ENDNOTES

- ¹ In reality, life without parole is a death by imprisonment sentence. Although a sentence of life without parole and a death sentence are both subject to executive clemency, such relief is rare. Even though the current California governor has issued a blanket reprieve on executions during his term, prosecutors throughout the state are still pursuing capital punishment verdicts. The current governor has also issued more commutations of life without parole sentences than any governor since World War II. However, there remain over 5,000 prisoners in California who are still serving life without parole sentences.
- ² Most of the recent legislative actions have not been retroactive and/or contain carve outs that eliminate certain groups of offenders from the benefit of the new laws. Two outstanding exceptions to this are the youth offender parole hearing (YOPH) and the elderly parole hearings for men over 50 years old who have served 20 years. There is also an agreement in effect between the federal court and the Department of Corrections to hold parole hearings for the prisoners who have served 25 years and are 60 years of age. Both of these policies exclude life without parole condemned prisoners.
- ³ In California and other jurisdictions, it has become common practice to sentence criminal defendants to multiple consecutive sentences with numerous enhancements. This practice results in criminalized people being given sentences of hundreds of years making any possibility of release way beyond a human life span.
- ⁴ These sentences do not include a life sentence sanction and are known as "toe tag" sentences. It is expected that the prisoner will expire well before being eligible for release. At last count, there were currently at least 6,500 prisoners in California with such sentences, some of whom may qualify for both a youth offender and an elderly parole hearing.

- ⁵ A determinate sentence is one in which the prisoner's maximum sentence is set and, in the majority of cases, they are granted time off from that sentence for good behaviour and work performed. Such a sentence is known as "flat time".

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