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Jeremy Travis
CUNY John Jay College

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Reflections on the Reentry Movement



JEREMY TRAVIS

President, John Jay
College of Criminal
Justice

The coming year will mark the ten-year anniversary of Attorney General Janet Reno's call for proposals to create new reentry partnerships and reentry courts in jurisdictions around the country. As my Department of Justice colleagues and I prepared the documents released by Attorney General Reno that day, we certainly had no idea that we stood at the beginning of a major new development in American criminal justice policy. We had simply followed her instruction to come up with new ideas to help the country better respond to the large numbers of people coming out of our prisons.

Yet it is fair to say—even after discounting for the unavoidable bias inherent in my observation—that the interest in “prisoner reentry” has been nothing short of remarkable. At the national level, both the Clinton and Bush administrations have promoted major initiatives to spur new approaches to prisoner reentry. The Second Chance Act, developed at the request of President George W. Bush following his eloquent call for new thinking about the reentry challenge in his 2004 State of the Union Address, stands poised for enactment by Congress later this year. Every state in the nation has convened, at the gubernatorial level, a task force of cabinet-level officials—typically including secretaries of health, child welfare, workforce development, veterans' affairs, public safety, corrections, and education—charged with developing new policies to improve the outcomes for individuals leaving prison. Dozens of mayors and county executives have assigned staff to serve as reentry coordinators, or liaisons, to coordinate city services better to address the profound harms experienced by communities struggling with high rates of incarceration and reentry.

National organizations representing elected officials, including the National Governors Association, the National Conference of Mayors, and the Council of State Governments, have established programs to help their constituents respond to the calls for attention to prisoner reentry. Professional associations representing lawyers, social workers, health care providers, judges, HIV-AIDS activists, foundation officers, police chiefs, child welfare specialists, and community development advocates have addressed the implications of prisoner reentry for their professions.

The coalition of support for new approaches to prisoner reentry is broad and bipartisan, a stunning achievement in an era of heightened partisanship. The legislative strategy group that convened to support the Second Chance Act included George Soros's Open Society Institute and Chuck Colson's Prison Fellowship. The cosponsors of the Second Chance Act included representatives of the Congressional Black Caucus and the evangelical wing of the Republican Party. The Reentry Policy Council, created by the Council of State Governments, included Republicans and Democrats in key leadership roles.

Perhaps most important, the new reentry conversation is spurring important changes in the operations of the components of the criminal justice system most directly involved in influencing reentry outcomes. Practitioners in the corrections field have embraced the challenge of rethinking their core functions through a reentry lens. When these professionals were first invited to Washington to discuss the issue in 1999, many of them explicitly stated that prison administrators could not be held responsible for the behavior of prisoners once they left the prison walls. Now, a number of state corrections systems, led by the Ohio Department of Corrections and Rehabilitation, have explicitly expanded their institutional mission statements to include responsibility for successful reentry and reintegration. Others, even without amending their mission statements, are engaged in strategic coalitions with community service providers to improve reentry outcomes.

The parole agencies of the country have had a difficult time responding to the national interest in reentry. At the outset, many leaders in this profession took the focus on reentry as an implied criticism of their work. This feeling of defensiveness was heightened by the release of a research report by the Urban Institute with the stunning finding that prisoners released to parole supervision had recidivism rates no lower than prisoners released to the community with no supervision.² In an impressive, professional response, the national parole leadership has reacted to this finding of no effect by undertaking a fundamental rethinking of their role in reentry and the best way to improve societal and individual outcomes.

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Even police leaders are developing new approaches to prisoner reentry. Under the traditional view, the police would deny any responsibility for the success of individuals leaving incarceration. That, they said, was the job of corrections and parole, and the police had done their jobs by arresting the individual in the first place. Now, police are more likely to see the impact of failed reentry in communities struggling to keep crime rates low. This concern is heightened in the modern era of low crime rates and high reentry rates, as police recognize that a higher percentage of their arrests involve individuals who recently left prison. These progressive police departments now find themselves active participants in reentry policy discussions, coordinating local police strategies with corrections and parole, and recognizing that sometimes the best way to reduce crime among the population of returning prisoners might be to provide housing, medical care, drug treatment, and family counseling.

