

## PRISON WITHOUT BARS

By: Evelyn Taska

### DO PEOPLE WHO SERVED TIME OR WITH UNFAVORABLE BACKGROUNDS GET A FAIR RE-ENTRY OPPORTUNITY BACK INTO SOCIETY?

Individuals who served time or have unfavorable backgrounds regardless of the type of crime or imposed rehabilitation, faces re-entry challenges. They journey into becoming a part of society and at the same time re-adjusts to friends, family, and new technology. Everything that was left behind during their incarceration changed depending on the length of time served. Those who did not served time but now have a "rap sheet" also faces the same challenges. As I look closer into the type of programs, options, and assistance, available to assist with transitions from incarceration back into society, I question what is actually available to offer such an individual a fair chance to re-enter society.

### WHAT IS THE REALITY REGARDING RE-ENTRY AND RECIDIVISM?

"Every year, over 600,000 Americans is released from prisons across the country. In New York State approximately 68,000 prisoners are released every year.<sup>3</sup> Two-thirds of these individuals are re-arrested within three years".<sup>1</sup> This staggering number affects numerous lives and social economic conditions amongst neighborhoods and businesses. It is clearly apparent that our present re-entry assistance is not effective and induces the need to build more jails instead of reducing recidivism and building lives.

Every state has their own policies and procedures on how to deal with people having a criminal history. Even more shocking is the fact that most states allow employers to deny jobs for people who were arrested but never convicted of a crime.<sup>4</sup> There are states offering support ranging from very limited assistances to a "politically correct" opportunity.<sup>1</sup> I find that government, corporations, and society as a whole have not united to offer an equitable and balanced transitional process targeting a consistent but effective result. In recent news, New York State is amending their laws regarding employment, licensure, and fair hiring practice that will take place effective February of 2009. This new correction law requires employers and agencies conducting background checks to give a copy of this amended law to applicants having a criminal history. In addition, it mandates that employers as well as licensing agencies to provide a fair opportunity of process and employment. The amended law asked that certain consideration be given on criteria such as; rehabilitation, seriousness of crime, length of time, age when crime was committed, and relationship to job being considered.<sup>2</sup> The intent of this amendment is clearly to prevent employment discrimination and encourage the hiring of individual based on their merits and not their unfavorable past. This is a good effort by New York State to induce a change that can help many and

hopefully it will spread to other states. This change also supports my views that as a result of the increasing recidivism that presently exist; government is realizing the impact and importance of this situation. The lack of an effective transitions or assistance for those re-entering society or having a past affects several areas of society. This is a formula for homelessness, crime increase, inaccurate census count, poor and unfair housing, discrimination, unemployment, and the everlasting need for more jails.<sup>4</sup> I do agree that incarceration in today's society is unfortunately necessary, but we must also prepare and provide a plan for those who are on parole, probation, or to be released.

What are some of the tools available for those with a criminal history wishing to re-establish themselves as a member of our community after paying their debt to society? We first must understand the initial steps of release for prisoners. Without regards to weather conditions or location, release from jail usually takes place in the middle of the night and individuals are given \$20.00 for carfare. Some of them still wear the footwear provided by the institution and with no plan or directions heading towards an unknown destination. If they are lucky they will have a place to stay with family. Those that do not, are expected to find shelter and somehow fend for themselves. Note that housing applications require background checks and chances of finding adequate housing are slim to none. The next viable option is to wait until morning and go to a Social Service office to apply for assistance. This is a 30 to 60 day process where documentation and proof of residence is required to open a caseload. This is when frustration, anger, and hopelessness start to set in and in despair reviving the only survival mode they know.

### TOOLS OF ASSISTANCE AND ITS EFFECTIVENESS:

**Certificate of Relief from Disabilities-** Issued under an application process to individuals while on probation (supervised released for a term of time instead on being incarcerated). This certificate given to individuals with only one unfavorable charge on their record, its purpose is to show employers and licensing bureaus that the holder of the certificate is rehabilitated and in good standing. The effectiveness varies amongst specific situation and applicability. Usually it is taken into consideration but offers no true guarantee.<sup>5</sup>

**Certificate of Good Conduct-** Issued under an application process to individuals on Parole (People serving time and released under supervision after incarceration due to good behavior). This certificate is given to individuals with more than one unfavorable charge on their record and serves the same purpose as the Certificate of relief from disabilities.<sup>5</sup>

