

# **Prison Reform: Problematic Necessity**

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In every age and as long as there have been prisons, there have been prison reformers. And for centuries people have been asking why prisons, do we need them? Who do we want imprisoned and for how long? What should the conditions of imprisonment be?

We like to think the “modern” prison is a 19<sup>th</sup> century American invention. But prisons have been around for as far back as recorded history allows us to see. Wasn’t Joseph kept in prison by Pharaoh until he had his prophetic dream? And, in 399 B.C. didn’t Socrates find the prospect of imprisonment so unpleasant that he chose hemlock instead? Didn’t Matthew (25:36) tell us that visiting the imprisoned was a requirement to enter the Kingdom of God? So we know that prisons existed in antiquity, that visiting the prisoner was believed a good thing to do and also that imprisonment was not a pretty prospect.

I would like to share with you some of my personal experiences and observations gained over a career of 40 years working with the imprisoned, the about to be imprisoned, and persons released from prison. I hope to be able to draw some lessons about the elusiveness of reform, and conclude with some thoughts about how to make prisons less bad.

Imprisonment is the public imposition of involuntary physical confinement, treating lawbreakers in ways that would be legally and morally wrong to treat those who have not broken the law. It is punishment carried out by the state in our name. And because it is, each of us should be concerned with how it is accomplished. We trust that the way in which this is done is reasonable, fair, just and humane. Can it ever be all that?

Most of what people believe about prisons they obtain from the popular media. *Law and Order*, *Shawshank Redemption*, *Lockup*, and *Orange is the New Black* are the source of many of the impressions the general public shares about prisons.

The reality is at once better, and worse. Better insofar as the extent and frequency of the horrors depicted are less than these entertainments would lead us to believe. Worse because of the scale of imprisonment in the United States, over 2 million people locked up, and worse because of the grinding, corrosive effect of confinement even when it is not as brutal and mean as these depictions. The reality of prison life is most often ennui, interrupted by moments of horror. And the consequences of imprisonment go well beyond the walls of the prison. They affect the children, families and neighborhoods in which the imprisoned live and the political and economic dynamics of these communities as well. More than 10,000 children are in adult prisons and jails (Campaign for Youth Justice, 2009) and over 2.7 million have a parent in prison or jail. (Pew Research Center, 2013)

This is an opportune time for us to be discussing the question of prisons and reform. Last spring, a committee of the National Research Council, chaired by John Jay College President Jeremy Travis issued a report entitled *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. They say that, the “growth in incarceration rates in the United States over the past 40 years is historically unprecedented and internationally unique.” The report challenges us to respond to this massive social experiment that our nation has undertaken. How do we respond to the mass incarceration of over 2 million people in our country? The panel concluded that, “The change in penal policy over the past four decades may have had a wide range of unwanted social costs, and the magnitude of crime reduction benefits is highly uncertain.” They went on to add that, “an explicit and transparent expression of normative principles has been...missing...and [is] needed to supplement empirical evidence to guide future policy...” In other words, as a community we need to decide what is it we want of prisons?

Crime and imprisonment affect discrete sections of our communities. Prisoners in every jurisdiction come from just a small number of communities, mostly concentrated in the poorest neighborhoods with the least resources and the most problems of health, housing and nutrition. One cannot divorce the discussion of imprisonment from the discussion of race in our country. As a result of federal census rules and federal funding schemes we redirect money away from communities in need to prison communities and through discriminatory voting rules we diminish the electoral power of the most poor and disenfranchised communities.

Most prisoners are men between the ages of 18-35 and they are disproportionately black and Latino. This is the time most young men should be building their lives, their families, and careers. It is a time when young men are at their most vital, physical, social and aggressive. Confinement and loss of liberty runs against the grain of their nature.

