

Distinguished members of the Commission,

My name is Stanley Richards. I am the Deputy Executive Director of The Fortune Society, a nonprofit organization dedicated to providing critical reentry services to ex-prisoners and to advocating for a more humane, rehabilitative criminal justice system. I am also a former prisoner and a recovering substance abuser. I am here to share my own personal experience in the criminal justice system. I am also here to tell you of the several thousand individuals who come through the doors of The Fortune Society each year. Most importantly I am here to describe how current criminal justice policies in New York State and across the United States are fundamentally unfair, unjust, inhumane, costly and ineffective. At the heart of these issues are mandatory minimum sentencing laws and rigid sentencing guidelines.

Mandatory Minimum Sentences and Rigid Sentencing Guidelines

I spent ten years in jails and prisons in New York State. While I was not sentenced under the Rockefeller drug laws, which mandate long prison sentences for individuals in possession of certain amounts of drugs, tens of thousands of men and women in New York are facing unnecessarily long sentences under these laws. The Rockefeller drug laws are the main reason the prison population in New York State has grown from 12,500 in 1973 to over 67,000 today. And yet, more than 60% of those behind bars have committed non-violent offenses. The number of drug offenders sent to prison in 2001 in New York State was 40% of the overall total. In that same year, only 29.2% of those sent to state prison were violent offenders. Even more disturbing is that African-Americans and Latinos make up 93% of those sent to prison under the Rockefeller drug laws. Numerous studies have shown that whites represent the majority of those who use and sell drugs. Whatever the intent of these laws, the end result has meant that a disproportionate number of people of color are doing time in New York State.

The picture I have described is unfortunately not restricted to New York State alone—it is emblematic of the situation in most states across the country. The Rockefeller drug laws were the first of their kind in the United States and have been replicated in one form or another across the country. Today most states have incorporated some form of mandatory sentencing laws into their criminal justice statutes. These laws have led to disturbing increases in the number of people incarcerated across the country—over two million American citizens are in prison. They have also led to the incarceration of alarming numbers of African-Americans and Hispanics—one in four African American men will be incarcerated in their lifetime—and the number of women incarcerated across the country has more than tripled in the last fifteen years.

Over the past two decades, the federal government and most states have also enacted laws that set forth specific sentencing guidelines, which judges must follow when sentencing a defendant. Sentencing guidelines were enacted by legislatures during the 1980s and 90s, during the “get-tough-on-crime” era, when crime rates were rising and the crack cocaine epidemic was rampant. Politicians seeking to look tough on crime enacted these laws because of a perception that “soft” judges were letting criminals “get off” with light sentences. Because most of these guidelines were enacted in an atmosphere of fear and during a time when the media was demonizing young, urban, Black men as violent predators, these guidelines are not only rigid, but they are not based on reality. These guidelines have made prison terms much longer and have further removed

sentencing discretion from judges. In addition, so called "truth-in-sentencing" laws, which require prisoners to serve all or most of their sentences, along with zero-tolerance policies for parole violators, have also contributed to the extraordinary increases in the prison population.

Mandatory minimum sentencing statutes and rigid sentencing guidelines have taken common sense out of the criminal justice system. These laws have taken sentencing discretion away from judges—the impartial courtroom arbiter—and given it to prosecutors. While many prosecutors have good intentions, their main goal is to convict the defendant. What is best for the defendant and for society is, at best, secondary. Each individual case that comes before a judge involves different circumstances and should be treated as such. Criminal behavior is a very complex issue that deserves a complex solution. Mandatory minimums are a simplistic solution to a complex problem. By doing this we have tied the hands of judges and made it impossible for them to factor in the details of each individual case and use their expertise to reach a reasonable sentence. Some defendants deserve long prison sentences and need to be removed from society. Others need substance abuse treatment. Still others require mental health services. As of now, they *all* receive long sentences.

