

We, previously shared our ideas for criminal justice and federal prison reform with the distinguished CEO of Prison Fellowship, and Prison Justice, Mr. Jim Liske, when we learned that he was asked to join the Charles Colson Task Force. We were very appreciative of his willingness to pass them along at one of the meetings. We are grateful, at this time, to be able to offer an expanded version of what we previously shared.

Charles Lytle is an electrical engineer with a Master degree, and his wife Susan holds a MA in the Health Science. When our son became incarcerated in the federal system in 2012, we were determined, through research, and through our son's experience to learn all we could about the justice system, and the Bureau of Prisons, and how they both operate. We are both avid readers, and based on the discipline of our education we utilize research to enable us to understand a problem of major concern. We come from different educational backgrounds; so our approach to a subject is different. Susan addresses research based on her intense background and interest in the social sciences, while Charles's interest is in the physical sciences, and he tends to use an analytical approach. Our desire has been to help our son, along with other inmates, and their families who face the same struggles, and concerns we do, in order to improve, and to help reform the system, where that is needed, and to make the journey through incarceration, and reentry, not only more fair, and just but to make it a successful one for inmates, and their families.

When our son received a prison term of eighteen years for a non-violent offense, we were both shocked and perplexed. The federal system, we found routinely passes out much stiffer sentences than most of the states, and that disparity, we believe needs to be addressed, both in terms of fairness and justice, and because the studies which have been done on lengthy sentences have shown a type of law of diminishing returns in operation, where sentences under five years deter further crime, and recidivism, and those sentences over five years fail to enhance public safety, and they in fact promote recidivism, due to the fact that as a prisoner becomes more institutionalized, and bonds with other inmates, a school of criminality is created, whereby criminality, as a lifestyle is taught to the uneducated by more experienced criminals.

Draconian sentences, especially in the case of the federal system, result from mandatory minimums, where the judges' hands are tied at imposing individual sentences based on the individual, and often mitigating circumstances of a case, that leaves a judge no other choice, but to impose a harsh sentence that does not fit the crime. Thus, especially with respect to the federal system, the law of diminishing returns is costly to the inmate, the inmate's family, and needlessly costly to the taxpayer.

Diminishing returns of lengthy sentences is not the only negative outcome. The Bureau of Prisons has recognized the need for a support system for inmates, both during their incarceration, and upon release, for successful re-entry. Those who have no support system are more likely to fail, while incarcerated, and their prognosis for recidivism is much greater upon release. Lengthy sentences, however are the greatest cause of destruction of a support system for the inmate. Families are destroyed, when children grow up with the father or the mother incarcerated, and inmates, like our son who has no family but his parents, may very well leave prison, having completed his sentence, after our demise, leaving him without the crucial support he will need to locate a job, housing, and to have the encouragement to forge a crime-free life. If the focus of a sentence is truly merely punitive, then failure of the inmate to successfully re-enter society, with no further crimes or incarceration is of no concern to Congress, nor to the general public, except for the fact that the risk to public safety is greatly enlarged.

While great progress has been recently made in the drug sentencing disparities, more needs to be done, with increasing emphasis on drug rehabilitation, having more focus placed on drug crimes, as drug use being an addiction, instead of strictly a crime. If addiction is better understood, and more programs developed to address addiction, then there would be more cures for addicts, and the demand for drug, and the ensuing criminal trade of drugs would be greatly lessened.

Draconian sentencing has roots in fear-driven, and punitive-based laws, rather than empirically based sentences, which fit the crimes, and which are directed toward restoration, and rehabilitation. Factors which have fueled this situation are that some crimes, like sex offenses, have been painted with a "broad brush," meaning that all sex offenders are imagined to be hands-on pedophile predators, whether or not their crimes have had anything to do with rape, violence, or children. This inaccurate image of the sex offender, and sexual offenses have fueled public desire for mushrooming draconian sentences, unbridled, which along with being fear inspired, suggests the motivation to establish revenge sentencing, rather than sentencing that is fair, and just, as the US Constitution dictates. Much of sex offender sentencing reflects unconstitutional punishment for what the accused MIGHT do in the future, than for the current crime for which he/she has been charged.

The Sentencing Commission of a couple years ago, after having received the most recent, and empirically based studies, along with testimony from federal judges, defense attorneys, and AUSA prosecutors were confronted with the disparities between sentencing for child pornography offenders, and hands-on child rape/molester, and child pornography producers, showing that in many cases, child pornography possessors receive much greater sentences than those who touch, harm molest, and rape children, or who abuse children, along with producing child pornography. The sentencing commission investigated, and they agreed with the findings, as well as offering their own. Yet, to date these disparities remain.

