

Redemption, Forgiveness, and Public Safety

The Importance of Helping Ex-Offenders Work Their Way Back and Best Ways of Doing So

A ROUNDTABLE



Dan Cain
Louis King
Warren Limmer
Rich Stanek
Sarah Walker

Moderated by Peter Bell



Center of the American Experiment is a nonpartisan, tax-exempt, public policy and educational institution that brings conservative and free market ideas to bear on the hardest problems facing Minnesota and the nation.

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An American Experiment Series on New Ideas

Dan Cain, President, RS Eden

Louis King, President & CEO, Summit Academy OIC

Sen. Warren Limmer, Chairman, Senate Judiciary & Public Safety Committee

Sheriff Rich Stanek, Hennepin County

Sarah Walker, COO, 180 Degrees

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Senior Fellow, Center of the American Experiment

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Introduction

Mitch Pearlstein
Founder & President

The edited discussion that follows is based on the most recent installment of American Experiment's "ReThinking Minnesota," a roundtable series led by Senior Fellow Peter Bell. It was held on June 5, and as come to be the custom, at the Capitol in St. Paul.

As the title above makes clear, the topic, once again, was a particularly tough problem in need of new—which is also to say reasonably brave—study and reconsideration, the very purpose of the now year-old series.

The announcement for the session put it this way: "What ought to be conservatives' favored paths for ex-offenders working their way back into society that's neither Pollyannish nor mean-spirited?" And "How can we reconcile belief in redemption and forgiveness while simultaneously recognizing that government's first job is protecting its citizens?"

The topic, I should add, was partially prompted by the Center's interest in re-institutionalizing marriage, especially in low-income communities. It's an aim stymied, however, by the fact that having a record makes getting a good job unusually hard, which in turn makes many men less marriageable in the eyes of many women.

In addition to my long-time friend and American Experiment colleague Peter Bell, my great thanks to panelists Dan Cain, President of RS Eden; Louis King, President and CEO of Summit Academy OIC; Sen. Warren Limmer, Chairman of the Minnesota Senate Judiciary and Public Safety Committee; Hennepin County Sheriff Rich Stanek; and Sarah Walker, COO of 180 Degrees. I'm also most grateful to Senior Fellow Kent Kaiser for another top-flight job of copy editing, and Beverly Hermes for another excellent job of transcribing the near-90 minutes of conversation.

And as with all we do, we very much welcome your comments.

Minneapolis
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Peter Bell: It's a pleasure to have an opportunity to talk with you about a very important topic, one that is getting a significant amount of attention across the political spectrum: How and where and when is it appropriate to reintegrate folks into civil society? Are the strategies we're currently using appropriate and effective? What is the best approach?

Over the past 40 years in this country, we have tried "Three Strikes and You're Out." We've tried longer prison sentences. We've tried determinate sentencing. We've tried numerous prison rehabilitation and education programs, including prison ministries. We've tried restorative justice, drug testing, work release programs, mentoring programs, and more. All of these approaches have a wide range of supporters and detractors. The results have been, at best, a mixed bag.

Thus, I think the fundamental question is, how should we, on the one hand, carry out society's primary function of protecting its members and enhancing a sense of justice for victims? Yet on the other hand, believe in redemption, second chances, and forgiveness? How should those competing values be reflected in public policy?

My first question is how should conservatives balance punishment with forgiveness as well as justice for victims?

Dan Cain: I think when we talk about redemption, and we talk about forgiveness, and we talk about people moving back into the community, a lot of people unfortunately interpret that as some kind of hug-a-thug—that we're going to be nice to offenders. The fact of the matter is it's a public safety issue.

Giving people access to a level playing field is not something we do because we want to be nice to them; it's something we do because, if they can get their lives in order, their likelihood of reoffending diminishes significantly. If you've got somebody who's not afraid of going to prison because he's already been there, and he can't get a job, and he can't get a place to live, and he can't access a

supportive community, then he's more likely to exercise options that we don't want him to exercise, because he's already done so.

There are four reasons why we do things in the criminal justice system: deterrence, incapacitation, rehabilitation, and punishment. Intuitively, we lean towards deterrence and incapacitation. Yet in terms of effectiveness, they're the least effective of the four. Deterrence takes into consideration that you're dealing with someone who considers the option of being caught, and most people don't do that. Deterrence is a great concept for people who aren't likely to commit crimes.