We ask of prisons that they do what our society has otherwise been unable to do with and for these young men. Many of them have failed in or been failed by the other institutions we rely on to “socialize” members of our community, often including their family. They have been left to live on their own, been abused or raised in state institutions, they have left the church, been suspended or expelled from school; they have been homeless and often suffer from untreated mental illness. Many have not finished high school and are functionally illiterate. Most of them have not held jobs or have worked intermittently at best; Estimates are that over 70% enter prison with addictions to alcohol and other drugs. (Henry Steadman, 2009)

As a civilized society how can we explain the fact that by some estimates over 30% of the persons in prisons are persons with mental health problems (Henry Steadman,

2009)? In many jails around the country, New York City for example, over 40% of the prisoners were diagnosed as mentally ill (Schwartz, 2014)? How can we allow that?

The sociologist Erving Goffman observed in 1957 that “total institutions,” like prisons create barriers to social intercourse and are incompatible with the naturally social and associative character of man. (Goffman, 1961) How people respond to their confinement in this unnatural situation often leads to the very behavior we want to extinguish, and frequently makes it worse. Imprisonment is stigmatizing and the language we -inmates, convicts, and guards-and our reluctance to have them in our midst-leads to their further dehumanization, and encourages those tasked with their custody to treat prisoners as less than full citizens.

We place our prisons far away from the communities the imprisoned come from. Rather than keeping our prisoners near us, near their families and near the services they desperately need to reclaim their lives, we isolate them. When we do this we send a not so subtle message that they are the detritus of our society, “untouchables” and not deserving of our care.

I have visited and worked in many prisons throughout my career. I have come to the conclusion that the prison, by its very nature is a flawed institution, destructive of human dignity.

Even at their best, prisons are menacing environments. Bullying behavior is no stranger to our high schools; we should not be surprised when it takes brutal shape in our prisons and jails. We call them gangs. A young man locked up in the U.S. today is confronted by one set of bullies or another.

Prisons and jails are environments of enforced scarcity. We don't allow prisoners to have cigarettes, sex, alcohol or drugs. We also don't allow them to have constant contact with their loved ones forcing them to use limited numbers of phones, often at exorbitant prices. Typically, there are only one or maybe two televisions in a prison or jail housing unit, and 50 or more prisoners competing to determine what gets watched and who gets the good seats.

When we create this artificial scarcity-some of it necessary-we create an environment where an underground economy emerges controlling access to these much wanted items and pleasures. It is controlled by the strongest and denied to the weakest. In every prison and jail I have seen, a pecking order emerges. I want your sneakers; I want potato chips that you bought from the commissary. You have family and money and can pay for phone calls-- I don't, and I want what you have. I want you to clean my cell, do my laundry, or service me sexually. I want to watch baseball on TV, you want to watch soccer. I want the front row seat. I want drugs, I sell drugs, and I want your sister to bring drugs into the prison for me when she next visits.

All these things become matters for negotiation and control. If I am not strong enough myself I join with others to extort what I want from weaker prisoners. If I am not strong enough and can't join with others I arm myself with whatever I can for protection.

And where is the "guard"? The very fact people call them guards rather than prison officers or corrections officers tells us a great deal about how society undervalues their work and its challenges. They receive none of the adulation we reserve for police officers and firefighters. They spend their days in uninterrupted contact with the people we most detest. We should not be surprised when they are dispirited and angry.

Due to decisions made by elected officials, often in response to dramatic media attention to a small number of sensational crimes, the number of people in our prisons grew dramatically through the 80's and 90's, prison officials faced severe overcrowding and could not build prisons and jails fast enough. The public did not want to pay for the high cost of building secure prisons with cells and small housing units. Rather, prisons have come to rely on open dormitory housing similar to military barracks as a fast way to build and low cost way of responding to the demand for prison space. In a dormitory with more than 50 others, one has no privacy and no solitude to contemplate or to be alone with your thoughts. These dormitories may well be the worst thing that has happened to prisons.

Imagine the single correction officer charged with policing that dormitory at 3AM. The officer smells a whiff of marijuana from the farthest corner of the dorm. Will he intervene when that means putting 50 inmates between you and the door? Help means other officers who can come to your aid if the prisoners decide to overwhelm you. But that help is several minutes away in the best of circumstances. What choice do you make?

