

Book Review: Steve Herbert, *Too Easy to Keep: Life-Sentenced Prisoners and the Future of Mass Incarceration*. First Edition. Oakland, CA: University of California Press. 2019. ISBN: 978-0520300514 (Paperback). 184 Pages. \$29.95.

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In his book, *Too Easy to Keep*, Steve Herbert a Mark Torrance Professor and Department Chair at the University of Washington Law, Societies, and Justices explores the consequences of the steady increase in life-sentence laws and the fiscal and human costs associated with implementation and application of these laws. This book specifically focuses on the journey of life-sentenced prisoners in search of atonement and how their projects of self-actualization and desires for redemption help transform and improve the institution in which they live. *Too Easy to Keep* sprang from the author's inspiration to teach a “mixed enrollment” course inside the Washington State Reformatory, a Prison Unit within Monroe Correctional Complex. This Prison-Based education project combines Law students from the University of Washington with incarcerated students in a small, fluorescent-lit classroom setting. As the class progressed, Herbert was shocked by his incarcerated students' intellectual ability and knowledge. Herbert uses this experience to paint different pictures of prisoners that most members of the public are not aware of and spark lively discussions about lifers who are often ignored in the discussion on mass incarceration.

Too Easy to Keep is exceptionally well-written in a manner that is both thoroughly academic yet accessible and with a twofold purpose in the

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author's mind. Herbert's first intention is to call for the release of many life-sentenced prisoners who despite being imprisoned for decades have transformed themselves and demonstrated behaviors that model those of average law-abiding citizens. At the same time, Herbert hopes to use his book to argue against the unintended repercussions of political rhetoric and negative sentencing policy that established the practices of subjecting a growing number of people to "a death in prison" (5), a decision that is backfiring by draining the budget of institutions that house these prisoners. Herbert maintains that due to the rising cost of healthcare and lack of properly equipped and designed facilities for accommodating elderly prisoners, policymakers would face many challenges if they continued to stick to their policy of keeping elderly people in prisons.

In the opening pages of the book, the author expounds on the policy changes which stem from the tough-on-crime movement that originated in the 1970s creating a window for the readers to see how these policy changes contributed to mass incarceration and the growing population of aging prisoners in the U.S. The author highlights significant trends that marked a turning point in the history of America's punishment philosophy. First, according to the author, a shift in penal ideology saw overwhelming support for retribution and determined sentences and the rejection of rehabilitation and indeterminate sentences. Rehabilitation, which had been embraced for nearly two decades prior to its collapse, was viewed by proponents of retribution as ineffective and going against "tough on crime" policies. The retributive ideology of punishment based on the "principle of the just desert" (12) was in turn adopted as the best alternative for effectuating deserving punishment to criminals in commensuration with the seriousness of the offense they commit. Second, around that same era life without parole law began to pick up steam and was viewed as a viable alternative to the death penalty which was by then suspended. Herbert notes that Life without parole (LWOP) was initially supposed to be imposed only in crimes that involve aggravated murder and other violent crimes. However, under the retribution regime, not only is LWOP imposed in non-homicide serious felony offenses but non-violent petty offenses as well. Moreover, besides LWOPs, retributionists introduced other categories of life sentences such as the virtual or de facto life sentences which are prolonged sentences with a term of years that exceeds a prisoner's lifespan. Furthermore, Herbert notes that racial injustices in the criminal justice system disproportionately impact people of color who are overrepresented among prisoners serving LWOP sentences. According to Herbert people

of color constitute nearly two-thirds of prisoners sentenced to LWOP, and blacks represent roughly 50% of them nationwide, and 66% or more in the Deep South. Even more strikingly, of the over 3000 offenders serving LWOP for nonviolent crimes (Sarma & Cull, 2015) in both Federal and State prisons over 80% are people of color, and more than 65% of them are blacks (Kleinstuber & Coldsmith, 2020) while black juveniles represent nearly 60% (Katz, 2022) of this group of prisoners. Third, according to Herbert between the late 1970s and 1990s in response to the fear of crime and public sentiment on the rising crime rates, politicians were driven to adopt tough-on-crime legislation. As a result, the introduction of draconic sentencing policies and practices such as the mandatory minimum, truth in the sentence, and three strikes and you are out contributed to the influx of violent, non-violent, and habitual offenders into prisons.