In this atmosphere of extraordinary policy ferment, it is particularly gratifying to witness the substantial contributions of the nation's scholars. Joan Petersilia tells the story of her volunteering in the mid-1990s to write a book chapter on parole. When she conducted the obligatory literature review, she was dismayed with the paucity of rigorous research on the workings of the parole system or on the experience of leaving prison and returning home. The most frequently cited author was, in fact, Petersilia. That state of affairs is thankfully no longer the case. In the past few years, major books have been published by prominent scholars examining the state of punishment in America, the impact of incarceration on communities, the intersection of incarceration and reentry trends with the changing nature of the workforce, the racial dimensions of imprisonment and reentry, the network of invisible punishments and collateral sanctions, and the realities of incarceration and reentry seen through the eyes of the families of those in prison. The Urban Institute is nearing completion of a groundbreaking, five-year, four-state longitudinal study of the experience of leaving prison, based on interviews of over 1,500 men and women right before they leave prison and then two or three times following their release.³ In a particularly welcome development, the Urban Institute's study, called *Returning Home*, will also include interviews with the family members.

Added to these scholarly contributions is a virtual blizzard of policy papers and reports from respected organizations such as the Sentencing Project, the Justice Policy Institute, the Reentry Policy Council, the After Prison Initiative of the Open Society Institute, the Center for Effective Public Policy, the Prisoner Reentry Institute of John Jay College of Criminal Justice, the National Commission on Correctional Health Care, and the Children's Defense Fund, to name just a few. Rounding out the picture of a new focus on prisoner reentry are dozens if not hundreds of articles in local and national newspapers—often describing the barriers faced by those formerly incarcerated—as well as documentary films,

television reports, and features in national weekly magazines.

As we look back on the first decade of the reentry movement, we can state with certainty that the country has been engaged in a robust national conversation. But to what effect? There has clearly been an increase in funding for reentry programs, most notably the national Serious and Violent Offender Reentry Initiative, the Bush administration's program that combined funding from a dozen federal cabinet agencies to create a \$130 million program to spur reentry innovation in the states. And there has been an increase in funding for research on prisoner reentry, with welcome contributions from some of the nation's leading foundations. But if the reentry movement is ultimately to be judged by the emergence of one or more new "big ideas" with significant positive results, we cannot yet point to the successes of this social movement.

This does not mean that new ideas are not being tested. On the contrary. The "big idea" of supported employment for people leaving incarceration is now being tested by the Center for Employment Opportunities, with a rigorous evaluation by the Manpower Research and Demonstration Corporation.⁴ The "big idea" of a justice intermediary—a single nongovernmental entity responsible for coordinating the delivery of services to all prisoners returning to a particular community—is now being tested in the Safer Return project in Chicago, a collaborative effort between the Safer Foundation and the Urban Institute, with funding from the John D. and Catherine T. MacArthur Foundation. A number of jurisdictions are experimenting with reentry courts, a "big idea" that draws upon the lessons learned from two decades of development of problem-solving courts and applies these lessons to the reentry process.⁵ The "big idea" of a focus on families is being nurtured by a new organization, Family Justice, which found that working with families could reduce drug arrests among the parolee population. The "big idea" of a continuum of care between health providers in jails and those in communities, creating a powerful reentry bridge, has been successfully tested in the Hampden County Jail in Massachusetts.

Taken together, these ideas paint the outlines of a very new approach to prisoner reentry that is community based, involves new entities such as intermediaries or courts in reentry management, and explicitly uses social service agencies as boundary-spanning institutions that reach behind the prison walls and work together to ease the difficulties of the transition to community. In this new model, corrections and parole become more a broker of institutional arrangements and less the punitive agents of the criminal justice system.

The test, of course, is whether these new arrangements—and other programs that have existed for years—have the desired results of reducing failures (including rearrest, relapse to drug or alcohol abuse, and deterioration of health and mental health conditions) and increasing successful reintegration (measured by productive

engagement in the world of work, healthy relationships with family members and peers, and participation in civic life). To determine whether these goals are achieved, the research community will have to develop a more robust set of measures of program effectiveness, moving well beyond traditional recidivism metrics, and program administrators will have to endure the challenges of subjecting their interventions to the most rigorous research designs, preferably random assignment.

In many ways, the most hopeful indicator of success of the reentry movement is the changed tone of the public discourse about criminals, prisoners, and those who have been convicted of crimes. Not too long ago, the national discussion about crime and punishment was unrelentingly harsh. As the crack epidemic seized the nation in the mid-1980s, commentators lashed out against young people as “super predators,” predicted a “coming bloodbath” as the ranks of teenagers swelled, and called for ever more drastic criminal sanctions, including more death penalties and, for repeat offenders, “three strikes, you’re out” punishments. Today, the temperature has cooled considerably. Crime is no longer the most important issue facing the public, according to national opinion surveys. As rates of violent crime fell dramatically during the 1990s and into this century, it became easier for politicians to advocate for crime policies that were balanced, pragmatic, and nonideological. Attorney General Reno was fortunate in choosing this period of our history to launch a national focus on prisoner reentry.

