

## **Improving reentry is the goal of prison reform**

BY SCOTT HARSHBARGER

In “Approaching Reentry” (*CW*, Summer ’05), crime expert Jeremy Travis spoke at length about the problem of inmates returning to society. As former District Attorney of Middlesex County, Attorney General, and in my current capacity as chairman of the Department of Correction Advisory Council, I view the issue of returning inmates as one of the most pressing public safety issues of our time. Yet, even though “reentry” has become a hot topic among policy makers and corrections professionals, we are far from having a comprehensive reentry strategy in place in Massachusetts or anywhere else in the nation.

As Attorney General in the 1990s, I worked in partnership with many outstanding federal, state, and local law enforcement officials and community leaders to tackle crime and violence in Boston and other urban areas. One component of our efforts was to identify “impact players,” those individuals wreaking havoc in high crime neighborhoods, and ensure that they received special attention from law enforcement officials, including lengthy prison sentences where appropriate. This and other community policing strategies seemed to be highly successful, as crime dropped considerably, and Boston was showcased as a national model.

Unfortunately, no one focused on the fact that these impact players would all be coming back, and that most would return to the same neighborhoods and the same circumstances they left years before. In fact, 97 percent of prisoners are eventually released, so what we do to prepare them to return to our neighborhoods, and the conditions under which they are returned, directly impacts public safety.

For the past two years, I have had the opportunity to look more closely at this issue as chairman of the Governor’s Commission on Corrections Reform and its successor, the DOC Advisory Council. In the wake of the murder of former priest John Geoghan at the Souza-Baranowski prison by a fellow inmate, Gov. Romney and Secretary of Public Safety Edward Flynn established the commission to conduct a top-to-bottom review of the Department of Correction and develop an action plan for change. The commission, comprised of 15 individuals with a range of expertise on corrections-related issues, released a major report in June 2004 containing 18 specific recommendations for action.

Surprisingly, we found that very little was being done in Massachusetts prisons to prepare inmates for release, and that many inmates were released directly from maximum security facilities to the street with no on-going monitoring or supervision. Nearly half of those released were convicted of a new crime within just three years. Given that we spend nearly half a billion dollars on our state prison system, this recidivism rate is simply unacceptable. The commission concluded that it was imperative to make inmate reentry a statewide priority for public safety and fiscal accountability reasons.

Over the past year, Commissioner of Correction Kathleen Dennehy, with the support of Secretary Flynn and Gov. Romney, has taken numerous steps to begin improving inmate reentry. As noted in our preliminary progress report, submitted in June, the important work of communicating a clear message of reform is well underway within the DOC, despite strong resistance to change from the leadership of the correction officers' labor union. The 18 recommendations have been put on an implementation timeline. Notably, over the past year the Commissioner has modified the department's mission statement to explicitly recognize the fundamental role of preparing inmates for release; hired 10 new teachers for education programs; expanded capacity for the Correctional Recovery Academy and some other substance abuse and pre-release programs; worked with the Department of Medical Assistance to provide MassHealth cards to all discharging inmates; and partnered with the Parole Board to ensure that all DOC inmates (even those who are not subject to post-release supervision) are released to one of eight new Regional Reentry Centers, community-based centers that can provide referrals for needed services.

Despite this progress, much more work remains to be done. If we are serious about reducing the crime, violence, and chaos caused by returning inmates, we must make reentry a statewide priority and involve a host of state and local partners. Certain changes – in law, in DOC, and in other agencies – are essential if we are going to make meaningful progress in stemming crime committed by former inmates. To this end, the following reforms, as a minimum, should be undertaken with a far greater sense of urgency:

**POST-RELEASE SUPERVISION:** Unfortunately, most inmates in Massachusetts receive no supervision in the community upon release from prison. Particularly troubling is the large number of inmates who waive their right to a parole hearing, choosing to serve out their full sentences in order to be released to the community without oversight.

Supervised release of DOC inmates, particularly those at high risk for re-offense after serving their sentence, is crucial from a public safety standpoint. The commission strongly recommended that the Commonwealth adopt a system to ensure that all offenders get released with ongoing monitoring and supervision. The commission also urged the Legislature to consider *mandating* post-release supervision for those inmates who are *not* released under parole supervision, either because of the terms of their sentences preclude parole, because they waive parole eligibility, or because they are denied parole. In any of these scenarios, public safety would be better protected if inmates were supervised for a designated period of time after their release.

**REENTRY LEGISLATION:** The commission found that successful reentry of prisoners is limited by state sentencing laws and practices that directly impact inmate classification, programming options, pre-release, and supervised release. Indeed, at the time of the commission's report, 84 percent of the inmate population was statutorily prohibited from participating in pre-release programming (i.e., work release, education release, and placement in pre-release centers). The DOC will be unable to fully implement an effective reentry plan for most inmates until these restrictions are removed. Despite recognition of these limitations by policy makers, including the crime commission chaired by Lt. Gov. Kerry Healey, state sentencing laws and practices –

which include mandatory minimum sentences, restrictions on parole eligibility, and restrictions on work release – remain unchanged.

