



Library podcast

The impact of incarceration - Part III: Serving your time too often is not the end of punishment for the court involved

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[00:00:30] Hello and welcome to this Seattle Public Library podcast. I'm your host today librarian Kay Kirkpatrick. Today's podcast is the result of the Seattle Public Library taking a yearlong look at ways we can improve library service to our court involved and formerly incarcerated patrons. This involved listening and learning about the very real challenges and barriers facing people when they are released from prison or involved in the court system including understanding the struggles their families and communities face as well. One of the most eye opening events the library participated in this year was a reentry simulation produced by Columbia Legal Services in Seattle. The simulation allowed participants to experience firsthand what happens to a person re-entering from incarceration the pressures and difficulties they face even though they have quote unquote served their time trying to find housing get a job reconnect with family and meet all their obligations while under the weight of a prison record. At that event today's guest does Justice David Keenan gave a very moving introduction that painted a vivid picture of the conditions people encounter. Judge Keenan knows multiple sides of our justice system. He was raised by his mother on public assistance was arrested and charged as a youth and dropped out of school after repeated suspensions later earning his GTD. He previously worked in civil practice on numerous pro bono matters representing detained immigrants prisoners and other marginalized communities. He served as board president at Northwest Justice Project. President of the Federal Bar Association and as a member of the board of Team child and the Seattle Community Police Commission. He also spent nearly 15 years in law enforcement working full time as a federal agent while attending law school. Judge Keenan joined the King County Superior Court bench in January of 2017 and serves at the malik Regional Justice Center in Kent where he now presides over criminal and civil trials. Welcome Judge Keenan. And thank you for being willing to share your insights and remarked with the podcast audience today.

[00:02:58] Well thank you for having me Jay. You know we as you said you and I met at that simulation and it was so powerful because what it illustrated for the stakeholders that were there is just the series of bad choices that you have to make when you are re-entering the community from having been incarcerated and as a new judge I spent a lot of time thinking about the actual implications of the work that we do in the justice system we use a lot of legalese. We use a lot of terms that make things sound really maybe better than they are and what I talked about at that simulation.

[00:03:38] Maybe what I'll talk a little bit about now is if you come to my courtroom any Friday of the year you can watch me spend an entire afternoon breaking up families and in careers cutting off access to housing isolating people from their communities and that is because every Friday typically starting at 1 p.m. I have what we call a sentencing calendar a fancy way of sending that I spend the afternoon sending people to prison and they call it a sentencing calendar but I sometimes think of it as deportation or really a form of exile because we are taking people out of their communities and we are sending them away now.

[00:04:24] Often there are legitimate reasons to do that but the implication the result is we are taking people out of their homes. We are taking people away from their loved ones and I had these calendars where husbands and wives and partners and boyfriends and girlfriends and children show up and it is the last time maybe that they will ever see that person even if they're only going away for a few years. And that's because what the data tells us is that when folks are in prison they almost immediately lose contact with their families and what they'd also tell us is if you can maintain those those contacts with family while you're incarcerated you have a better chance of succeeding when you get out.

[00:05:09] Now it's not our goal in sentencing someone to break up a family to cut off somebody's employment prospects or to deny them access to housing. Those aren't our goals but those are the realities. And when we when we talk sometimes about what happens to someone when they get out of prison we use this term collateral consequences just means it's sort of a. It almost happens by accident.

[00:05:35] But the fact that we don't intend to send somebody away from their community or to prevent them from getting a good job or to end up homeless doesn't mean that we shouldn't be thinking about the fact that that is in fact what happens. And as a community I think we need to acknowledge that and sometimes people talk to me about the justice system and I always push pushback on that term and say there's no such thing as a justice system there is no such thing as a system that is set up to produce justice. The system we have right now is actually set up to produce these consequences to to render people unable to get housing and employment and access to health care mental health care physical health care.

[00:06:19] And we need to get comfortable with being uncomfortable about the fact that there is no system out there just cranking out justice. Right.

[00:06:27] And my my father and I have both been arrested and and charged here in King County Superior Court the court where I'm a judge now. And when I was arrested as a young man or when my father was arrested nobody would ever say well Dave Keenan is down there in the justice system getting some justice right.