Often, officers make the choice to ignore the behavior. In that moment the officer has been compromised. And not all behaviors are seen by the officer. While you are responding to the marijuana smokers, another prisoner is attempting suicide in the shower area of the dorm out of your view. Or two prisoners are fighting in the day room, another area outside your view. The officer's job is near impossible. A dormitory such as I have described cannot be adequately "policed" in this way.

I think most correction officers are terrified much of the time. As they gain seniority most move away from the prisoner living units to posts on the perimeter, in the visiting room or other non-contact positions. The result is that the living units are typically staffed by the least experienced officers. And accommodations get made. A "devil's bargain", if you will, is struck between officer and prisoner—leave me alone and I will leave you alone. The officer turns a blind eye to extortion, minor contraband, sexual encounters, and in return the prisoners don't turn their violence against the officer. Once the officer is compromised he can be extorted into collusion, bringing in contraband drugs or cell

phones or cigarettes and in the worst case using the prisoners to enforce discipline. Sometimes, the officers themselves become a “gang,” relying on brutality to control and intimidate the prisoners into compliance.

Jails are worse. In jails around the country little effort is made to occupy, teach or “rehabilitate” the prisoners. They are “merely” awaiting trial. So, the prisoners sit around, with nothing to do but watch television and wait for their case to be heard in court. The overwhelming atmosphere in most jails is boredom. In addition to the bullying and violence already described, with so much unstructured time on their hands young men engage in horseplay that often escalates to violence. In some jails there is not even an officer on the cell block full time. Staff is often part time and rarely well trained; there are over 3000 jails in the U.S. most of them in small counties.

Much has been written in the last several years about prison rape. And, while rape in the sense we commonly understand it is a relatively infrequent occurrence, other forms of unwanted sexual contact is experienced by about 4% of prisoners in State prisons. (Beck, 2013) As a function of over 2 million prisoners it affects roughly 8000 prisoners a year. Surprisingly, it is not the movie version of the predatory male officer attacking the female prisoner, though that occurs. The most frequent encounter is between female officers and prisoners.

For the average prisoner confinement is a frightening experience. When you go to jail or prison, most of all you want to be safe. And if the administration doesn’t make you feel safe you will do what you need to do to get to that feeling of safety. That’s why prisoners arm themselves, and that’s why they join gangs...to feel safe.

Imprisonment is especially hard on those with mental illness. In an open dormitory your neighbor screams in hallucinations at night, or is argumentative, or fails to properly care for him or herself after using the toilet. Fights break out.

Rural jails and prisons face a particular problem with respect to prisoners with mental illness. I have seen situations where small jails are asked to confine psychotic prisoners and there is not a psychiatrist within 100 miles. What is the jailer to do? Often their only recourse is to place the prisoner in a solitary cell, making matters worse. But putting the prisoner in population, often in a dormitory is no better.

In places that don’t have proper juvenile detention facilities, youngsters who are arrested are placed in solitary confinement because regulations require them to be separated from adults and there is no other way to accomplish that.

And how do these young men do when they return home, as they almost all do—to the very communities they came from? Many fail to successfully complete their paroles. The

most recent study of recidivism found that 55% of those released returned to prison within 5 years.

We don't return people to their communities from prison in a smart way that is designed to promote their success. We release them to communities that further ostracize them through hiring biases, laws that prohibit them from working in many jobs and exclusionary policies in public and private housing. For the most part we release them to a parole officer who is overworked with more cases than he or she can reasonably be expected to assist in a work week, frequently over 100 cases for an officer who works 40 hours or less. And that officer rarely has the resources to do the job we ask at his or her command. Nonetheless, we expect that officer to know when the released person breaks the rules and to protect us by sending the released person back to prison before he or she can harm us. And we blame the parole officer when he doesn't.

When a man or woman leaves prison they need 3 things to succeed. They must remain sober, they need a place to live and they need a job. And they need all three simultaneously. Typically parole agencies don't invest in providing resources to assist their charges to stay sober, expecting them to do it by force of will. They don't invest money in helping people on parole find and keep work, relying on the person to do it. And, in a world where affordable housing in urban areas is becoming dearer, they don't provide any assistance in finding a place to live. Why then should we be surprised when they are returned to prison?