I'll give you an example. We've set very heavy sentences for criminal sexual conduct in the first degree. They've gone up considerably over time, as well they should. But they're now very, very close to the same sentence for second-degree murder. We expect people to be smart enough not to commit a crime of criminal sexual conduct, because they're afraid of that long sentence. But we don't expect them to be smart enough to know that if they were to leave a dead victim as opposed to a live one and, thereby be less likely to get caught, they'd serve only an additional 14 months.

To that point, deterrence requires that you consider being caught. Incapacitation at best is as accurate as the flip of a coin. We do know that somebody who's committed a crime is likely to commit another crime, but we can't predict which ones will do so. We spend an awful lot of money incapacitating people who are not likely to reoffend anyway. Again, if we don't give them a path back to a level playing field, then we have to live with the decisions they make.

Sarah Walker: In thinking about the broad way that conservatives have recently taken on the issue of criminal justice reform, I see a struggle to fit it into their political philosophy.

For me, if you're going to start from a point of redemption and take into consideration victims, one of the most critical things is to broaden the

view of what constitutes redemption. I think that we often look at it as redeeming one person, but the net effect of the criminal justice system has been much broader than punishing one individual. The fact has been that we're actually punishing families and communities. Consequently, we have to think about redemption not just in terms of individuals but their families and communities, too.

For people who work within the justice system, it's very easy to see that many of the people who end up in it have been victimized themselves, whether by systems, by family members, or in communities throughout their life. It is a component of how they ended up in the system.

Warren Limmer: The question was, "How can conservatives balance punishment and forgiveness?" Why don't we reverse it and ask, "How can liberals balance forgiveness with punishment?"

Quite honestly, I think the conservative stereotype that's in the question itself is something that's changing. The American Legislative Exchange Council, one of the most conservative think tank organizations in the country, is advocating not longer sentences but shorter ones. They've asked the very question that has to be asked in any public policy discussion and that is, once again, what's the purpose of corrections? Why do we remove people from society because of their anti-social behavior? If the anti-social behavior is so horrendous that it requires harsh punishment, then perhaps. There are very few inmates in the correctional system not amenable to some type of rehabilitation.

Peter Bell: Do you think the public believes that? I think many people's take is that the surest way to deal with corrections is to keep people locked up. Now, there are cost considerations and the like. We can never leave those aside, but I think there are many people who would say, "Not everybody can be rehabilitated, and some crimes are so horrific that people give up their right to rejoin civil society."

We want certainty of protection. I think it is a broadly held position that public safety is the

number-one goal. We want *certainty* of protection from anti-social individuals no matter what causes their behavior. Isn't there an argument that can be made, and how should we address it, that some people need to be separated from society, at least until they age out of their deviant behavior, until they're 60 or 70 or the like?

Warren Limmer: There's no question that society on the whole wants the bad guys locked up and locked up for a long time. The question is how much can we afford to do? Do you keep them in until, let's say, they get to their mid-40s and start changing? Perhaps, they're late bloomers on the maturity front and they start becoming a little bit more sociable or at least they don't quickly react to an opportunity that comes before them.

There's no question that the public would rather have most of these people just locked up and put away forever, even for the smallest offense. If there's no chance for redemption, then why are we talking about rehabilitation? Why do we talk about restoration? Or are we going to be a society that is motivated simply by fear or revenge? I think, quite honestly, we all know that there's a redemptive quality in any individual. Then, how far do we commit to it versus the cost of incarceration?

Sarah Walker: Most recent polls have indicated that the majority of Americans don't believe that nonviolent offenders should be locked up. I think they understand the social cost. Part of it is that so many Americans now have some form of a criminal record. They understand the expansiveness of the justice system. They have their kids caught in some sort of trouble and don't understand the long-term implications and then, when faced with them, have a different perception of the costs of the current system.

The other thing I'd like to address is the idea of how we frame the question in terms of liberal vs. conservative. The reality is both liberals and conservatives have done an abysmal job of shepherding issues of criminal justice reform. I think you can look to California, often considered

a bellwether state, and see that it was the unions there that actually drove the most conservative criminal justice policies the country has witnessed and which were then adopted by many other states. I think we really have to move beyond the dichotomized language—liberal/conservative and soft/hard on crime.