The change in tone at the national level has paralleled a focus on the language of this policy conversation, advocated by groups of individuals who themselves spent time in prison. They have urged us to abandon the terms *inmate*, *prisoner*, *ex-convict*, and *offender*. These terms, they argue, are pejorative and attach lasting labels to people who may well have turned their lives around. In this new lexicon, the favored phrase is “people who were formerly incarcerated” and “people who are currently incarcerated.” The emphasis on the word *people* does indeed have the effect of reminding the listener of a common humanity; the use of the words *currently* and *formerly* as modifiers to *incarcerated* places an appropriate temporal dimension on the status that accompanies the fact of imprisonment.

Into this mix of political, policy, and rhetorical innovation comes this issue of the highly regarded *Federal Sentencing Reporter*. Each of the contributions to this volume affirms, in different ways, the intellectual ferment associated with the reentry movement. The first article, by Mary Ann Farkas and Gale Miller, squarely addresses the intersection of two complex dimensions of the reentry phenomenon.⁶ The article describes the family aspects of reentry, a much understudied issue. But the authors break new ground by looking at the family issues associated with sex offenders, a group of formerly incarcerated individuals who have experienced, more than any other, the crippling power of community stigma and legislative retribution.

Christy A. Visher, the intellectual guide behind the Urban Institute’s *Returning Home* longitudinal study, summarizes the early results of that landmark study.⁷ The article moves quickly from findings to policy recommendations, however, and makes six highly valuable and pragmatic suggestions: using a case management approach to reentry that cuts across all service domains; focusing laser-like on the first weeks and months after release when failure rates are highest; involving the family and community as key stakeholders; rethinking supervision; moving from programs to strategies; and implementing a sustained response that cuts across state and local boundaries.

In an article guaranteed to generate debate within legal circles, Michael Pinard, one of the pioneers in developing a jurisprudence of prisoner reentry, promotes a “reentry-centered vision of criminal justice.”⁸ In this view, the process of reentry and reintegration is not merely the end result of the assembly line of our justice system; rather it lies at the heart of a process of adjudicating guilt and innocence. When a person is found guilty, in Pinard’s view, the law must envision a pathway to the reintegration of that individual. Accordingly, all aspects of the justice process must be aligned to meet this goal. This new vision would have implications for all aspects of the criminal sanction (including, importantly, the network of collateral sanctions) and would involve every actor in the criminal justice process.

Beth A. Colgan speaks to us in the voice of a political advisor, finding the connections between the prisoner reentry issue and the tenets of the Republican and Democratic parties.⁹ In a provocative essay, Colgan finds common ground between the national focus on prisoner reentry, the Republican Party’s concerns for faith and family, and the Democratic Party’s concerns for poverty and equality. She underscores the nexus between the reentry policy agenda, a focus on veterans, and the concern for fiscal responsibility. Colgan’s guidebook for connecting the reentry policy concerns to the rhetoric and agenda of the major national parties will have long-lasting utility.

Reflecting the creative turmoil in the world of parole, Ryan S. King of the Sentencing Project catalogs the reforms in sentencing and parole policies in eleven states.¹⁰ This essay reminds us that our focus on the unrelenting growth in prison populations at the national level masks the important reform initiatives at the state level. A handful of states are actually experiencing declines in prison populations. Others are witnessing drops in parole revocations. Still others are experimenting with new ways to reduce the harsh sentencing laws that were passed over the past two decades. This essay offers helpful insights into the state-level reform efforts that are showing results.

Reentry courts are mentioned above as one of the “big ideas” emerging from the reentry movement. Eric J. Miller examines the potential and the drawbacks of this idea and links this utilitarian discussion to a broader debate over the proper reach of judicial authority.¹¹ This issue, which

has been debated fiercely in the context of drug courts and other problem-solving courts, has particular salience in the reentry arena, because the judiciary has typically not had a role in managing the postprison chapter of the criminal justice process.

The Second Chance Act has become the national focal point for much of the energy of the reentry movement. David Farabee of the University of California, Los Angeles, states the hopes of many observers by calling upon those implementing the act to be simultaneously bold and rigorous.¹² He hopes that the act will spur an era of innovation, with states seeing themselves as laboratories carrying out carefully evaluated social experiments on behalf of the nation.

