



PUTTING A PERIOD AT THE END OF THE SENTENCE

BY ALAN J. BORSUK

“When does the sentence end?” Albert Holmes says he is asked that question often by people who have faced hard times after being released from prison. Holmes heads an organization in Milwaukee called My Father’s House. It works with people who feel that the negative impact on their lives from serving time continues long after their incarceration has ended.

The question has few easy answers, but a conference at Marquette Law School, held on October 4, 2018, and titled “Racial Inequality, Poverty, and the Criminal Justice System,” focused on the issues facing people reentering the general community from incarceration, some ways those issues might be addressed, and various efforts that are showing success in helping former inmates lead stable lives.

As with much of the work of the Law School’s Lubar Center for Public Policy Research and Civic Education, the October conference can be seen as an additional step in a continuing conversation at the Law School. On this particular topic—post-incarceration issues—a recent contribution to the conversation includes a lecture during the previous academic year by Gabriel “Jack” Chin, who holds the Edward L. Barrett Chair of Law and is the Martin Luther King Jr. Professor of Law at the University of California, Davis. In the annual George and Margaret Barrock Lecture on Criminal Law, Chin described the continuing burdens—post-incarceration—placed on many people by criminal convictions. These “collateral consequences” are built into law and involve such things as losing the ability to rent publicly subsidized housing, forfeiting voting rights, and facing possible deportation. An excerpted version of the lecture appeared in the Fall 2018 *Marquette Lawyer*.

This academic year’s conference focused on other aspects of what happens to people after they are released—social as opposed to legal consequences, if you will. The problems are complicated and many, yet the general tenor of the event was guardedly positive. From success found admittedly in anecdotes to advocacy for large-scale policy changes, the ways in which things have begun to get better—and can get significantly better—were emphasized.

Bruce Western, the keynote speaker at the conference, is a sociology professor at Columbia University and author of a new book, *Homeward: Life in the Year After Prison* (2018). The book describes the lives of 122 people who talked to interviewers several times during a survey project, called the Boston Reentry Study, that Western led while on the faculty at Harvard University.



Bruce Western

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Three Keys to Successful Reentry: Income, Health Care, Housing

Western described three urgent needs faced by the people in the study and by almost all those reentering society from prison: reliable sources of income, ways to get health care, and stable housing. Each is hard to attain, and the lack of any one of them can trip up people who are otherwise good candidates to get on paths that would keep them out of prison and allow them to be productive members of their communities.

Western said that the people in the study generally lived in “deep poverty” and faced a formidable list of personal issues. But many were also brilliant and creative. A year after release, two-thirds of them had stayed out of prison, and some seemed to have reached stability in their lives. But it wasn’t easy.

How many in the study found steady, reliable work after release? “Not many,” Western told Mike Gousha, the Law School’s distinguished fellow in law and public policy, during a conversation before the audience at the conference. About half worked in some job, but it was often marginal, informal work, such as shoveling snow or doing small, short-term construction work. Six out of 122 got steady jobs in construction, and they were mostly older white men with skills and connections, Western said.

In their first year after incarceration, the median income among those in the study was \$6,000. The

people endured “an incredible level of hardship,” Western said. Their most stable income was food stamps worth \$200 a month. Younger people who had been released had more problems finding stable circumstances than older people.

Overall, Western was critical of the lack of help for those reentering communities and of the broader picture of American policies related to imprisoning people.

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Reality Is “Very Complex” for Those Reentering

Many people assume that there is “a bright line” between criminals and victims, Western said, “but we didn’t observe that.” The reality is very complex, he stated, and some people are both victims of crime and perpetrators of crime or live among others who fit that description.

Western said that the surge of incarceration across the country has negatively affected, in major ways, American society and, especially, low-income communities, often predominantly African-American



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ones. He said that, until that surge, beginning in the early 1970s, incarceration rates had generally been around 100 for every 100,000 people. Now, he related, the rates are 700 for every 100,000 people in the United States—as is the case nowhere else in the world. And the result, he stated, has not been safer communities.

Western called mass incarceration “a historic mistake,” not consistent with American values. “I would like to think this is an aberration in the progress of our society,” he said. “Criminal justice right now is not serving justice.” Rather, he said, “This is a system that is reserved for poor people.”