Peter Bell: Do you think there's a bipolar distribution there, that on nonviolent crime, the country feels one way, and for violent crime, the country feels an altogether different way? If that's true, what are the implications for white-collar crime and the like? Many people think they're very prone to deterrence. They're very prone to rehabilitation. Yet their demographic profile looks very, very different, and all kinds of political and social questions start coming to the fore.

Dan Cain: I think the public believes in punishment when they think that's the only alternative. There are several studies that show that the public believes in long punishment, but when they're presented with alternatives that result changes considerably. If the only tool you have is a hammer, everything looks like a nail. When the choices are to leave offenders in the community or to put them in prison, invariably, the choice is going to be to put them in prison.

I think violent crime certainly is more on people's minds than nonviolent crime, but we originally came here to talk about the whole process of reentry. We've been spending a lot of time talking about incarceration. Moving to what happens after people are incarcerated is the concern for the future.

Forty years ago, there were fewer than 1,200 inmates in the State of Minnesota. There are now approaching 9,600. The population of the state has gone up roughly 40 percent at the same time that the prison population has increased some 800 percent. There's a cost associated with that. Much of the cost associated with it goes to the things that happen when somebody is outside a prison.

In 1972, when I got out of prison—I'll make that

clear right now—the caseload for probation officers was roughly 1 to 30. A probation officer had 30 inmates or 30 releasees that he advocated for, that he accounted for, that he kept track of, and so on. We are now up to some caseloads of 1 to 100 and 1 to 125. When that happens, you're not going to get the same level of supervision, the same level of advocacy, the same level of support, and the same level of accountability.

When I got out of prison, in order to find out about the crime I did you either had to have access to the Bureau of Criminal Apprehension or you had to go to the twelfth floor of the new Hennepin County Government Center. There was a thick book that was in chronological order. It was not in alphabetical order. If you knew the date I committed my crime, you could find out about it, but if you didn't, you couldn't. Today, anybody with a computer and \$9.95 can find out anything they want about anybody in this room, accurate or not.

In the past, I could rent an apartment with my family. Today, with background checks and everything else, that becomes much more difficult. If I'm in prison and my family lives in public housing, when I get out, if I want to reunite with my family, they have to leave that housing, because I'm not allowed there.

If we recognize redemption, then it's incumbent upon us to provide a path to a level playing field. We have situations today where most offenders—not just some offenders, not just the people that we all agree we don't like, such as the sex offenders and murderers, but *most* offenders—can never get back to a level playing field. It's partly because when something goes on the Internet, you never get it off. It's there forever. If you fail to regulate the people who do data mining, there's nothing that requires that the information they put out is accurate.

There are studies that suggest that as many as one in three people of color are going to have some kind of an arrest record. Now, it doesn't necessarily follow that it will be a conviction record, but even with

an arrest record, you can't get a job. You can't get a place to live.

Well, if you think about that, we have just relegated a whole generation of a subpopulation to second-class citizenship and disenfranchisement. We can talk about what happens to crime rates right now, but if you look to the future, and you have 30 percent of a subgroup—whether it's black, poor, Indian, or whatever—that can't get a job and can't get a place to live, what do you think that holds for the rest of us in our future?

Louis King: When I think about conservatives, they're first defined by fiscal issues, but also values—religious, family, and personal values. If you put those things on the table and you say, "Well, let's deal with the obvious one, the fiscal one," it's clear that this thing is out of control. Whether we like it or not, the day is going to come when we can't afford to do it this way. That sets up a big conflict around the current policies.

The fact of the matter is, as mentioned earlier, the growth in incarceration rates is primarily attributed to changes in correctional policies. What does this say? It says that it's taken on a life of its own. Here we have something that's gone way out of whack. I think at the core it runs against what conservatives would state are their values, unless we're talking about revenge and just never forgiving someone. I'd say there's a big contradiction.

