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PERSPECTIVE

Restoring felons to full citizenship

By Jeffrey Bornstein and Sanford Jay Rosen

There is much talk about prison and criminal justice reform in our country today. President Barack Obama, and both Republicans and Democrats, have spoken about the need to reduce draconian drug sentences and to offer treatment alternatives. Attorney General Loretta Lynch recently announced a new reentry program to include job training for federal inmates completing their sentences. Just a couple of days earlier, Gov. Terry McAuliffe of Virginia issued an executive order that restores the right to vote for convicted felons in Virginia. In response to federal court orders, in a case affirmed by the U.S. Supreme Court, California is continuing to reduce its overall prison population and is dedicating more resources designed to treat the mentally ill. Over 30 percent of California's inmate population are considered seriously mentally ill.

But we continue to send more people to prison than any other developed or industrialized country in the world. We even exceed China by 25 percent, despite having only 25 percent of its population. Recent statistics and reports show that the Federal Bureau of Prisons has over 196,000 inmates as of April 28, and the California Department of Corrections and Rehabilitation anticipates its inmate population to be almost 128,000 by June 30.

Unquestionably, incarceration rates in the United States are skewed heavily against minorities with devastating impact on America's black and Latino communities. Blacks are incarcerated at nearly six times the rate of whites; Latinos are incarcerated at 2.5 times the rate of whites. To his credit, Gov. McAuliffe specifically linked his executive order to the racism that underpinned the Virginia law that disenfranchised released prisoners.

Assuredly, we need to protect our people and communities from criminal misconduct, and punishment in the form of incarceration is legitimately imposed to deter crimes or ensure that those people who commit crimes are held accountable. The tension between protecting safety and the appropriate goals of punishment remain out of whack, all the more so because for the mentally ill, prison terms have effectively replaced community treatment programs.

Since at least the mid-1980s when President Ronald Reagan gutted funding for the National



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Attorney General Loretta Lynch in Washington earlier this year.

Institute of Mental Health and also moved to restrict SSI benefits for the mentally ill, community mental health treatment was largely replaced by incarceration. Today, California is spending millions of dollars to comply with federal court orders regarding the housing and treatment of mentally ill inmates. Even the NRA has tried to change the discussion about gun violence away from further gun restrictions to the need to do more to identify and treat people with mental illness. See, e.g., *The Economist*, "Why the NRA keeps talking about mental illness, rather than guns," March 13, 2013.

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While there are now community-based alternatives to incarceration being promoted such as San Francisco's Behavioral Health Court for people who are mentally ill or the Federal Court's Conviction Alternatives Program in the Northern District of California for those with drug addiction problems, the number of people who are diverted from the traditional criminal justice imprisonment track is still very small.

Getting to the appropriate balance presents tough choices for society. The incarceration and recidivism data demonstrate that we have yet to get it right. Our society's tolerance of prisoners once they are released shows how badly we are doing. The resources needed to assist a person who has been incarcerated reintegrate back into

society are not keeping pace with the numbers of people we are continuing to lock up.

As our country retools for the 21st century, felons are almost always saddled with the equivalent of the "red letter 'F'" that never goes away. Once labeled as a convicted felon, job applications, background checks, the ability to obtain federal or state benefits or housing assistance, as well as the right to vote, are all in jeopardy.

While efforts are made during the period of probation or supervised release to assist convicted felons, there are substantial obstacles to success in reintegrating released prisoners, including limited funding for various support and community mental health programs. Even more fundamentally, especially in the federal system, once a person is a convicted felon, he is always a convicted felon, and many jobs, professional opportunities, housing options, and the right to vote become off limits. In other words, despite a convicted felon's best efforts made, he will never be considered "rehabilitated" in the eyes of the law or society. That stigma presents a key challenge for society as we seek to address sentencing reform issues. Any serious discussion about sentencing, criminal justice, prison and jail, and mental systems reform has to include measures that allow convicted felons to demonstrate their rehabilitation and give them the opportunity to rejoin society as fully participating members. Attorney General Lynch and Gov. McAuliffe's recent actions are steps in the right direction.

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