Fortune staff recently attended an event for an organization called the Mothers of the Disappeared, a group dedicated to raising awareness of the injustice of the Rockefeller drug laws. They honored a judge who was so disgusted with the Rockefeller drugs laws that he made it his mission to gain release for those whom he was forced, against his better judgment, to sentence to long prison terms under these laws. At one point during the evening, the judge was surrounded by a number of women for whom he had successfully advocated for pardons. Each woman was extremely grateful. It was an emotional moment.

Mandatory minimum laws and rigid sentencing requirements have taken fundamental fairness out of the system and subjected people to unduly harsh punishments. The most egregious of these laws is perhaps California's so called "Three Strikes You're Out" law. This law mandates long prison terms for those convicted of a third felony. Under the law, judges must sentence defendants to long prison terms, even if their "third strike" is a nonviolent felony. There is a Web site that lists 150 "Three Strike Stories" and gives a description of the crimes committed by a fraction of those sentenced under this law. Mixed in with many drug possession cases were stories of someone stealing a spare tire, theft of razor blades and shoplifting a deadbolt lock. Do these individuals need to be held accountable for their actions? Absolutely. Should they be doing 25-years-to-life in prison? Absolutely not!

Rehabilitation in Prison

Pre-and post-release rehabilitation programs work. Unfortunately, while the number of people incarcerated has been rapidly increasing, rehabilitative programs in prison are being cut from state budgets. Individuals turn to crime for a variety of reasons. There are certain characteristics that are prevalent in the prison population. These characteristics include a history of substance abuse, a lack of education, a lack of marketable job skills, mental illness, a history of physical and emotional abuse and a high prevalence of health-related problems, including HIV, TB, and

Hepatitis. I can tell you from first-hand experience that addressing these issues is the best crime prevention strategy we know of.

I have seen thousands of individuals walk through the doors of The Fortune Society after years of incarceration and substance abuse and walk out clean and sober, never to set foot in a prison again, except maybe to help other prisoners. I oversee Fortune's education program and I have seen how education provides individuals with the means to transition from a life of poverty, despair and crime, to one filled with knowledge and hope. I have seen how counseling can help clients deal with family and mental health issues. I have seen how access to medication can significantly help mental illness. I have seen how health-related education can reduce risky behaviors and encourage individuals to seek medical care for illnesses. I have seen how the reunification of families can provide the support and motivation to lead a crime-free life. I have seen how appropriate housing can provide the foundation from which a person can successfully deal with their issues and transition back to their community. Most importantly, I have seen how rehabilitation does work. People can and do change. For example, despite the slow economy and the challenges of finding employment for those with a criminal record, last year, Fortune placed roughly 200 people in jobs with an average salary of \$8.44 an hour.

Prisons across this nation have become a dumping ground for those we have given up on. And this is a national disgrace. It is a disgrace that we have chosen to incarcerate substance abusers, instead of providing treatment; despite study after study showing that treatment is the most cost-effective and humane way to deal with addiction. It is a disgrace that there are more mentally ill people in prison than in mental institutions. It is a disgrace that six million children have parents under criminal justice supervision. It is a disgrace that our prison system has become a breeding ground for HIV, TB, Hepatitis-C and other illnesses. It is a disgrace that we have 2.1 million of our fellow citizens locked in cages—more per capita than any other country in the world.

Mandatory sentencing laws and rigid sentencing guidelines have contributed mightily to the state of our criminal justice system. Judges no longer have the discretion to take many contributing factors—mental illness, substance abuse, illiteracy—into account when they sentence a defendant. They are unable to consider the impact a prison sentence may have on the defendant. And because the sentencing guidelines are harsh, individuals with correctable social problems are currently languishing in our nation's prisons, exacting a toll on us financially and emotionally.

Yes we need to have a lawful society and we need to ensure the safety of our citizenry. But as a society we have the power and means to determine how we achieve that goal. Right now we are attempting to achieve this goal by doing massive damage to individuals, families and communities and to our reputation for being a fair and just democracy. I know there is a better way.

Date Source: The Correctional Association of New York