In terms of reentry, most of the people I deal with are not *reentering* the mainstream. They're trying to figure out how to enter the mainstream for the first time. Before they went to the penitentiary, they lived in economic apartheid. Here, I'm talking about the fact that right here in Minneapolis we have the largest racial disparity in terms of unemployment. I don't excuse any type of behavior. You make certain choices. But I know if we got 80 people in this room and we all had to be together for, say, a year, and we had enough food for 20 people, things would change very quickly in terms of behavior. That's all there is to it.

They go to prison. They don't really get rehabilitated. We kind of force them back to the sidelines. If you can't rent an apartment, where are you supposed to live? If you can't get a job, what are you supposed to do? You rob somebody.

Right now reentry is a tough game to play. Construction is where I find the major opportunities for the guys, and I find that you not only have to equip them with marketable skills, but you have to also tell them that despite the fact they can't find a place to rent, for the most part, we have to find a way to create community. I'm involved with some efforts to do that, like the Network for Better Futures.

I'm really troubled by the paradigm we've set up for ourselves, like the Cold War, when we armed ourselves to the teeth and put all our money in the Military-Industrial Complex. We've got the same system going here, and frankly, I don't think anybody in this room has an answer to bring it under control.

Peter Bell: As we talk about redemption, services and people being locked out of the system, these are compelling arguments. One newspaper story, however, that hardly ever gets written is about the number of blown chances a person has; that they went through five programs or ten programs or 15 programs or 20 programs and none of them worked. This pattern of behavior reinforces the cynicism that the public has on many of our rehabilitative efforts. Having worked in this field earlier in my career, I saw the recycling—the *numerous* blown chances that folks have.

Rich Stanek: Over the last 29 years or so in law enforcement and in my service to the people of my county, I've had the benefit of a number of different perspectives at different places in my career, to come full circle to where we are today. Make no mistake about it: I believe that public safety is one of the basic tenets of government, as the state's Constitution points out in Article I, Section 1.



I think that overall, we need a system-wide review of our goals and methods for crime and sentencing in Minnesota. I think there are four different policy aspects of it: (1) proportionality (some crimes are so heinous or inherently wrong that we have a moral responsibility to establish the mandatory minimums without exception); (2) deterrence; (3) rehabilitation; and (4) the nexus between crime and drugs or drugs and crime.

Peter Bell: We've come to the issue a number of times: There should be a firmer, brighter line between how we deal with nonviolent or non-predatory criminal activities and violent ones. I'd like to get some principles on how we would differentiate.

Sarah Walker: For me, the answer is pretty simple. We need to address the issue of reentry for everyone who is being released from prison, because they're coming out. Regardless of whether they're predatory and violent or not, we still have to have a place for them and a system that works. Regardless of whether you think there is a bright distinction, the reality is, 98 percent of people in the Minnesota criminal justice system are coming out at some point.

Dan Cain: In respect to the bright line issue: The fact of the matter is that line shifts. When we're incarcerating somebody, I want the bright line to take the person that I'm afraid of and lock him up for as long as possible, and the person that I'm simply mad at—the shoplifter, the embezzler, whatever—well, not so much.

Evidence-based practices suggest that when you're trying to accomplish some type of rehabilitation and reintegration, you should provide the most services to those who are of the highest risk, the most at need. So the line is clear when you go to prison: we want violent offenders locked up out of our sight. But when they come out—if we weigh their likelihood of damage to us and to society—then I want the bulk of the services to go to those violent offenders. If I have one job and two offenders, and one of those offenders is a check forger and the other

an armed robber, I want the armed robber to have the job. Why? Because while the check forger may cause my banking fees or the cost of goods at Target to go up, the armed robber, if gainfully employed, stands to make a bigger impact on public safety.

Sarah Walker: I also want to interject that we really need a state-level analysis of these issues. When we talk about reentry in Minnesota compared to the national level, it's critical to look at the fact that Minnesota has one of the smallest prison populations in the country and does do a relatively good job of keeping most nonviolent offenders out of prison. In other states, 50 or 75 percent of the incarcerated population are nonviolent offenders. That isn't the case for Minnesota. What that means is we have a whole group of people reentering just from the courts and jails, not from prisons. Jails and people on probation and parole make up the majority of the population of criminal offenders in Minnesota. In fact, Minnesota has the fourth highest rate of people on probation in the nation. On some levels, I don't think it's all good or all bad. It's good that we're looking at other alternatives.