[00:06:47] They would they would never think that I was.

[00:06:50] And so when we talk about somebody going to prison and being in the justice system we ought not fool ourselves into into thinking that they're off someplace in some camp getting justice. In fact what they are out there doing is is having their chances their prospects going forward in life diminished by the day for every day that they serve in prison. And when I sentence somebody to prison it occurs to me that I will not ever see that person again and all likelihood until or unless they have reoffending and are back. Before me for trial or for sentencing. And if they're back it's at least part of the reason is because of the barriers they faced when they re-enter the community the last time. And I talk a lot also about the school to prison pipeline although I refer to it as the birth to prison machine. It's not a pipeline it's not linear you don't really just start in school and end in prison. But if we're being honest because of the barriers that reentry it would be it would be more accurate to call it a prison to prison pipeline because the system is set up to send people to prison. But it is also set up to return people to prison.

[00:08:10] Over 90 percent of the will that I sentence this Friday will eventually come back to the community. And that's reason for hope. The problem is is that two thirds of them once they come back to the community will go back to prison. And we know that from from the data. And so what I ask when we're trying to eliminate these barriers to reentry when we were doing the reentry simulation for people in the community and stakeholders. The question is how do we interrupt that right. So the 90 plus percent that come back to the community after having been incarcerated. How do we keep them here so that they don't become the two thirds that then return to prison. It's something that I spent a lot of time thinking about and some of the approaches that we take are civil legal aid for low income people returning to the community and what I mean by that is you know OK if you are charged with a crime in our system if you're charged with a crime and you cannot afford an attorney we sort of know from having heard our Miranda rights whether it's at the media or on television that you have the right to an attorney at no cost to you that's if you're losing your liberty.

[00:09:24] But what if you're losing your home. What if you're facing access a barrier to access to housing or employment. What if you are struggling to visit with your children or with child support or access to health care or access to credit. You don't get a free attorney. Right. And yet what we know is if you don't get legal aid in those aspects of your life you're probably more likely to end up back in the criminal system. And so there's a there's a certain reinforcing mechanism and not in a good way. And so one way we try to disrupt that is by helping folks who are coming back to the community whether it's through Columbia Legal Services which helped organize this reentry simulation or Northwest Justice Project which is the largest civil

legal aid provider in Washington they have about 17 offices around the state and that's a place where people might actually find direct aid more than Columbia Legal Services which functions as a minor standing as an advocate and kind of trying to work out a larger policy level.

[00:10:29] Is that exactly and so Columbia Legal Services does a lot of what we call impact litigation so systemic reform so they might file a class action lawsuit on behalf of a lot of people who have been incarcerated or are incarcerated to try and achieve system wide reform whereas an organization like Northwest Justice Project might take on a single client for example against somebody who is facing barriers low income persons facing barriers to employment or housing and then you have pioneer Human Services which also participated in the reentry simulation and they provide direct support services to people re-entering the community of fact I keep their brochures I've mentioned the courtroom and hand them out when I can't. And although often the folks I'm sending to prison are going away for a very long time.

[00:11:15] Yeah that's so true. They're an amazing organization as well they are taking the power to really employ people find people jobs find people housing trained people treating the whole individual I feel like one of the things that we've learned as well just from our year of study and listening to this issue is just how important individual intervention and mentorship is. And having somebody there for you like you're saying an individual to help you legally a friend to turn to somebody who could help you when you come out as an individual instead of just the institutional response or forty dollars and a bus ticket.

[00:11:59] Well I completely agree. And you know we know this for mentoring young people. There is a lot of data. For example when we talk about the school to prison pipeline about young people who need one caring adult in their life because whether it's a young person who is in foster care or somebody who's been incarcerated those populations those marginalized communities are used to folks not showing up for them they're used to instability. And so it for a grown up who's been incarcerated just as much for a young person who is in foster care that one caring adult who's willing to make that investment of time and resources is critical. And you know it's very shortsighted when we talk about funding for these things. I was a guest lecturer in an American government class at a college recently and somebody said well how are we going to fund them. How we're going gonna fund all of these reentry services for physical health care and mental health care and employment and housing and I said you know the question don't ask the question of where is the money going to come from ask the question of where is the money going to be spent because it's already being spent. It cost thirty seven thousand dollars a year to keep some locked up in the Department of Corrections and it's over 100 dollars a day to keep somebody locked up in the King County Jail. So it's not a matter of what is. It's not a matter of whether you spend the money it's a matter of what you spend it on. And so I encourage people to talk with individuals in the legislature and in and in the executive branch whether it's at that city county or state or federal level until them the money's been spent. Don't tell me the money isn't there.