**Getting Bonded-** In addition to distrust, most employers are concerned with insurance increases to their policies due to the hiring of an individual with an unfavorable background (criminal record) regardless of the type of charge or how long ago it took place. Bonding is a government offer to an employer that provides an assurance for insurance coverage for an individual with a criminal history to alleviate insurability concerns on behalf of the employer.<sup>6</sup>

**Sealing a record-** Usually offered for special circumstances and to minors. This process “hides” the conviction from any searches that may take place by potential employers. Courts and government will be the only entities with access to the history of that individual (police investigations, gun permits, district attorney investigations, etc).<sup>6</sup>

**Expunging a Record-** This process extracts all finger prints, charges, and convictions from a person’s record and it varies amongst states. Some states will allow a record to be expunged after meeting some requirements which may include gravity of the crime, age of the crime, and proof of progress or rehabilitation. In states like NY, the only way to get a criminal record expunged is if the charges were dismissed.<sup>6</sup>

The criminal justice system is antiquated and reflects the era of the 70’s through the 90’s when New York State laws such as the “Rockefeller laws” (drug laws) were formed to protect the safety of the public. Unfortunately, they were too punishing for simple crimes and incarcerated people for years and offered parole for life.<sup>7</sup> In addition, these laws failed to anticipate the consequences for formerly incarcerated people and the general public when, decades later, those who were imprisoned would be released. In 2004, the Rockefeller Drug Laws were reformed under pressure from the Real Reform New York Coalition.<sup>7</sup>

During an interview with Mr. Larry Fauntleroy, Human Right Commissioner of Dutchess County and Founder of “Trees Without Roots”, and Co-Founder Emilio Noble and an advocate for Human Rights, they provided a personal perspective about people with unfavorable backgrounds. They explained that society first must reform the stigma that takes away a fair chance for re-entry. Mr. Fauntleroy indicated the obvious, stating that referring to people with an unfavorable background as “Felons”, “Ex-cons” or “inmates” is that initial stigma presented by society. It offers from the beginning of being release, a negative tone that stains any hope of a fair opportunity. The question from Mr. Fauntleroy was; how can we expect a person who served time to rehabilitate and improve themselves when we do not let them? The mission statement appropriately defines what “Trees Without Roots” represents to Mr. Fauntleroy and Mr. Noble and read as follows:

“To provide and create a mechanism to develop an effective strategy for re-entry into society. These groups will look at the dynamics and complexities of transition back into the community after extended incarceration”.

To educate and provide individuals holding a criminal history or record with an effective transition into society. In order to

ultimately eliminate or minimize stigmatization or challenges that prevents specific groups to transition their lives and to successfully contribute back into society.

To simultaneously educate both our society and individuals on the focus of a “new beginning” by disarming those challenges that only offers stigma, discrimination, and a negative expectation. To guide and increase the value of people who have served time as a positive contributor to society and therefore eliminating the challenges of a “prison without bars”.

To provide people who have served time with the opportunity to transition and grow back into society with as minimal challenges as possible. To break the concrete floors of a jail without bars in order to allow these groups of trees to develop roots and therefore can grow as part of our community.”<sup>9</sup>

Mr. Noble compared having a conviction worse than having a disease. He stated that at least with a disease there are treatments and relief that offers an opportunity for improvement. On the other hand, having a conviction is not treatable and the effects could be everlasting and life shattering. He expressed that most convictions are a result of plea bargains and not through a trial by jury. Most convictions fall on those from indigent backgrounds with poor legal representation due to inability to afford better. It is interesting to know that the judicial system will provide everyone with a court appointed attorney, but they fail to mention the poor quality of those attorneys. Due to the rate of significant lower payment, these courts appointed attorneys searches for quick resolutions via plea agreements rather than an adequate defense.

Mr. Noble said “The judicial system loses itself from being blind in fairly protecting and servicing the public to becoming a commercialized business enterprise”. Instead this business enterprise is harming the community it supposed to serve by not giving due diligence to the forefront of the legal process nor the aftermath of incarceration.