I would also ask about advocacy. If we have caseloads of 100 for probation officers and they basically never see their clients, then I don't know if that is necessarily effective or a deterrent.

The other issue is we've simply become more punitive. Again, crime hasn't increased. We've just changed our laws and policies. We have extremely long probation sentences. A case in point: I just dealt with a young man who has two simultaneous 30-year probation sentences from when he was 18 years old. He has now gone to college, won a huge award, and won a scholarship, and he can't get a job because he has two probation sentences. It's been ten years. How long do we want to punish him for this crime and prevent him from becoming an economic driver rather than an economic detractor?

Rich Stanek: I read an article in the *Star Tribune* a couple years ago about Minnesota having a 63 percent re-offence rate for folks who come out of

prison versus a rate 18 percent lower for the rest of the country. What do you think about that?

Sarah Walker: We have a smaller prison population, and we focus on much harder-to-reach violent offenders; therefore, our success rate is much lower. Also, a majority of people are returned to prison in Minnesota on technical release violations, not for committing new crimes. They may have tested dirty on a drug test or they may have, honestly, in some cases, failed to call their probation officer or check in.

Rich Stanek: I run a pre-adjudication facility—a jail. My jail books approximately 40,000 people a year through the front doors. Seventy-plus percent of them are re-offenders. They’ve been there once, twice, multiple times. Sixty-five to 70 percent of the people who come in my front doors are under the influence of drugs, not including alcohol. Our average length of stay is about one week, which tells us a lot of things, based on where it was a couple of years ago, when it was three, three-and-half, four days. The folks who are actually spending time in our facility are hardcore. Those are some of the raw numbers. The dirty drug test is a dirty drug test, no matter how you cut it.

Sarah Walker: But don’t you think it’s incumbent on us if we know someone is being readmitted to a facility based on a dirty drug test to actually do something that will make them safer when they get out, rather than recycling them back in for 90 or 120 days, with absolutely no treatment and then putting them back in the public again?

Dan Cain: I’ll give you an example of the technical violation situation. You get somebody who’s gotten out of prison and is in the community, has a job, has reunited with his family, or if not reunited, is paying child support, taking care of his responsibilities, and he smokes dope. Well, if our reaction is to send him back to prison, what we’ve done is we’ve just assured that he’s not going to pay child support. He’s not going to keep his job. He’s not going to keep that connection to his family. And we’ve spent the state’s money. Isn’t there another response that

maintains the public safety aspect but also is cost effective and doesn’t put a burden on the rest of society? Orv Pung [former Commissioner of the Minnesota Department of Corrections] used to like to say, as I mentioned before, “We should reserve our prisons for the people we’re afraid of, not for those we’re just mad at.” Finding an alternative for those we’re mad at is something that is not only humane, but it’s also something that makes economic sense, from a conservative standpoint.

Louis King: I think most people would agree that skyrocketing incarceration is largely attributed to the war on drugs. Drugs are being used in rural areas, but the fight is taking place in the inner city, so let’s keep going down that path. A lot of guys I deal with got arrested on charges of possession, did some time, and then they’re back. Now that they’re back, they can’t rent. But when you drive through the neighborhood, you don’t see all these people sleeping on the streets or at bus stops. So where are they? They’re living with somebody who has a lease. Let’s say it’s a woman who has a lease. So the woman gets the lease, and the guy comes and lives there. He can’t get a job, because, again, employers are afraid they’ll get sued if they hire him. So what does he go do, again?

Rich Stanek: There’s no question there’s a link between drug use and crime. I also believe it’s really difficult to get people out of a life of crime when drug use is a part of their life. I run a pre-conviction facility, as I mentioned earlier. I think the drug use side of things is something we could focus on, and it could make a difference. I think that’s where I would invest my money, my time, and my effort moving forward.

Sarah Walker: We also have to look, especially from a conservative perspective, at advocacy. Where else would we continue doing something that doesn’t work over and over again? That seems like a fundamental contradiction to conservative principles.

Peter Bell: Many conservatives would argue that the certainty of incarceration would address that,

but there are cost implications to that. The Left tends to say, “No justice; no peace,” meaning we must redouble our efforts, redouble our resources to create social justice, or we’ll never have peace. The Right tends to say that the only sure way to protect society is to lock up criminals and allow citizens to protect themselves. You can make a compelling argument on both sides of this debate.