[00:13:38] It just needs to be reallocated and invested upstream. So I push back on that idea that there aren't enough resources there are there. I think not being wisely allocated right now.

[00:13:53] Yeah. Do you have any other thoughts on what that community can do to help with this situation. Or will.

[00:14:03] Well so part of it is again working with your legislators. And there are things that they've done in the legislature in the last few years and there are more things that they could do. One thing they've done in the last few years is passed a bill for certificates of restoration of opportunity which is helps individuals who's been incarcerated basically get a certification that gives them access to certain employment prospects that might have been cut off otherwise. Now one thing we're seeing in the legislature that they're working on but it hasn't been passed it is legal financial obligation reform.


[00:14:37] So wait a minute. These are where words because you write that down for our listening audience. Sure. It just means your legal debt.

[00:14:45] So when and when somebody when I sentence somebody to a felony. Typically it's at least six hundred dollars in fines and fees a five hundred dollar victim penalty assessment and a one hundred dollar DNA collection fee. Those are mandatory. So even if I know that individual is indigent that is to say they keep they're not going be able to afford to pay those fines the fees I have to apply them. And right now those accumulate 12 percent interest. So if I imposed six hundred dollars in fines and fees legal find out what we call LIFO is legal financial obligations. That's kind of a catch all find post that at sentencing and then they serve five years in prison and they don't make any payments on it. What would be typical by the end of that five years that's a thousand dollars. Right. And if you're coming out with minimal employment prospects and no income that might as well be a million dollars. So one thing they've talked about in the legislature is either granting judges more discretion when imposing those fines and fees and judges have some discretion. But I think not enough but also eliminating the interest rate which would which would help because Twelve percent is a lot and it's ticking every single month more than home mortgages.

[00:16:01] Exactly.

[00:16:02] And another thing is you know if you are a small business owner for example consider whether or not you want to be what we call a second chance employer.

[00:16:11] So I serve on the mission committee at fair star here in Seattle which some of your listeners may know is a great organization that helps folks who are homeless or at risk of becoming homeless folks in in marginalized communities and helps them find work in the food industry at various levels. And we talk a lot about Second Chance employers these are employers in the community who are willing to hire somebody who has for example been convicted of a felony. And you know somebody has got to take a chance. So I would



encourage folks who have not folks who are out there who are listening wondering how I can help.

[00:16:46] That's another way that you can help them. That's great. Thanks. That's really good thoughts on that. We probably should wrap up soon so I was wondering if you have any final thoughts you wanted to share.

[00:17:01] You know I would I would just say if anybody is listening and they've been incarcerated I know that there are many judges I'm not the only judge many of us judges really don't want you to end up back in prison. We don't want you to be incarcerated again. And I welcome people to come visit the court if you are somebody who has been incarcerated and you want to come and learn more about our system and how our courts work.

[00:17:30] If you want a tour of the courthouse e-mail me at Keenan Katie and in court at King County dot gov.

[00:17:42] Because we care about you. We absolutely put me out of business. I hope so I never have to do another sentencing calendar again. And I absolutely believe in abolition and what I mean by that is that I can envision a world where we are not arresting and incarcerating people and it may I think some people would say that that's not realistic but it is something I wake up every day thinking that I can work towards a great goal. Well

[00:18:15] Thank you. Thank you. We're so honored and lucky to have you on our bench listening to our cases and thank you for the very moving thoughts and being willing to share your voice.

[00:18:28] Well it's my pleasure. Thank you to you in the Seattle Public Library for bringing these resources to the people that need them the most. Great. Thank you. Okay

[00:18:39] This podcast was presented by the Seattle Public Library and Foundation and made possible by your contributions to the Seattle Public Library Foundation. Thanks for listening.

