LONG-TERM INCARCERATED PEOPLE NEED RETIREMENT BENEFITS

BY ROMARILYN RALSTON with GINNY OSHIRO and FIDELIA SANTOS-AMINY

Most people who work for 20 or more years look forward to retirement. In fact, they have earned it! Unfortunately, this is not the case for incarcerated and formerly incarcerated workers. As the number of long-term sentences increase in California, more and more people work for decades behind bars, only to find themselves released later in life with no Social Security benefits to show for it. A 2017 report by Ashley Nellis of the Sentencing Project notes that California has approximately 40,691 people serving life, life without the possibility of parole, or “virtual life” sentences—more than any other state.¹

Incarcerated people must work; it is not optional. For those serving life sentences, life without the possibility for parole, and virtual life sentences, working in prison may give meaning and purpose to their lives. It also puts a small amount of money in their pockets to purchase much needed personal care items and food, or help to support their families. It also puts a small amount of money in their pockets to purchase much needed personal care items and food, or help to support their families. In fact, lifers and long-termers are one of the most cooperative groups in prison. They often provide mentorship and structure to other incarcerated people, and provide a constant supply of highly skilled labor. It is unfortunate that the skilled labor and loyalty of long-termers is so unvalued by the carceral state. Prison wages are a reminder that once a per-

¹ Background and Problem Description

Individuals sentenced to prison do not earn Social Security retirement benefits, even though they are required to work while incarcerated unless they have a medical condition that exempts them. California Penal Code Section 2700 states, “The Department of Corrections shall require of every able-bodied prisoner imprisoned in any state prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Director of Corrections.”² This requirement also applies to those sentenced to death, with a few exceptions.³

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When someone sentenced to life is granted parole, or has their prison sentence commuted and is released from prison, they often face close to insurmountable barriers to finding employment, housing, medical care, education, and other social services, which makes reentry difficult. Without proper financial stability, these returning community members may encounter challenges with rebuilding their lives or successfully completing parole.

The Social Security Administration (SSA) offers some benefits to formerly incarcerated people after release. Much of what is available supports individuals with disabilities, and is designed to help with reentry services and applying for resources such as cash benefits, health care, food, and housing. The SSA also states, “An individual released from incarceration may be eligible for Social Security retirement, survivors, or disability benefits if they have worked or paid into Social Security enough years. An individual released from incarceration may be eligible for Supplemental Security Income benefits if they are 65 or older, are blind, or have a disability and have little or no income and resources” (emphasis added). SSA’s guide, What Prisoners Need to Know, explains that Social Security pays retirement benefits to people age 62 or older who have worked and paid Social Security taxes for 10 years. Unfortunately, in my experience, many long-term incarcerated people are sentenced as juveniles or young adults, and have not paid Social Security taxes for 10 years prior to their incarceration. Many have never held legitimate employment outside of the work they have done for the California Department of Corrections and Rehabilitation (CDCR). Prison labor may be the only work experience many incarcerated people have, and prison wages their only earned income.

While the meagerness of the wages and forced compliance distinguish working behind bars from working outside prison walls, certain similarities exist. Since the CDCR requires all able-bodied incarcerated people to labor, they have established a compensation plan that includes a pay scale, timekeeping procedure, hourly and monthly pay schedule, and accounting procedure. Similar to hiring practices elsewhere, incarcerated people must undergo the equivalent of a job interview. They must appear before a “classification committee” at their institution of hire. They must meet a skills requirement; demonstrate a good record of behavior and attitude; have a history of good work habits; and be able to read, write, and speak effectively. The CDCR requires that “institutions/facilities shall establish an application/resume process for selection of skilled workers.”  

CDCR’s classification and hiring processes for incarcerated people thus mirrors human resources practices and procedures elsewhere.
recent years, a shift from “no parole” term and indeterminate sentences. In greatly increased the number of long-sentences, and three strikes law, which -crime” policies, mandatory minimum sentence of the state focused on “tough-on-the-governor and legislative miscreases since 1978. In 1978, there was parole granted. In each decade that one parole hearing scheduled and one increase over the past 40 years in California. The CDCR’s Statistical Data (Table 2) shows a remarkable increase since 1978. In 1978, there was parole hearing scheduled and one parole granted. In each decade that followed, parole suitability hearings increased by 1000 percent. For decades, the gubernatorial and legislative mission of the state focused on “tough-on-crime” policies, mandatory minimum sentences, and three strikes law, which greatly increased the number of long-term and indeterminate sentences. In recent years, a shift from “no parole” policies towards rehabilitation and decarceration has triggered the release of more individuals with long-term sentences.

RECOMMENDATIONS

Allowing individuals who are serving long-term sentences the opportunity to earn retirement credits by applying a Social Security retirement tax to prison wages and other sources of income would give them a pathway toward securing adequate Social Security retirement benefits in their senior years. CDCR should increase prison wages to the state minimum wage, and allow long-term incarcerated individuals the right to claim their prison wages and other income sources (e.g. handicraft sales) as income that pays into Social Security. An existing model is provided by CalPIA’s JVP, which uses IRS “Form 1099-NEC Nonemployee Compensation” to determine the taxable amount, verify earned income, and contribute to Social Security.

FIDELIA “LIA” SANTOS-AMINY has served as the Government Relations Intern for Project Rebound at CSUF. In an effort to further understand incarceration and Social Security retirement benefits, she was asked to assist in the initial research. Santos-Aminy is a substitute teacher at an elementary school in Orange County and applying to graduate schools.

NOTES


Table 2. CDCR Board of Parole Hearings Statistical Data. (Source: California Department of Corrections and Rehabilitation)14

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<th>Year</th>
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Ginny Oshiro is currently completing a BA in Criminal Justice (minor in Ethnic Studies) at CSUF. She currently serves as the Chief of Staff for Project Rebound and is a Women’s Policy Institute Fellow on the Criminal Justice Reform Team.

Image of Ginny Oshiro, who is a substitute teacher at an elementary school in Orange County and applying to graduate schools.

6. “Benefits after Incarceration.”


12. Proposition 139 was codified as California Penal Code § 2717.1 et seq.