Dan Cain: I have a problem with conservatives and liberals. I have a problem with the idea that you adopt some kind of philosophy and adhere to that to the exclusion of utilizing your God-given ability to reason and exercise common sense.

Peter Bell: Where should the Legislature come down on all of this?

Warren Limmer: The challenge any legislator has is that his first responsibility is to the people back home. People sometimes have a knee-jerk reaction, especially when it comes to their family’s safety. They believe that every man, woman, and child deserves a place where they can live, work, and play without physical threat to their own safety. Quite often, we’ll hear comments or we’ll hear requests from constituents who want to lock up everyone for a long, long time, for the most minor of offences. I’ve never once heard anyone say they want to decrease a criminal sanction on any offender or, looking prospectively, reduce all of the criminal sanctions in the State of Minnesota, even to save money. I don’t hear that.

The challenge that I see is, once we elevate a criminal sanction to, say, a felony level, you will never repeal it. You will never reduce it. If we escalate to a felony level knowing full well that we’re never going to decrease it, because it’s just politically unallowable in our culture, then you have a problem. That’s the struggle that we have to deal with in the Legislature.

Dan Cain: I understand the need to be sensitive to constituents. But I also believe the public elects its representatives to be smarter than they are. Most people will not examine evidence-based research.

But we expect our leaders to delve into the nuances of issues and make the best, most objective decisions. The Vikings stadium is a good example. If put to a referendum, most people agree the Vikings would probably be on their way to California. On the other hand, our leaders went the extra mile, examined the economic impact of their leaving, the other more public uses of a stadium on the 350-plus days the Vikings don’t play, and the impact their exodus would have on our social fabric, and they made a decision to support a stadium. Things like stadiums, light rail, pollution, taxes, and health care require that our leaders make informed, objective, decisions. And the public is smart enough to recognize that, as long as we give them the facts and the alternatives. Yet in the area of criminal justice, we’re less likely to trust their intelligence.

Peter Bell: What about some of the other questions that have been raised, efforts that both the Minnesota Legislature and the federal government have engaged in that many people would argue lock people out of civil society? How would your constituents respond to the notion that 95 percent of people in prison are going to be let out, and the folks who get let out have a *significantly* more difficult time of getting a job, getting an education, and getting housing thereby closing many doors to them? We have set up, some would argue, a virtually impossible task for them. It’s just common sense that, just as we want to protect you and your family, we also have to provide more options for offenders. Is there an appetite for that in the Legislature? Can that happen? *Should* it happen?

Warren Limmer: I would say, number one, there is not a lot of appetite for it. Number two, we don’t only or simply represent the interests of those in the criminal justice system. We represent landlords. We represent business interests. We represent the neighbors. When you look at it, it really comes down to how we’re going to react to the public. Is there going to be an outcry?

Take, for instance, the sexual offenders who are Predatory Three who are released into society. Every time one is released, we all know we’ll

have a big public meeting at a local high school auditorium, and everyone is fearful and angry that this individual is going to move back into the neighborhood and move down the street from their little daughter or their son. These people are very, very concerned. Yet, at the same time, I don't hear the public coming to us saying, "Let's repeal that release effort." They want to know what the threat is, and they want to know if it's being managed or not.

Regarding the liability of landlords, for example, and writing laws about their situation, are they going to be sued when they knew full well that individuals they rent apartments to had a past that could threaten neighbors in their building, and they're the gatekeepers for those apartment buildings? That's who and what we represent also. Legislators represent many different people and many different reactions to this situation.

Peter Bell: I am a landlord. I've never seen one who wants to be exposed to more litigation.

Warren Limmer: If you're suggesting a liability-free zone for, let's say a landlord or an employer, then eventually there will come a headline where someone does a bad thing and then the public reaction will be, "And you couldn't even sue the guy for doing that, for exposing my daughter to that threat?" Do you really think that I'm going to go and vote for something like that and explain it back home at the local town hall meeting? That's where the rubber meets the road.