But, Western said, he sees signs across the country that things are changing for the better and that there is movement toward helping more people avoid reincarceration and successfully reenter society.

One of the biggest signs nationally of a change came 2½ months after the conference. Congress passed and President Donald Trump signed legislation known as the FIRST STEP Act (an acronym for the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act”). Backed by prominent conservative organizations such as Americans for Prosperity and prominent liberal organizations such as the American Civil Liberties Union, it was approved by large bipartisan majorities in both the House of Representatives and the Senate.

While not as sweeping as some advocates would have liked, the new act’s provisions include changes in the law allowing prisoners to earn time off their sentences through participation in recidivism-reduction programs, requiring federal prison guards to undergo conflict-deescalation training, and funding a number of reentry programs. Overall, the new law is viewed by supporters as a step to reduce the federal prison population and to help make prison and post-prison experiences more humane and helpful. The Brennan Center for Justice at the New York University School of Law called it “a major win for the movement to end mass incarceration.”

Western said in an interview during his visit to Marquette Law School that, nationwide, “we are in a reform moment” on policies that have led to the big increases in incarceration. Many issues in criminal justice are being given fresh attention, he stated, including bail reform, changes in drug policy, and diversion programs to keep people out of prison.

Wisconsin “hasn’t quite caught up to that national conversation,” Western said. But he took

the conference at the Law School as one sign of building interest in Wisconsin. He said that he was impressed both with the energy in the room during the conference and with the roster of people who were present. Those in attendance included two Wisconsin Supreme Court justices, Daniel Kelly and Rebecca Dallet, who are considered to be on different ends of the court’s ideological spectrum. Also present were several circuit court judges and prosecutors, including Milwaukee County District Attorney John Chisholm, and numerous defense attorneys and people who work in agencies that aim to help those getting out of prison or jail. Western praised Chisholm as a leader nationally in reforms designed to make the justice system fairer to low-income and minority people.

Western also praised comments from Tommy Thompson, a former governor of Wisconsin, at an “On the Issues with Mike Gousha” program at the Law School the month previous (in September 2018). Thompson surprised many people when he said that one of his biggest regrets about his 14 years as governor was his role in a large increase in Wisconsin’s prison population and construction of new prisons.

“We got caught up in the hysteria of locking them up,” Thompson told Gousha. The large majority of people who are imprisoned end up being released back into society, Thompson said, and they need more help than they now get while in prison to deal with problems such as drug and alcohol addictions and weak educational backgrounds. More needs to be done to enable people to get jobs and establish stable lives after release, Thompson said.

Polling Shows Support for Giving Second Chances

Public sentiment in Wisconsin may be more open now to relatively moderate penal policies than was true in the period when Thompson was governor and Wisconsin passed a “truth in sentencing” law, which nearly eliminated both early release from prison and parole.

The October conference included discussion of results from a half dozen times since 2012 that the Marquette Law School Poll has included criminal justice questions. The Law School’s Professor Michael O’Hear told the audience that the results showed consistently high levels of support among registered voters in the state for giving second chances to people who have been released from



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prison and for helping them with rehabilitation while they are incarcerated. O’Hear said that there was “overwhelming support” in a 2016 poll for programs aimed at helping prisoners establish stable lives after release.

But, he cautioned, people want the criminal justice system to do many things, some of which are in tension with each other, such as punishment and rehabilitation.

O’Hear and Professor Charles Franklin, director of the Marquette Law School poll, said that there were more similarities than differences on criminal justice issues between Republicans and Democrats and between white people and black people. Lack of partisan differences could be “an opportunity of the moment” for bipartisan agreement on prison-related issues, Franklin said. But poll results also show that criminal justice issues do not rate as a high priority for many people, he said. Issues such as health care, jobs, K–12 education, and roads are higher priorities, overall.

A subsequent Marquette Law School Poll, conducted in January 2019, included several questions on attitudes toward early release. The results showed that voters were willing to consider releasing some prisoners before they have completed their full sentence, but the level of support varied with how much of the sentence

a prisoner had served. A sample of voters was asked whether they agreed or disagreed with this statement about prisoners who have “served at least half of their sentence”: “They should be released from prison and given a less costly form of punishment if they can demonstrate that they are no longer a threat to society.” The result was split, with 42 percent of voters agreeing with that statement and 43 percent disagreeing. A second group of voters was asked the same question, except it specified that the time served would be at least two-thirds of a sentence, instead of half. In that group, 51 percent agreed and 34 percent disagreed.