None of this is new. It has been true as long as there have been prisons. And the imperative of reform is equally old. When we think about imprisonment we have to learn from history.

Prisons and jails appear Western Europe beginning in the 12th century; but execution, torture, mutilation, and loss of property remained the common forms of punishment for crime. As feudalism ended and society elevated the value of the personal freedom of the lay citizen; the loss of liberty through imprisonment became a preferred method of punishing crime.

In England, the Parliament established work houses to deal with the growing number of vagrants, pickpockets and petty criminals filling the streets of London. These were grim places where the confined were forced to labor under harsh conditions, subject to physical punishment and where the prisoner's lot was determined by his station in life, his wealth and his family. Typically the jailers were not paid and the prisoners were dependent on family for food, clothing and bedding—or they had to find ways to bribe the jailer or take it from another inmate to obtain the necessities of life.

Exile was among the reforms tried by the British. The settling of Virginia, Maryland, Georgia and South Carolina was partly accomplished by the transportation of British

subjects convicted of crimes to those colonies from 1615 until the time of the American Revolution.

The enlightenment brought with it concern about the harshness and cruelty being leveled at law breakers. What use of prisons and jails there was at the time was marked by pestilential, dangerous and overcrowded conditions and the continuing practice of jailers charging the prisoners for food, bedding and clothing.

In the early years of our republic we continued to employ corporal and capital punishment, mutilation and shaming as our response to crime. The few jails that there were rivaled their British counterparts in wretched conditions, they were unsanitary, and unsafe. American prisons were established in the belief that the “terror of imprisonment,” (Roberts, 1996) was necessary to achieve its purposes of remorse and reformation. Perhaps that serves to deter crime, but there is no evidence it does.

In 1787 a group of men including several signers of the Declaration of Independence met in Philadelphia at the home of Benjamin Franklin. They founded the Philadelphia Society for the Alleviation of the Miseries of Prisoners. The central idea in their approach to prison reform was simply that every person, regardless of crimes committed, was redeemable.

They believed solitary confinement was the best way to “reform” the criminal. They thought the prisoner, locked in his or her cell at all times, with no contact with other prisoners or the outside world would meditate on their misdeeds, study the bible-the only item the prisoner was allowed to read (they never seem to have thought about the prisoner who could not read) and, without “contamination” from other criminals and evil influences would prepare to lead law abiding lives after their sentence ended. Prisoners worked alone in their cells making shoes, caning chairs or weaving cloth. When they left their cells, prisoners were hooded and the prison itself was an architectural marvel designed to facilitate this solitary existence. When the Eastern State Penitentiary opened in 1827, William White, Episcopal Bishop of Philadelphia said,

**“To Pennsylvania belongs the honor of having begun the whole system of prison reformation . . .”** (Pennsylvania Prison Society, 1827)

And William Crawford an English visitor in 1835, in his report to the King wrote,

**“Solitary imprisonment is not only an exemplary punishment but a powerful agent in the reformation of morals. It inevitably tends to arrest the progress of corruption.”** (Crawford, 1835)

Charles Dickens after visiting the same prison observed however,



**” ... I am persuaded that those who devised this system of Prison Discipline, and those benevolent gentlemen who carry it into execution, do not know what it is that they are doing. I believe that very few men are capable of estimating the immense amount of torture and agony which this dreadful punishment, prolonged for years, inflicts upon the sufferers;...”** (Dickens, 1842)

More Recently, in 2013, Juan Mendez, the United Nations Special Rapporteur on torture called solitary confinement for more than 15 days torture; so much for that reform.

In 1819 New York opened its new prison at Auburn in which the prisoners were housed in single cells but, unlike in Pennsylvania, were allowed to work eat and recreate in congregate settings and were expected to observe a rule of strict silence, enforced by officers using the most brutal punishments. This model was believed to be more cost effective and less conducive of the mental deterioration being seen in Pennsylvania. But this “reform” too brought with it a return to corporal punishment that the penitentiary was intended to replace as harsh penalties were employed to punish inmates who broke the silence. Not a surprise.