Sarah Walker: I find this all very interesting, because it seems to me, if you're going to base this on conservative principles, limiting regulation is one of the things you'd want to encourage. We actually have spoken a great deal with the Minnesota Chamber of Commerce and the many housing agencies. We hear that they are extraordinarily interested in reducing liability and would actually like to rent more, but because of local regulations and restrictions, they are unable to do so. They had vacancies, but they were scared to rent because of liability. So it seems that we're infringing on their

liberty by denying them the opportunity to be able to rent to whom they choose.

Then, in terms of the business community, in 2009, there actually was an employer limited-liability bill that was passed, largely shepherded by Mark Haase [Director of Public Policy and Advocacy for the Council on Crime and Justice]. So, I do think there are methods to actually make this work. Then, I would just say last that I do think the public is changing its mind, because you can't have one in four Minnesotans with a criminal record and not have a general public interest in changing these laws.

Dan Cain: I think Senator Limmer is right in that trying to get someone to vote to lessen a penalty for a crime is pretty much a wasted effort. It's not going to happen. But the one time it did happen was in the creation of the Minnesota Sentencing Guidelines Commission, in that we didn't look at a single crime. We looked at the entire system and created a system that was different than the system that was in place. Now, over time, that system has eroded, and I'll say that publicly, having been the chair of the commission at one point. We need to look at the system as a whole and not as individual pieces. I think therein lies part of the problem.

A document was put together at the behest of the Legislature in 2008, *Criminal Records and Employment in Minnesota*, which looks at collateral sanctions that we've created. Now, nothing ever happened to this. It got reported to the Legislature, and then we forgot about it. But it defines about 200 sanctions that are un-adjudicated—for people who come with criminal records—everything from the inability to work as a landlord in rental property to the inability to shovel manure at Canterbury Downs.

We have basically made the world a whole lot smaller for people coming out of the justice system in their ability to support themselves in pro-social ways. Unless we come up with a way to look at the entire system, we're not going to change it piecemeal. We screwed it up piecemeal, but we



can't go back and fix it the same way we screwed it up. We have to ask, is this the system we want? How does A relate to B relate to C? What's the totality of what we've done, and is that really what we want? If we don't, we've disenfranchised whole segments of our population for the future. If we don't pay for it, our kids will.

Peter Bell: With that, let me open it to questions.

Dan McColley: My name is Dan McColley. I was released from the Missouri Department of Corrections on February 22 of last year. I'm one of those predatory offenders. I committed a crime so heinous that the Missouri Department of Corrections kept me for 85 percent of my term. I will be released from supervision on August 19. Prior to my arrest, I was the vice president of a college. I lived as an addict. I committed a horrible crime. I've been in recovery for eight years. I have 20 years of experience that I can no longer use. I work part time. I'm *thrilled* for the job. But I'm frustrated. I can't work for organizations that help people like me, because the Department of Human Services says that I can never pass a background check—ever.

Peter Bell: Do you think there should be a time limit, if you will, that after five years or three years or a year if you did not reoffend? If so, what would it be?

Dan McColley: I believe that when I have completed my obligation to the court that my obligation to society has been met. When I get my right to vote back, I should be a full citizen then.

I will say to the senator that I understand you represent business owners and landlords and responsible human beings, but you also represent felons. You also represent parolees. You also represent probationers who need your help.

Jim Van Houten: This is a new subject to me. I have to say that this has really been interesting. My reaction to it, using kind of an approach that's logical, is that most of the public thinks that the

sentence is the imprisonment. But there is also some Part B that continues after imprisonment and, in some cases, might even be more damaging. Is it a fact that the people who are about to commit a crime don't know about Part B? If that's the case, it sounds like there's an education problem.

Peter Bell: Just quickly and panelists can disagree, I think there are two things. The people who commit crimes either don't know that there's a Part B or the crime is a crime of impulse, so Part B doesn't factor into the equation. Now, there are certain crimes, like embezzlement or the like where people do know there's a Part B and are more likely to be dissuaded by both Part A and Part B. But if it's an assault or a robbery or such, I think disproportionately those individuals don't know there's a Part B.

Louis King: Peter, that's not quite true. Part B for some people is a way of life. Everybody around them is experiencing Part B. So, I'm "on paper." My uncle is "on paper." The guy down the street is "on paper." None of us can get a job. None of us can get a lease. Part B is our life as we know it.