Another “big idea” mentioned earlier in this essay is the idea of supported employment for people leaving prison. Mindy Tarlow and Marta Nelson, leaders of the nationally renowned Center for Employment Opportunities, discuss their role in testing the efficacy of immediate work for people leaving prison.¹³ The early results of this experiment, as evaluated by the Manpower Research Demonstration Corporation, show that people who start work right after release have lower rates of return to crime. Because these results come from a random assignment evaluation design of the type recommended by Farabee in his article, we can see the power of this “big idea” for influencing the national debate. Just as in the welfare reform era a few state-level experiments, carefully evaluated, resulted in profound shifts in national public policy over time, so, too, one can hope that the MRDC evaluation of the CEO experiment will persuade policy makers to make investments in programs that provide work immediately following prison. Perhaps the “welfare-to-work” movement will spawn a “prison-to-work” analogue.

A final thought about this volume. It is noteworthy that a journal devoted to analysis of sentencing issues has dedicated this issue to a collection of articles about prisoner reentry. It is critically important that legislators, judges, law professors, defense attorneys, prosecutors, and policy makers who think about sentencing also recognize the impact of imprisonment on the individuals who serve time, on their families, and on their communities. Yet equally noteworthy is the absence of a robust discussion within the legal academic community about the best way to reconcile the nation’s sentencing jurisprudence with the imperatives of prisoner reentry. If, as Michael Pinard argues, the ultimate goal of the criminal justice system, following a criminal conviction, is the successful reintegration of the individual convicted into mainstream society, then we need to ask whether our sentencing policies support or subvert that goal. In other settings, I have

argued for the creation of a “jurisprudence of reintegration”¹⁴ and the application of sentencing jurisprudence to “back-end sentencing” practices of parole revocation.¹⁵ When we can link our approaches to sentencing to the emerging empirical understanding of the phenomenon of prisoner reentry, we will have marked perhaps the most significant achievement of the reentry movement. In an earlier era, when the entire country embraced the ideals of indeterminate sentencing, we understood that sentencing and reintegration were linked. Today, after a generation of sentencing reform that has abjured that model, we need to find a new pathway to a vital connection between our sentencing framework and the successful reintegration of the hundreds of thousands of individuals who leave prison each year.

Notes

- ¹ The word *reentry* emerged from discussions in the working group I chaired following Attorney General Reno’s direction that we answer her question, “What are we doing about all the people coming out of prison?” Later, we learned that the word had been used in early writings on the prison experience. See JOHN IRWIN, *THE FELON* (1970). For a discussion of the origins of the federal reentry initiative, see the Preface in JEREMY TRAVIS, *BUT THEY ALL COME BACK: FACING THE CHALLENGES OF PRISONER REENTRY* (2005).
- ² AMY L. SOLOMON ET AL., *URBAN INSTITUTE, DOES PAROLE WORK?: ANALYZING THE IMPACT OF POSTPRISON SUPERVISION ON REARREST OUTCOMES* (2005).
- ³ See Christy A. Visher, *Returning Home: Emerging Findings and Policy Lessons about Prisoner Reentry*, 20 *FED. SENT. REP.* 93 (2007).
- ⁴ Mindy Tarlow & Marta Nelson, *The Time Is Now: Immediate Work for People Coming Home from Prison as a Strategy to Reduce Their Reincarceration and Restore Their Place in the Community*, 20 *FED. SENT. REP.* 138 (2007).
- ⁵ See Eric J. Miller, *The Therapeutic Effects of Managerial Reentry Courts*, 20 *FED. SENT. REP.* 127 (2007).
- ⁶ Mary Ann Farkas & Gale Miller, *Reentry and Reintegration: Challenges Faced by the Families of Convicted Sex Offenders*, 20 *FED. SENT. REP.* 88 (2007).
- ⁷ Visher, *supra* note 3.
- ⁸ Michael Pinard, *A Reentry-Centered Vision of Criminal Justice*, 20 *FED. SENT. REP.* 103 (2007).
- ⁹ Beth A. Colgan, *The Presidential Politics of Prisoner Reentry Reform*, 20 *FED. SENT. REP.* 110 (2007).
- ¹⁰ Ryan S. King, *Recent Developments in State Parole Reform, 2004–2006*, 20 *FED. SENT. REP.* 124 (2007).
- ¹¹ Miller, *supra* note 5.
- ¹² David Farabee, *For the Second Chance Act, Great Strides Will Come in Small Steps*, 20 *FED. SENT. REP.* 136 (2007).
- ¹³ Tarlow & Nelson, *supra* note 4.
- ¹⁴ TRAVIS, *supra* note 1.
- ¹⁵ Jeremy Travis, *Back-End Sentencing: A Practice in Search of a Rationale*, 74 *SOCIAL RESEARCH* 631 (2007).