## Conclusion

In my opinion, our judicial system is essential in providing safety and justice for all via fair effective means to preserve law and order. In doing so, it also has a one directional solution. It takes actions to penalize the unlawful acts but disregards effective means to control the revolving door that follows. All decisions must be implemented with a plan in place in order to arrive at a desired result. Unfortunately, we are compounding an existing problem by correcting the immediate legal need with incarceration but we fail to properly rehabilitate, prepare, and assist individuals with a criminal history for social transition to follow. Hence,

creating an uncontrollable revolving door leading nowhere. By releasing individuals who have served time or just been issued a “rap sheet”, back into a society where no doors will be open, we create a greater risk to ourselves and our social economics. This unnecessary revolving door ruins families, impacts people rights, dissolves integrity, and displaces individuals and their communities via a domino effect.

We know the problem and it can be affectively confronted by just taking the initiative to be pro-active and preventive. The rehabilitation should be more than serving time, rather than pretending that release will never arrive for most of these individuals. The time of reparation and rehabilitation should be mutually initiated and treated like a business project according to the time being served. Instead of commercializing the prisons to raise funds via laundry services or making plates, let’s link the incarceration with an action plan towards their release. Prisoners should have a career goal in progress to assist them when they re-enter society. To accomplish this task we need to educate the insurance companies and corporate America on the harm being caused to themselves, businesses, and their communities. Employers’ relentless defiance to hire individuals with a criminal past is a major contribution towards recidivism. We should first make available a true rehabilitation program that realistically prepares an individual for release. Second, have social workers or outreach professionals build relationships and opportunities with companies willing to partner with this idea to offer those opportunities. At the same time government must offer the right incentive to facilitate and ease the insurance challenges that employers may be facing. In addition, incentives of a second chance to clear their history should be provided for those being released. This incentive can offer a restoration of their civil rights based on their ability to become an effective part of society (if appropriately given a fair chance at re-entry).

One concept that comes to mind is taking part in routine job fairs that takes place at the prison prior or immediately after release. This removes any concerns from the employer or need for a background check for the prisoner. It will provide a clear and honest expectation on both sides and offer the true meaning of hiring based on merits without any discrimination. The government presently recruits individuals with all types of criminal past for the military, if the government feels that people with a criminal past are good enough to protect the USA, they should also be good enough to vote and get employed.

At the end we will save millions in tax monies and build more lives and fewer prisons. This can leave to a significant reduction of the prison’s revolving doors and dramatically improve the quality of family lives, business, and social economics. This is more than just a report for me; it is every day lives that I witness amongst all ages and in all type of neighborhoods. We all know someone that is, was, or will be affected by this trajectory status if our government does not promptly implement a comprehensive plan or solutions.

## REFERENCES

- 1- Employment Standards that Encourage the Employment of Qualified People Criminal Histories  
<http://www.usdoj.gov/olp/pdf/employmentstdsummary.pdf> (pgs 1, 3-6) 2- 9-11-008 [New York Amendment to State Correction Law Has New Provisions for Employers.htm](http://www.nyc.gov/html/nyccor/html/about/nyccor_008_New_York_Amendment_to_State_Correction_Law_Has_New_Provisions_for_Employers.htm).
- 3- Prisoner Reentry and the New York City Workforce Investment System a Report to the New York City Workforce Investment Board December 2007,  
<http://www.doe.org/criminalJustice/Prisoner%20Reentry%20Report%20FINALjan2008.pdf> (pg 2)
- 4- After prison: Roadblock to re-entry, Report by the legal action center, [www.lac.org/roadblocks.html](http://www.lac.org/roadblocks.html) (pgs 8-18, 23)
- 5 <http://dpca.state.ny.us/pdfs/certificatesofrelieffromforfeituresanddisabilitiesqanda.pdf> (pgs 1-9)
- 6- Interview with Mr. Emilio Noble, Co-founder of “Trees Without Roots” [www.treeswithoutroots.org](http://www.treeswithoutroots.org) (914) 643-8449.
- 7- **Rockefeller Drug Laws Information Sheet**, Prepared by Aaron D. Wilson, Associate Director, PRDI,  
<http://www.prdi.org/rocklawfact.html>
- 8- Article: **Real Reform NY**,  
<http://www.realreformny.org/about.html>
- 9- Interview with Mr. Larry Fautleroy, Founder of “Trees Without Roots” [www.treeswithoutroots.org](http://www.treeswithoutroots.org) and Commissioner of the Human Rights Commission for Dutchess County, NY (845) 559-8349