The other new idea the Auburn “reforms” led to was the belief that prisoner should be engaged in productive activity that would make them an economic asset rather than a liability to the state. Convict leasing; the practice of private parties paying the State a fee for the use of prisoners in privately owned factories, farms, mines and plantations became a common practice throughout the country not only in the southern states. The conditions in which the prisoners labored and lived were as bad as or worse than that of slaves. In New York, convict leasing was permitted until 1894. (State of New York, 1895)

By the 1860s, overcrowding was prevalent, partly because of the long sentences given for violent crimes. In 1870 the *National Prison Congress* set out an agenda for reform. Prisoners would be reformed by education and vocational training. Instead of fixed sentences, prisoners who did well could be released early. This “indeterminate” sentence was considered a significant step toward protecting the public from the depredation of criminals by transforming them into productive and law-abiding citizens.

This is the type of sentence you are most likely familiar with, probably from the movies and television. It is a sentence set by the judge but where the determination of when the prisoner is actually released is put off to another time and made not by the judge but by a parole board. So, you are familiar with the 5 to 10, the 2 to 6, the 10 to 20, and the 25 to life and so on. But what does that mean? Is the prisoner sentenced to 5 or to 10, 10

or to 20, to 25 or to life? Referring to Parole as “a game of chance,” social historian David Rothman observed that,

**“No change that Progressives brought to criminal justice had more significant consequences than the system of parole under an indeterminate sentence.” And, “...the introduction of the indeterminate sentence and parole encouraged and promoted an increase in time served.”**(Rothman, *Conscience and Convenience*, 1980)

Parole satisfied nobody yet it showed remarkable staying power. It plays a cruel hoax on all parties, including the public. At the time of the Attica prison riot in 1971 the unfairness, unpredictability and arbitrary nature of parole was at the heart of the prisoners complaints. Its ill effects are made worse by the plea negotiations that have come to dominate our disposition of criminal complaints. I have heard prisoners denied parole complain that they had been assured by their *defense* attorney that if they kept their nose clean they would be paroled at the minimum...the Parole Board wasn't in the room when that deal got made. And I have heard from victims outraged that the criminal some prosecutor told them was going away for life got released after only 25 years...again, the Parole Board wasn't in the room when that deal got made. It undermines public confidence and respect for our system of justice, embitters the prisoner and betrays the victim. And, increasingly there is evidence that, “...parole has not contributed substantially to reduced recidivism and increased public safety.” (Solomon, Spring 2006) Yet, parole has continued to be the practice in many states for well over a century.

In 1914 Thomas Mott Osborne, one of our country's most revered prison reformers experimented with prisoner self-government by creating the Mutual Welfare League at Auburn and Sing Sing Prisons in New York. But, because there is always a pecking order in prisons, in 1916 the *New York Times* found, “certain of the trusties, whom the other prisoners referred to as ‘League Politicians,’ were permitted to have eggs, steak and other food served to them in a dining room...as a special privilege...” The *Times* went on to report that the new warden was ending that practice. (*Sing Sing Bars Luxuries*, 1916)

At the beginning of the twentieth century, psychiatric interpretations of social deviance were gaining a central role in criminology and policy making. The language of medicine was applied in an attempt to "cure" offenders of their criminality. In fact, little was known about the causes of their behavior and prescriptions were not much different from the earlier reform methods. Rothman wrote,

**“...reformers believed that they could transform a nightmarish prison, dedicated to punishment, into a community that would at once prepare the inmate for release and serve as a testing ground for society.” (Rothman, Conscience and Convenience, 1980)**

They were wrong.

