



## **POLICING THE USA**

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# **Judges should be able to take a 'second look' at prison sentencing**

*Presidential 'second chance' initiatives would give inmates assistance after release. But what about those given a virtual life sentence?*

**Kevin Sharp and Kevin Ring** Opinion contributors

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Our country throws away far too many people. We sentence people to decades in prison; send them to remote, dangerous institutions; forget they exist; then release them from prison with little to no coping skills. Last week, the White House announced new initiatives to help people leaving prison find employment. We applaud this effort but would encourage policymakers to think bigger.

It's time we took bold steps that would give most prisoners an incentive to work hard to change their lives and successfully reintegrate into society, making us all safer when they do. It's time for Congress and state legislatures to adopt broad "second look" sentencing laws.

We have both worked with people who have taken extraordinary steps to rehabilitate themselves in prison. One of us is a former federal judge who resigned, in large part, because he could no longer stand to impose the excessive and unjust prison terms Congress mandates in so many cases. The other is a former prisoner and the leader of a national organization that works with thousands of families directly impacted by harsh federal and state sentencing laws.

We know that implementing second-look laws, which would allow judges to review every offender's sentence after a certain period — say 10 or 15 years — could reform our criminal justice system in a way that would recognize the capacity for rehabilitation, ensure public safety and reduce excessive sentences.

Second-look laws would give any individual hoping for a second chance more than enough time to show that he or she has earned it. Knowing that an opportunity for resentencing exists would very likely improve morale and behavior inside prisons, benefiting prisoners

and corrections officers alike.

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There is nothing more frightening than living in an environment where there is no hope. Moreover, there is ample evidence to suggest that lengthier sentences do not make us safer, yet our country continues to impose some of the harshest prison terms in the Western world.

Our elected leaders sometimes acknowledge that our prisons are full of people who have been locked up far longer than is necessary. In February, one of President Donald Trump's guests at the State of the Union, Matthew Charles, received a standing ovation from both Democrats and Republicans because of his extraordinary rehabilitation.

Charles served 21 years in federal prison without a single disciplinary infraction, yet he would have been forced to spend nearly an additional decade behind bars had Congress not passed the First Step Act.

The truth is that every day, all across the country, many state and federal prisoners are actively rehabilitating themselves as Charles did, through education, religious commitment, substance abuse treatment or behavioral counseling. Others simply needed time to grow up or realize the error of their ways. Unlike Charles, however, most of these individuals do not get released early. And thousands of them are serving excessive sentences, usually due to mandatory minimum sentencing laws, including three-strikes and habitual-offender laws. About a quarter of the federal prison population is serving a sentence of at least 15 years without any chance for parole.

Cynthia Powell is such a person. Despite being a first-time nonviolent offender, Powell was sentenced to 25 years for selling 35 hydrocodone pills — medication she had been prescribed for diabetes. Now, 16 years into her sentence, the 57-year-old grandmother still has almost a decade more to go. She presents no risk to public safety yet remains in a Florida prison thanks to the state's strict mandatory drug sentencing laws.

Chad Marks committed a more serious offense: selling cocaine while in possession of firearms. At 24, he turned down a prosecutor's plea offer of 10 years, was convicted at trial and sentenced to a mandatory minimum of 40 years in federal prison. He has now served 16 years. During that time, Marks has earned a college degree through a correspondence course, helped others earn their GED diplomas, and started a leadership class to assist incarcerated fathers. The judge who sentenced him was so impressed by

Marks' self-improvement that he asked Trump to grant him clemency. The president has not responded.

Such inaction is typical. Although presidents and many governors have the authority to shorten excessive sentences and reward extraordinary rehabilitation, they rarely use it. Over the past 40 years, executives have been loath to take any risks with their political futures.

We need to move beyond short-term fear and follow what we know to be true about human nature and people's capacity to change. Enacting second-look laws would allow us to reduce the unnecessary harm we are causing to some of our fellow citizens and improve public safety for all of us.

Under second-look laws, public safety would be preserved by ensuring that prosecutors, probation officers and pretrial services, along with prison officials, are involved in any resentencing in order to make the court aware of a given individual's rehabilitation, or lack thereof. It's more likely that adopting second-look laws would make our communities safer and decrease the strain on our prison system by preventing us from wasting our limited anti-crime resources warehousing people who pose little or no safety risk.

If we want to safely reduce our nation's prison population, we need to stop throwing people away and start recognizing the human capacity for rehabilitation and redemption. We need to commit to second chances, and we can start by promising to give everyone a second look.

*Kevin Sharp is a former federal judge who now works as a managing partner at the law firm Sanford Heisler Sharp. Kevin Ring is a former prisoner and current president of FAMM — formerly known as Families Against Mandatory Minimums.*