



Early Release Bonding

Workable Solutions

EARLY RELEASE BONDING: WORKABLE SOLUTIONS

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SITUATION

A solution is needed where upstanding inmates of state penitentiaries can be released before the conclusion of their sentence while also reducing the likelihood of reoffending.

BACKGROUND

Well intentioned “get tough on crime” laws have been enacted in recent years. Although this has worked well from the prosecutorial perspective, the reality we all are left with is the unintentional overcrowding of our prison system. In order to accommodate newly convicted persons coming into the system, prison officials in many states are driven to the unhappy practice of granting early release to existing inmates.

The problem does not stop there. Recent studies have conclusively demonstrated that a frighteningly large percentage of those released early are promptly engaging in the same or more violent criminal behavior. The mechanisms of the already overburdened parole system – as good as they may be – are incapable of stopping this exorbitant rate of recidivism. The state simply does not have the wherewithal to marshal the resources necessary to sufficiently control post-conviction misbehavior.

The state finds itself trapped in a catch 22 situation. In an attempt to reduce crimes through tougher sentencing, prisons become overpopulated which results in new crimes via early releases. The current system unintentionally encourages this. In turn, those released early are conditioned to adopt a “why not?” attitude upon the consideration of whether or not to commit a new offense. It happens like this: incident to early release the authorities impose a number of behavioral requirements that must be met by the person being released. Violating one of these requirements means that the person will be apprehended and re-incarcerated, with time added to their sentence. It is a very common sense approach intended to motivate the early release inmate toward responsible behavior. There’s only one problem: it doesn’t work. Again, the reason it doesn’t work is a lack of state resources. The person learns very early on that when they violate a release requirement nothing happens. No one comes after them, nobody pays anything, and unless they are unlucky enough to get caught in the act of a new offense, they get to do the crime without doing the time.

The early release requirements imposed upon the person are designed to create behavioral boundaries and thus provide structure in a life where it did not sufficiently exist before. This is a great idea, but it is only as good as it is effective and it will never be effective as long as criminals suspect that there will be no consequences stemming from a violation. This is how the current system unintentionally rewards bad behavior and, in the end, results in a greater number of crime victims.

SOLUTION

This is not a hopeless situation. There is an answer. It comes about through the development of a partnership between the public and private sectors. All we need to do is allow state qualified insurance companies to engage in a project to support parole officials in a program designed to provide a threefold benefit: (1) controlling state prison overcrowding, (2) significantly reducing the number of crime victims and (3) providing meaningful positive revenue to the state.

Is such a thing possible? According to a number of well qualified insurance companies, they cannot only deliver this service, but deliver it very well.

How it would work:

- An inmate would be identified by corrections officials as being a proper candidate for early release. *This candidate would, of necessity, have to be a person who had not completely burned all of his relational bridges.* In other words, there would have to be at least one person in the community who cares enough about the candidate's release from custody, while at the same time, the early release candidate would have to care enough about this person as not to wish financial harm placed upon them on their behalf. The party interested in the inmate's early release would then become the insurance company's customer.
- The releasing authority (presumably the court that imposed sentence) would, upon application made by the appropriate parties, *order the chosen inmate's early release with one of the release requirements being that a qualified insurance company posts an early release surety bond.* This would be just one of a number of release requirements placed upon the early release inmate. These are the same requirements that would be imposed, and whose compliance would be overseen by the parole official, in an ordinary early release situation where no surety bond was involved.
- The surety bond would contain two financial penalty provisions:
 1. First penalty provision: upon state certification to the insurance company that *the early release inmate had violated one of his early release conditions, the insurance company would immediately pay the state Five Thousand Dollars (\$5,000.00).*
 2. Second penalty provision: *if the violator had not been returned to custody within a hundred and eighty (180) days from certification of the violation, the insurance company would pay the state an additional Twenty Thousand Dollars (\$20,000.00).*
- How does this differ from the government contracting out its parole agency functions? The insurance companies are in no way engaged in either the monitoring or facilitating of the person's compliance with the other early release conditions. All the insurance company does is work with its customer (the party interested in the inmates release) to encourage the early release candidate's full compliance with the directions of the parole officer. The insurance companies have absolutely no experience in parole office functions, nor do they intend to acquire such experience as that function is separate from their role in this program.

- The insurance company and its customer would have an understanding where the customer would have a firm financial incentive to assist with the parole officer requirements compliance.
- Two factors thus motivate the early release inmate to comply with his early release conditions:
 1. By violating, he will bring certain harm to the person(s) who cared enough about him to personally participate in effecting the early release.
 2. The violator would place himself in an almost certain circumstance of being apprehended and returned to custody with another offense on their record and time added to their sentence. The early release candidate would also understand that the insurance company would see to their apprehension in order not to forfeit the Twenty Thousand Dollar (\$20,000.00) second penalty phase of the surety bond.
- The insurance company would make sure that these motivating factors are clearly communicated to the early release inmate and this would ensure the success of the program. Neither of these features exists in the current system and it is submitted that their absence accounts for the current poor performance statistics of parolees.

CONCLUSION

The program recommended in this memorandum brings to the state four very real benefits:

1. Not only does it not create a negative financial impact on the state, *it will be revenue producing*. While the insurance companies can effectively plug the existing gap of a lack of state resources, this does not mean there will be success in every single case. It is inevitable that some early release inmates will violate by non-compliance with a release condition or by being charged with a new offense. In each such instance the \$5,000.00 penalty must be paid. And while hopefully rare, there will be those instances where the violator is not timely returned to custody and an additional \$20,000.00 will have to be paid by the insurance company. It must be pointed out that despite this occasional failure, the outcome will still be far better than today when the state has no resources to recover the offender back into custody upon violation. The point is, the state will be collecting monies from the insurance companies.
2. Public safety will immediately be enhanced. There is little question that the new motivational factors to influence the early release inmate away from recidivism will work. This means that *persons in the community who, absent the program, would have become crime victims will now avoid that unpleasant experience*.
3. Prison population will be more effectively and responsibly managed. This program will *assist in inserting person released early back into the community as better citizens*, and correction officials will have the opportunity of dedicating space to the more serious offenders.

4. The program does not supplant state agency functions. Quite the opposite, the program merely *supports state officials so they can operate more effectively*.

The post-conviction release surety bond program, if instituted, would demonstrate fiscal responsibility, improved prison inmate population management as well as better protection of the general public's safety interests.

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