In 1974 the American Correctional Association established the Commission on Accreditation for Corrections and the American Bar Association in 1983 adopted standards for the Legal Status of Prisoners. As the ABA said, their purpose was,

**“...to guide the operation of American jails and prisons, in order to help... protect prisoner’s rights while promoting the safety, humaneness, and effectiveness of our correctional facilities.”**

Today, some suggest we emulate the model of several European nations. Recently colleagues of mine visited the maximum security Halden Prison in Norway, housing prisoners serving average sentences of 7 years, long by Norwegian standards. In Norway the rule is that the only “right” an offender loses is their right to liberty. They retain all other rights, just like every other citizen. And as a corollary, they believe the prison experience should be designed to approximate, as much as possible, life on the outside. In Norway prisoners sleep in hotel sized rooms with a picture window, private toilet, shower and sink, equipped with a small flat screen TV and a small refrigerator. They can buy necessities at the on-site supermarket or utilize a library with access to the latest magazines, computers and internet access. They may visit with loved ones in a private room, furnished with a couch and a cupboard containing clean linens. Staff say, “We don’t punish prisoners at Halden, we give them time to calm down.” (Poporino, 2014)

Halden cost about \$1 million per cell to construct, and it operates with 340 staff for 250 prisoners. Yet, Norway reports a national recidivism rate of only 20% after 3 years, far better than our 55% rate. They are willing to pay this high “front end” price in the belief it is the best and most economical path to public safety. Perhaps this is a model for the U.S. but I don’t see it happening any time soon.

Despite “reforms” and the best efforts of committed prison and jail administrators we continue to witness the failure of American prisons and jails. Why?

I submit that it is because the very act of imprisonment is contrary to the nature of man. Goffman got it right and every day we see maladaptive behavior by prisoners and keepers. His theory was confirmed in 1971 when Stanford University psychologist

Phillip Zimbardo tried an experiment that no Institutional Review Board would allow today.

Zimbardo constructed a fake prison in the basement of a university building, and he randomly assigned half the students as guards and half as prisoners. After only 6 days the planned two week experiment was called off as ordinary college students were transformed into either brutal, sadistic guards or emotionally broken prisoners. Zimbardo called this, the “Lucifer Effect,” the idea that the social setting and the system contaminate the individual, rather than the other way around. (Zimbardo, 2007)

I don't subscribe to the idea we can live without prisons. Prisons serve an important public safety function by preventing the predatory dangerous offender from doing it again while he or she is confined. We call that incapacitation and prison does it well. Further, prison serves the important social function of reinforcing our social norms by punishing those who break the law in important symbolic fashion. We have to avoid social anomie and vigilantism by having a justice system that regularizes and rationalizes the imposition of vengeance.

Prison and punishment have important normative functions, but at a price.

Prisons will never be perfect; the very act of imprisonment is destructive of human dignity. We ask much of our prisons, we ask they protect us from dangerous people, that they send a message that deters others from committing bad acts; we ask that they “rehabilitate” prisoners and that they exact vengeance in our name. The fact is, no matter how well managed, prisons can't do all that.

What should we do? Because the prison is such a destructive place, above all, we need to be clear about its purpose, and mindful of its limitations. Imprisonment is flawed and imperfect; therefore the first thing we should do is use it less. One way to have fewer prisoners would be to improve the chances for their success following release. Nationally, parole violation rates have increased substantially over the past 25 years, and in many states, violators account for a significant number and share of state prison admissions, in New York 1/3 of all admissions last year were parole violators.

With fewer prisoners we will have an opportunity to close old prisons located in areas far from the neighborhoods the prisoners come from. It will allow us to rely less on the open dormitory and possibly to make our prisons smaller, prisons with 2000 or more prisoners are difficult to manage.

Decades of draconian laws driven by singular events--Megan Kanka, Len Bias, and Willie Horton; have driven prison populations up. We are beginning to see elected officials backing away from these ill-advised projects. In New York the severe penalties of the Rockefeller Drug Laws were revised and the prison population dropped by over

20,000 while crime kept coming down. Grover Norquist and Newt Gingrich are campaigning for repeal of mandatory sentences and a reduction in prison use, hopefully because they understand the futility of mass incarceration and not just because it costs a lot. But, it is a beginning.

Because we need prisons and because prisons will always be flawed, even as we reduce our reliance on them we must continue to try to make them better. Rather than reforms aimed at changing the prisoner, I suggest we need to reform the flaws that harm the prisoners. I offer ten suggestions to make prison less bad.