There are numerous ways to reform existing laws to eliminate obstacles to graduated movement through security levels, pre-release programming, and post-release supervision. The Legislature, governor, district attorneys, sheriffs, and advocacy groups should act swiftly to pass legislation to improve inmate reentry. *This can be accomplished without reducing the length of prison sentences.*

**CLASSIFICATION REFORM:** The commission found that the existing classification system, by which each inmate is assigned to an appropriate security level, is overly reliant on subjective-decision making and the use of overrides. As a result, many inmates are over-classified – assigned to higher levels of security than necessary – and that costs the citizens of the Commonwealth in both financial (maximum security prisons are more costly to operate than lower security facilities) and public safety terms. Most important, subjective classification policies and procedures can prevent a “step down” in custody level prior to release. As a result, most inmates go from a highly structured and restrictive environment one day to a completely unstructured, unrestricted environment – freedom – the next. This is particularly troubling in cases of inmates who are released from higher security levels with no supervision following release. For these inmates, prison is truly the end of the line of the criminal justice system, and our last best chance to intervene to change their behavior and protect the public so that they may leave prison less dangerous than when they entered.

The commission recommended that the DOC adopt a research-based, objective classification system with appropriate procedures and trained staff to implement it. The department has developed a proposal for such an objective system, and the Advisory Council has urged the department to put it in place as soon as possible.

**LABOR-MANAGEMENT REFORM AND BUDGET REALLOCATION:** Making reentry a priority requires resources. Since the Legislature, amazingly, chose to *reduce* the DOC budget this year, the department has limited choices here. However, the commission and council have both strongly advocated for a re-allocation of the DOC’s budget resources, if not an increase in them.

Specifically, staffing costs account for 73 percent of the DOC’s total budget, while inmate programs comprise a mere 12 percent. Therefore, the fiscal management of department is closely linked with labor management and the rising costs of labor. The commission found that between 1995 and 2003, staffing costs increased from \$200 million to \$312 million, a 56 percent increase. The high cost of staffing reflects a number of factors, including the fact that correction officers take off an average of 60 days per year, of which 52 are paid (including 18 sick days per officer per year). Sick leave usage costs the department \$21 million per year. DOC has to restrain these labor costs for fiscal management reasons, but also to free up resources to bolster and expand recidivism-reducing efforts.

In our reviews and reports, the commission and advisory council have noted that the existing labor contract is distinguished by startlingly weak managerial rights provisions. Fundamental management functions were bargained away over the past decade and, for whatever reason, political or otherwise, a range of favorable provisions on absenteeism, sick leave, compensation, and supervisory control were allowed into the contract. We have recommended a number of specific steps that the DOC should take to

bring down the high costs of staffing through the collective bargaining process and through stronger management authority. However, the resistance of the correction officer's labor union, the Massachusetts Correction Officers Federated Union (MCOFU), is a major barrier to change.

It is understandable that the leadership of MCOFU would oppose changes in their contract. They are not to blame for their apparent bargaining success. However, negotiations are now open over a contract that expired in December 2003, but remains in effect. The governor, the Executive Office of Public Safety, and DOC must seek to restore appropriate management rights and control, in terms of both costs and authority. Union leadership has been unwilling to accept much-needed changes in management and fiscal responsibility, and this is reflected not only in their internal resistance to DOC change and reform, but also in the breakdown of contract negotiations.

While we all understand the dangers and difficulties correction officers face, the DOC must be managed and led in a new direction. As a partner, the union leadership could add immeasurably to the progress to date.

**MULTI-AGENCY COOPERATION:** While reentry has become an important concept in corrections, it is not exclusively the responsibility of the prisons. Many other agencies and organizations at the state and local levels have equally significant roles and responsibilities. The Parole Board and Probation Department have crucial community supervision roles; since a large percentage of inmates have substance abuse addictions and mental health problems, Department of Public Health and Department of Mental Health resources are needed; the capacity of sheriffs to handle female offenders generally and state inmates prior to release is vital, as is the responsibility of DAs, courts, and the Legislature to support legislative reforms. At the local level, criminal justice, human service, and housing agencies, along with faith-based organizations and potential employers, have critical roles to play in ensuring that an inmate's transition back to the community is successful.

All of these players must make reduction of recidivism a priority, and many state and local agencies have engaged in discussions about how to improve offender reentry. Yet, to date, in terms of action and resources, very little concrete action has been taken. There is currently a window of opportunity for serious reform to make our system more effective at reducing re-offense. This important work cannot be left to the DOC alone.

Is offender reentry a concept we are only willing to pay lip service to? Is it unrealistic to expect leaders to take a stand on a complex public safety problem, especially with an election season in the offing? I do not think so. John Gardner, the founder of Common Cause, challenged those who would be leaders to embrace the notion that "life is full of golden opportunities masked as insurmountable obstacles." This is one of those opportunities, one that would dramatically improve public safety. All we seem to lack is the will and the sense of urgency.

But a sense of urgency is warranted. Every time a murder, rape, or violent assault is committed by an ex-con, we must ask if it represents a lost opportunity to have done more to protect the public. Let's take action to stop the cycling of offenders in and out of our prisons, in the interest of public safety and fiscal responsibility alike.

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