“This time, I had my mind made up”

Putting a face on the issues at the October conference, Janine Geske, a former Wisconsin Supreme Court justice and retired distinguished professor of law at Marquette University, interviewed L. T. Austin, who served 15 years in prison in six incarcerations. He now describes himself as “a reentry advocate,” and he works for an organization that helps released prisoners meet their needs.

Austin described how, after many of the times he was released, he had difficulty with housing and income. He said that he was embraced by gang members, who got him back into trouble. Finally, he broke the cycle.

What was the difference? “This time, I had my mind made up,” Austin said. He connected with someone he called his sponsor, who helped keep him on the right track. He also said that he realized finally how much his family was suffering because of him. Austin said that he now is trying to extend to others the kind of support that made a difference to him. His conversation with Geske ended with applause from the audience when he said that he was about to be released from parole.

A panel discussion with leaders of organizations that provide help to those reentering the community underscored the focus that Western put on housing, income, and health care as keys to reaching stability beyond prison.

Megan Wynn, community justice director of the Benedict Center in Milwaukee, said that housing is “a huge issue” for women leaving prison. They have extremely low incomes, she said, and many are custodial parents, which means that they have to deal with issues resulting from having had their children in the daily care of others, often family members, while they were incarcerated. Wynn said also that it is harder for women than men to find psychiatrists, and many need help with mental-health issues.

Terri Strodtzoff, executive director of Milwaukee’s Alma Center, said that other countries put much more emphasis on how to restore people leaving prison to functioning roles in society. It is ethically and socially wrong that the United States doesn’t do more, she said.

Holmes, of My Father’s House, suggested program ideas, including offering more classes on how to be a good father, in places such as the Milwaukee County House of Correction, as well as more anger-management programs for middle-school students.

Geske said, “It’s a huge waste of human life” that we don’t do more to help people get going after leaving prison.

Student Internships Connect with People Reentering

Ed de St. Aubin, associate professor of psychology in the Klingler College of Arts and Sciences at Marquette, described in one session a seven-year-old internship program that places Marquette undergraduate students for a full academic year on the front lines of helping people who are reentering the community from incarceration.

Professor de St. Aubin said that when he moved to Milwaukee in 1999, he realized quickly that “we’ve got different worlds living next to each other, with different experiences. So it seemed to me like an obvious call to social justice work was around race.” That led to the internships. He said that he wants the students to experience the realities of the people whom they are helping and to get involved in the sometimes-gritty work of an agency, such as cleaning old basements.

The internships are a valuable educational experience, de St. Aubin said. “I love textbooks, I love classrooms, but you need this as well,” he said. “Life doesn’t come with a syllabus where you have really easily prescribed assignments and really clear testing dates. Life is messy. So the internship is about ‘dive in and do something.’”

Alex Miceli, a Marquette junior who is double-majoring in psychology and social welfare, described the internship she was doing at Project Return in Milwaukee. She said it took her outside of the “bubble” of a college student’s life and got her involved with the kind of people she wants to work with in the future. Miceli said, “I’m finally in a space where these conversations [with people reentering the community] are happening and I can be part of them. . . . I’ve loved every second of it so far.”

The conference included personal stories and anecdotes about people who had succeeded in reentering the community.

But, in a conversation with Gousha at the conclusion of the conference, Western said that much needs to be done to heal communities that have been heavily affected by the impact of over-incarceration. He said that, with African Americans, it is particularly an issue that people who are still affected by a legacy of losing freedom to slavery are the ones most likely to lose their freedom through criminal justice processes.

Western stressed the importance of pursuing work on social reintegration of people coming out of prison and healing communities that have been affected by crime and violence.

But, he said, “Fundamental change requires a reckoning with history,” especially America’s history of racism. There are tangible things that are needed, such as funding for programs. But a crucial element, Western said, is intangible: “We need moral urgency. We have not yet seen moral urgency.” ■

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Columbia University
sociology professor