Sarah Walker: I would add that I do think there is a lack of understanding. If you talk to professionals in the field, public defenders, judges, prosecutors, they don't know Part B. So when people are making plea agreements (1) they don't always understand what the long-term consequences are; and (2) especially around juvenile criminal records, many people don't know that their juvenile criminal record is often a public record in Minnesota at age 16 and 17. If you're charged with a felony, even if it's dismissed, you will have a permanent criminal record. I hear very often, especially about young people and young adults that they never anticipated the long-term effects of not being able to get into colleges. Fifty percent of schools now ask the question about criminal record on their applications.

Dan Cain: Probably 90 percent of the crimes that are committed are committed either as a result of compulsion, impulse, intoxication, or the desire to

get intoxicated. When people are contemplating committing a crime, do they consider Part B? They don't care about Part B, because they don't think they're going to get caught, or they're intoxicated, or they're driven by whatever drives them or compels them to do this. They don't consider what the penalty is. They don't consider what the long-term consequences are. If they thought they were going to get caught, they wouldn't commit the crime. I know that sounds simple, but it's real.

To Sarah's point, one area where we fall down is our system's reliance on plea negotiations. Without them, the system would break down 100 percent. If you tell somebody, "If you plead guilty to this, you'll only be on probation for a little while and you won't go to prison," nine out of ten people given

that opportunity say, "Okay. Sign me up. I'll do that." Well, what they don't realize is they now have a criminal record. They won't get a job. It's incumbent upon us to tell them that.

Jim Van Houten: It seems to me, then, to take out Part B is to reduce the sentence. That's a public policy issue that needs to be considered.

Peter Bell: These are *extremely* important and complex questions that matter not just in the lives of individuals but also the life of our community. I hope this robust discussion has helped.

Thank you all very much. ■



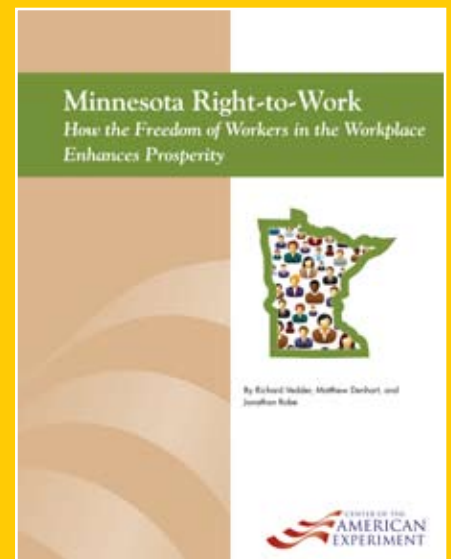
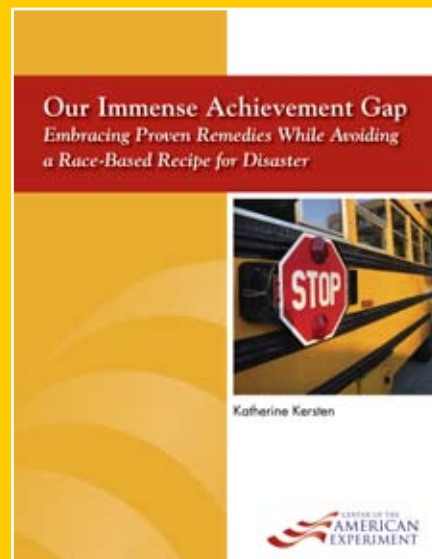
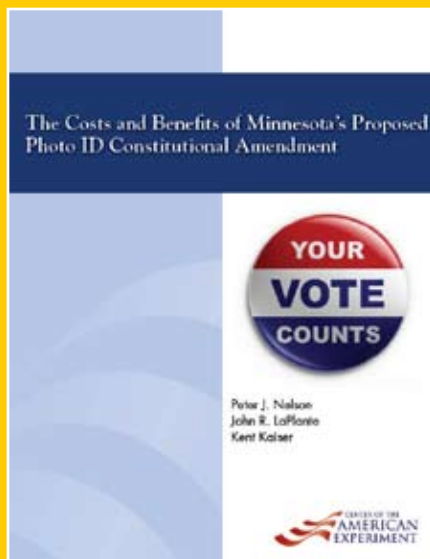


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