

H A R L A N   R I C H A R D S

March 6, 2017

The Great Lie!

No, I'm not talking about something President Trump said during his Feb. 28th address to Congress. I'm referring to Gov. Walker's Truth In Sentencing (TIS) which is the current sentencing structure for persons convicted of crimes in Wisconsin.

TIS was enacted based on the premise that defendants must serve the full amount of time the court sentences them to serve. Legislators claimed that the victims needed to know that when a defendant was sent to prison he or she served every day of the sentence imposed.

Since its inception, however, TIS has permitted early release of prisoners for most crimes. They have always been permitted to petition the court for release after serving 75% or 85% of their sentence. Most of the time, early release is denied by the courts. But there is one other procedure for early release which does not statutorily require a prisoner to serve a minimum amount of time.

Neither the Earned Release Program (ERP) nor Challenge Incarceration (Boot Camp) require any minimum amount of time to be served before participation in the program (during sentencing a judge may require a minimum amount of time be served or hold the defendant ineligible for those programs). ERP is 4 months long and Boot Camp is 6 months long. Upon completion of either program, the prisoner is released to extended supervision.

Gov. Walker repealed Act 28 immediately after his election to the governor's office in 2011. He claimed that he was putting a stop to early release of criminals. And that was the Great Lie. The difference between ERP under Act 28 and Gov. Walker's current version is that only prisoners with an identified need for substance abuse treatment qualify for ERP. Act 28 did not require a drug or alcohol problem to be eligible for ERP.

Participation is discretionary with DOC officials. They arbitrarily approve or deny eligible prisoners and equally arbitrarily determine how much time the prisoner must serve before being permitted to earn early release through ERP.

I have seen prisoners held until they were 6 months from release before being allowed to take ERP. I've seen other prisoners granted ERP shortly after coming to prison with many years left to serve. I've seen guys who were released early after completing ERP, return to prison with a new sentence and after completing their revocation time, be granted another opportunity for early release. The best I can figure is that ERP is the DOC's prison population control mechanism.

If every prisoner was required to do all his or her time under TIS, the prisons would soon be so crowded that new prisons would have to be built. The DOC has already doubled up virtually every cell it has and added extra general population beds to existing prisons.

This annoys me for one reason. The DOC has created a revolving door for mostly young criminals who have the greatest likelihood of reoffending and returning to prison while at the same time refusing to release the thousands of harmless, old-law prisoners who have already been warehoused for decades. They are keeping the harmless ones in prison and releasing the ones most likely to continue committing crimes. And that is

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