Sex offenders are often denied due process due to public hatred for, and bias against them, and the heinous aspects of the crime for which they are charged. They are pressured by counsel to opt out of a trial, since they risk losing their case, due to prejudicial jury, and often face decades more in prison than if they accepted a plea agreement. Facing jury bias, they often accept responsibility for crimes they did not commit. Particularly in the case of a second time child pornography offender, the very fact that he/she is a known past offender, the very fact that the past crime is known can place that person at risk for vigilante inspired accusations, and revenge framing. These type of crimes are often difficult to prove beyond reasonable doubt. Yet due to the stigma surrounding them, the bar for the burden of proof is raised for the offenders, from beyond reasonable doubt, to proof that the accused did not commit the crime, which is often impossible, along with being unconstitutional.

The idea, which is fostered by law enforcement, the Center for Missing and Exploited Children and other groups, and believed by Congress, and much of the general public, that sex offenders cannot successfully be treated, managed, and many times cured is an inaccurate myth, which has further served to inspire fear, and to further ostracize offenders and their families. The study which is foundational to this myth is a federal study, actually two studies which were conducted by the Bureau of Prisons called the Butner Study, and the Butner Redux study, which conducted on sex offender inmates in the early part of this century. Both studies were heavily biased. The first study was flawed, in many ways, including the coercion of subject inmates. Neither study had a large population, upon which to draw, nor were they peer reviewed and vetted, and nor did they follow empirically based, and scientific

principles. One of the outcomes of the information, which was given to the Sentencing commission was empirically based studies, which scientifically demonstrated the previous erroneous information.

Many sex offenders have no sexual interest in children, and that is true, even of child pornography offenders. Studies abound, which show that their idea that there is also a progression from child pornography to interest in touching and molesting children, to becoming sex predators is false, as well. The idea that all or most child pornography offenders have already had hands on experiences has been proven false, even though that is part of what the Butner Study claimed. The idea that sex offenders cannot be successfully treated has diminished any effort to provide better treatment, both inside the prison, and without.

Another area of failure in the system is with those who suffer from mental illness. The flawed judgment, due to their illness, which promoted criminality is only an outcome of the illness. The needs of the mentally ill cannot be best served in a prison or jail setting, and many of the problems with managing a prison population often arise from the unmet needs of the mentally ill.

Much of the needs of the mentally ill can be addressed in a community, or hospital setting, and removing this group from the mix of the general prison population would lessen the load for corrections who often are not equipped with the proper training, and education to handle this type of inmate.

Still another area of concern, is what prisoners, and jail personnel refer to as prison justice, where the vulnerable, very young inmates, underdeveloped inmates, targeted gang members, sex offenders, inmates who are former policemen, and inmates who are former attorneys are attacked, or killed. If you read news articles about this type of inmate, you will find in the comments section, people excited about, praising, and expecting this type of vigilante, lawless violence to be meted out in prison, by other inmates, wishing to make a name for themselves in the prison society. Prison rape can fall into this category, but that has been addressed, somewhat recently, in order to curb those actions among inmates. Prison justice, and vigilante justice have no place in a civilized society, and it places all inmates and prison staff at risk. It is also unfair, when inmates have to "check out", and be housed in the SHU segregated housing unit, while the perpetrators of this nonsense continue to live among the general inmate population.

Probation, after release is also problematic. Probation officers are trained to have the mindset of law enforcement. I have heard prosecutors say that agreeing to a lesser sentence at trial is not a problem, because when the inmate completes his incarceration, the probation officer can violate the inmate, where there is a lower burden of proof, and send him back to prison.

Solutions to these problems lie in the application of common sense and modern technology. The greatest tool that the BOP has to encourage proper inmate behavior, to foster the rehabilitative process, and to reduce the inmate population and the cost of incarceration is the expanded use of good time credit. The sincerest desire of almost every inmate is to get out of prison. Earning good time credit (sentence reduction) is the most effective way to shape inmate behavior. Instead of using the loss of good time credit as a punishment for unwanted behavior, the credit should be increased for proper behavior. Credits could be further earned for educational progress (GED or college graduation), completion of rehabilitative programs while incarcerated (counseling, drug treatment programs, etc.), and could be used as compensation for successfully hold a prison job. People on the outside expect to

be rewarded with salary increases and bonuses for success in the workplace. Inmates afforded the same opportunity would integrate more quickly back into a workforce upon release.

Success after release can be enhanced by more thoughtful monitoring during the probationary period. Instead of probation officers looking for infractions to justify re-incarceration, the released inmate should be monitored by a supervisory committee, made up of probation, social workers, counselors, and volunteer clergy and family members, as appropriate, in each particular case. Probation officers should be rewarded when their probationers successfully complete their supervision period, not if their probation is violated. Probationers can be monitored with state of the art GPS locators and trackers to help facilitate the monitoring process. The cost of this monitoring could be offset by early release of the inmate to home confinement. That way, the prison population and the cost of confinement is reduced, and some of the cost of the inmate's care would be transferred to the inmate and their family as they are able to take it on.

These are essential ideas to adequately address some of what we consider to be very critical problems with the Justice and Prison systems, in order to bring about fairness, reform, and the reduction of the prison population and the soaring cost of incarceration.

Thank you for your consideration,

A. Charles & Susan L. Lytle