1. First, increase transparency. In 2008, the American Bar Association's House of Delegates approved a resolution urging federal, state and local governments to establish independent oversight bodies to regularly monitor and report publicly on conditions in correctional facilities. It's a good idea and every state should establish such bodies. Transparency recognizes that prisons and jails deprive our neighbors of their liberty in our name. As citizens, all of us must take an interest in the condition of our prisons and jails or nothing will change. We bear responsibility for them and we must remain vigilant daily about their operation. And bearing witness both to the best and the worst that occurs balances the representations in the media with the truth about imprisonment. It is our civic duty. If our prisons and jails are hellish, it is because we allow them to be.

Additionally, we can further transparency if, as we close prisons we first close those furthest from the communities most prisoners come from; and if in the future we build we should do so in those communities so all can witness them and where advocates, clergy, attorneys and family members can easily visit the prisoners, and where the symbolic effect of imprisonment can be most effectively observed.

2. Prisons and jails are the wrong places for our mentally ill. When the great experiment in deinstitutionalization was begun in the 1960's it was supposed to be accompanied by the creation of a robust community mental health system. That never happened, and where it did it did not reach our neediest neighbors in poor communities of color.

We overestimated the utility of psychotropic medications. Many of the men and women we see in prisons and jails are there because they are self-medicating, trying to ease their discomfort with alcohol, cocaine and heroin because they don't like the adverse side effects of the drugs that have been prescribed for them. They turned to illegal drugs, got caught up in the war on drugs we have been fruitlessly waging these last 50 years and that is part of the reason we see so many mentally ill prisoners. We can change that by investing the resources and energy in finding ways to reach and help these people that does not criminalize their behavior.

3. If prisons and jails are to be humane they must be safe places. Prisoners whose confinement is an experience in brutality are less likely to succeed when they are released. To do this we must resolve that they be drug free. Recently a close colleague who runs one of the biggest prison systems in the country told me drug testing at several of his prisons found over 20% of the prisoners using drugs.

Drug use in prison is what fuels violence and corruption and is the economic engine from which prison gangs derive their power. Everything I know and have learned tells me that when we substantially reduce access to drugs in prisons and jails they become safer for the prisoners and for the staff. Yet, in too many prisons and jails today access to drugs is commonplace and accepted. That must end. There are ways to do it and every jurisdiction should accept that as a goal.

4. Prisons should be places where prisoners learn that respect for the law and for others is how people in civil society behave. This means that the staff must respect the law and each other as well as their charges. We must build within our prisons a culture of integrity. We won't teach prisoners to obey the law by breaking it and we don't teach respect for the rules by violating them. How prison staff relates to each other and to the prisoners is the most powerful way to teach the prisoner how to be part of a civil community. The goal of prisons should be to release better citizens, not better criminals.
5. Today, one can't expect to find work if one can't read and write. There is no excuse for prisons not educating all prisoners to at least the high school level, and even beyond.

We can teach people how to work, even if we can't teach everyone to be a skilled machinist or computer technician. Work ennobles us, work gives us an identity. Whether one is painting the prison, peeling potatoes or fixing its plumbing one can learn to take pride in one's work, to be responsible, to work with other and to be supervised. These are skills everyone needs on the outside. Prisons and jails can work on those things. Prisons are better at doing those things than they are at psychology.

6. Prisons and jails should adopt performance management techniques, similar to the NYPD's famous COMPSTAT to track progress in promoting the safety of prisoners, staff and the public and to hold managers accountable for results. If you don't measure it you can't manage it and the management of safety in prisons must be their highest priority. There are models for doing this and they should be replicated.
7. End the demonization of prisoners. Embrace the notion that the people in prison are our neighbors, the children of our community and deserving of our concern. They are all returning home to the places they left and it is in our self-interest to see that they return with better prospects and better equipped to succeed than when they left. The National Academies report suggested that in addition to

being parsimonious in our use of imprisonment, and limiting punishment to that which is appropriate to the offense, we should ask of our prison system that it recognize and promote the citizenship of prisoners and that it operate in a fashion that is consistent with social justice, and promote “society’s aspirations for a fair distribution of rights, resources, and opportunities.”

