

they can make informed decisions, and to try to give a counterbalance to the groups that are giving us lots of information now, which is whoever can afford the thirty-second TV ads.

Boom: What would you include in a time capsule for 2050?

Kousser: I'd have to look around the cars in my city and see if someone still has a Filner for Mayor bumper sticker.

The Future of the California Prison System

Sharon Dolovich is a professor at the University of California, Los Angeles, School of Law and an expert on the law, policy, and theory of prisons and punishment. She recently served as deputy general counsel for the Los Angeles Citizens' Commission on Jail Violence.

Boom: If you were put in charge of California's prisons tomorrow, what are the first three changes you would make?

Sharon Dolovich: The first thing I would do is form a sentencing commission to rethink California's sentencing policy from the ground up. If it's done well, it could lead to a significant reduction in the number of people not only in California's prisons but also in county jails, which is where the overflow from prisons is now being sent. A wisely approached sentencing commission agenda could lead to a smaller and, therefore, more humane system. Other changes I would like to see made include a rethinking from top to bottom of the use of solitary confinement, and the institution of meaningful parole reform. Parole reform could reduce the number of people in custody without any appreciable public safety threat, and reforming the use of solitary confinement would change the culture of the prison, how prisoners feel about their prospects, and the willingness of people at all levels of the prison system to engage in a healthy and positive way with the day-to-day program of the prison environment. Unfortunately, it's hard to see a likely pathway to the implementation of those changes.

Boom: What needs to be done to accommodate older, sicker prisoners as our prison population ages, and will we make those changes?



Dolovich: One thing to understand about the graying prison population is that people age much faster in prison than they do outside prison. Without making changes, we will have high-security old-age homes all over the state. So what can we do? I hate to be boring about this, but we need to take a fresh look at sentencing policies. Not only do we need to reduce our reliance on long sentences, but we also need to think about more meaningful opportunities for parole for people who have done several decades in prison but are now forty-, fifty-, sixty-years-old and are very unlikely to commit new crimes. All the studies show that long-term lifers who are in their forties or older have extremely low recidivism rates. We aren't getting any public safety payoff from keeping them in custody, and it's costing us a lot of money.

Boom: Does this mean we're going to start releasing old and sick prisoners with no way to care for themselves in large numbers into the community?

Dolovich: There are two possibilities. The state might say, "Too bad for you; rely on the programs we have and if they're not enough, die in the streets for all we care." Or we might take the more enlightened course and recognize that we have a problem that to some extent we've created ourselves by the profligate use of extremely long sentences. We might say, look, we're saving a lot of money on their custody. We could take some of the money that we save on

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—Sharon Dolovich

early release and develop state-run decent care facilities for them. The problem, of course, is that reinvesting some of the savings on custody into decent care for former prisoners will likely (and reasonably) elicit objections that there are plenty of people who didn't commit crimes who need decent care at or near the end of life. The obvious answer would be to provide decent care for everyone who needs it, but barring that, I concede that my proposal for caring for elderly former prisoners is likely to be a nonstarter.

Boom: Assuming the trend of de-escalation of the drug war continues, what will the prison population look like in 2050?

Dolovich: You might automatically assume that it would be a more violent population, because if you have fewer people in custody for drug crimes, then you'll have a higher percentage of violent, serious offenders in custody. But that assumption fails to take into consideration the way that prison conditions themselves create a culture of violence. Counterintuitively, it's possible that you might see a safer, more humane atmosphere in prisons because prisons would be running at a reasonable capacity, and this could create renewed space for programming, and for people to feel safe without having to rely on the gangs for protection. People in custody thus might be less likely to engage in the destructive practices that make so many prisons like gladiator schools.

Boom: Where will the political will to take the treatment of prisoners seriously come from?

Dolovich: If such political will does emerge, there will likely be several reasons why. One, the cost of incarcerating in the current manner is an ill-advised use of funds. It's not buying us the long-term public safety that it should. Second, we will confront more directly the fact that our method of

incarcerating is at odds with the public interest. What we really want is a system that will release people better fit for socially productive lives, but we're doing the opposite in many cases. Even though there are a lot of lifers in California, the vast majority of people in California prisons are going to be released some time; and unless we find a pathway to more humane treatment, many of them are unlikely to be successfully reintegrated into society. But the only way society is going to commit to meaningful reform is if we are collectively invested in and recognize an obligation to the people we incarcerate. Politicians are starting to use the language of "shared humanity," "second chances," "dignity"—terms that remind people on the outside that people in custody are human beings. Are we going to see the emergence of that language in California? I don't know. But if in 2050 we look back on the current situation as a disaster that we managed to escape from with thoughtful, wise reforms, it will only be because in the intervening years we started to think differently about the shared humanity of the people in custody.

Boom: And the chances of us tackling those issues by 2050?

Dolovich: Slim to none, but one never knows. Social change comes when there are urgent problems that force themselves onto the public agenda. What we're seeing now in California is a perfect storm of problems emanating from the prison system, and the resulting effects may force a rethinking of our current policies.

Boom: What would you include in a time capsule for 2050?

Dolovich: Three documents. The first two are the Ninth Circuit three-judge panel order and the Supreme Court affirmance of that order in *Brown v. Plata*. The panel order provides a vivid picture of the crisis over the last ten or fifteen years in the California prison system, and the Supreme Court decision makes clear just how terrible the situation is in California, and how bad things have to get before the Supreme Court will side with prisoners in such a far-reaching way. The other document is the list of demands made by the Short Corridor Collective in Pelican Bay for the reduced use of solitary confinement. It says a lot about where the California prison system is today and what is wrong with the current state of things.