Behaving that way should obligate prison officials and our communities to adopt a standard of care that tells us to treat every prisoner as we would want our own son or daughter treated if they were imprisoned. It should cause our communities to accept their responsibility for the reintegration of these formerly incarcerated persons and not expect “the State” to take care of it.

8. Prisons can’t change outcomes themselves, they need the support and the help of caring communities, faith communities, businesses and leaders willing to lend a hand by helping the man or woman released from prison to find a job, find a place to live.

When the prisoner is released we cannot walk away from our responsibility to assist in his or her successful return. The state should invest in helping the released prisoner to find a place to live, to find a job, and to remain sober. If not, the failure is as much ours as the prisoner’s. We have to rethink the way in which prisoners return to their communities. Our present system of sentencing and parole does not support successful reentry to society. We should seriously consider fixed sentences, graduated release to halfway houses and more assistance to the released person rather than surveillance.

9. Despite huge expenditures we have been miserly with the money needed to provide prison and jail officials the tools they need to do their job the way we wish it to be done. One of the great shames of our society today is the large number of prisoners in segregation, what some call solitary confinement. Unfortunately, in prison as in society at large, there are people who break the rules and a response is required. There are prisoners who are so dangerous that our obligation to the safety of the other prisoners requires them to be separated. But we need not and should not engage in the practice of solitary confinement. Simply put, it is wrong. Extreme social isolation is damaging and inconsistent with our desire to return people to their communities as productive, law abiding citizens. When prisoners must be segregated, the prison must take action to counteract the ill effects of extreme isolation. With sufficient resources, and with fewer mentally ill persons in prison and jail, administrators can find other, better ways to enforce the rules and keep everyone safe.
10. Finally, we should repair the damage we have done to the communities most prisoners’ return to. We know that the unemployment rate for young black men is nearly 25%, twice that for young white men. That economic disadvantage is perpetuated by policies that deny education, housing and jobs to the formerly incarcerated and policies that count prisoners in the census where they are

imprisoned, rather than in the communities they come from. It is made worse by disenfranchising them and allocating legislative seats to districts based on counting prisoners in the prisons rather than counting the prisoners as part of the district where they lived before going to prison. These policies dilute the power of poor communities of color while enhancing the power of prison communities. This is unfair and we should put an end to it.

I don't believe poverty causes crime, indeed I have always marveled at how many people in poverty live with dignity and respect for the law despite their desperate circumstance. Our rapidly changing postindustrial society has left many behind and people leaving prison are among the hardest hit. If we don't find ways to help these young men and women rejoin the workforce and our civil society we run the risk of making them worse, the very thing we expect prison reform to prevent.

When John Cavadini invited me to deliver this lecture I tried to find a way to speak about my life's work for this audience in this setting and give it meaning within the concept of Human Dignity. Supreme Court Justice William Brennan, schooled in catechism no doubt, wrote,

**"...even the vilest criminal remains a human being possessed of common human dignity."** (Brennan, 1972)

And more recently, Justice Anthony Kennedy wrote for the Roberts Court,

**"Prisoners retain the essence of human dignity inherent in all persons."** (Kennedy, 2011)

Still, I thought, what did they mean by human dignity?

Cardinal Timothy Dolan's 2011 Lecture from this podium helped me to understand the concept of Human Dignity better. His Eminence instructed us that,

**"Being in the image of God, the human individual possesses a dignity of a person, who is not just something, but someone."**

And so, I believe our concern for the imprisoned is a concern for "the someone" who is imprisoned, a fellow, a neighbor, a person possessing human dignity and notwithstanding his or her deeds deserving of our consideration for that reason alone. Human Dignity is at the very heart of why we are interested in "prison reform". Interest in prison reform and the condition of the imprisoned is as central to faith as it is to good citizenship in the United States in the 21st Century and I pray my remarks here today have contributed to your understanding.



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