Consequently, approximately 2.3 million people ended up behind bars, which is almost sevenfold the number of those imprisoned in 1972 (Bernert et al., 2021). At the same time, the population of prisoners serving life sentences according to Herbert increased from approximately fifty thousand to more than two hundred thousand between 1984 and 2016, a fourfold increase. While most of these prisoners will be released on any given day, about two hundred thousand will likely never be released because they are serving life sentences. In addition, Herbert observes that this number is projected to increase despite falling crime rates, particularly violent crimes, and relatively low incarceration rates in recent years. According to the author if no meaningful action is taken to reduce the population of life-sentenced prisoners, by 2030 33% of this group of prisoners will be aged 55 or older and their number could increase by 4.400%. Therefore, Herbert believes it is time to sound the alarm bell about the expensive price tags that states will face and the prospect of turning America's prisons into nursing homes should elderly people continue to accumulate in prisons.

Drawing on in-depth interviews with both prisoners and prison employees, Herbert examines the challenges that a life sentence presents to a burgeoning aging prisoner population and the institutions that house them. The group of prisoners whom Herbert interviewed is also known as "Easy Keepers". The term easy keeper is a sobriquet used by both prisoners and prison employees to describe a group of prisoners who are serving permanent prison sentences. Easy keepers, whether they had an epiphany, a butterfly effect, or experienced a lightbulb suddenly flicking on, according to Herbert became easy when they realized that it is in their best interest to deal with their sentencing as mature and responsible

adults. Consequently, they chose to establish a routine for themselves and focused their energy on becoming a positive influence on fellow prisoners. And as such they are well-mannered and obedient to institutions' rules and regulations. They tend to focus on their jobs, school, and other meaningful activities, such as maintaining a clean and organized living environment. They also play an important role in the stability of the facility that houses them by keeping it peaceful and calm, thereby making staff jobs easy. Finally, though condemned and banished behind bars for the rest of their existence, some easy keepers are still committed to taking care of their loved ones, keeping their marriage, and raising their families on the outside.

In Too Easy to Keep, Herbert throws a revealing light on the pain of imprisonment that characterizes daily prison life. While becoming easy is feasible, Herbert finds out that remaining easy is not easy because it entails enduring proliferating pain and challenges of imprisonment on a daily basis. Despite exerting a stabilizing influence on the prison in which they live, easy keepers face multiple forms of deprivation. Easy keepers, according to the author, complained of limited access to jobs and programming. This is partly because the primary goal of these programs is to prepare prisoners who are eligible for release to successfully reintegrate into society and prevent them from recidivating, albeit modestly. And since easy keepers will likely never be released, when it comes to the selection of prisoners for prison employment and programming such as educational and vocational training, usually prisoners serving shorter sentences are given precedence over those serving LWOP sentences. Marginalization from employment and programming hurts easy keepers the most because not only does it deprive them of finding meaning and purpose but also reminds them that their sentencing is nothing more than a “death by incarceration” (Dagan & Roberts, 2019). Moreover, easy keepers, according to the author, expressed frustration with visiting regulations and the way in which their visitors are treated when they come to visit. For as much as easy keepers wish to maintain a connection with their families and the outside world, more often than not, their visitors tend to be discouraged by the maltreatment they receive particularly during check-in processes. In addition, they also complained about the prisoner-guard relationship which tends to be bad because most of the guards according to easy keepers just don't like prisoners, and blatantly stigmatize them as convicts. As such most of these guards don't respect their belongings particularly when conducting searches during cell searches.

Notwithstanding these multiple forms of deprivation, easy keepers learned to live a life in which everything and anything can be taken away and understood that it is in their best interest to swim with the current rather than against it (Crewe et al., 2016). As a result, they don't give up trying to keep fit nor give up looking for opportunities and activities that can improve their lives and give them a sense of accomplishment. In fact, easy keepers don't just strive to uplift themselves only, they also improve the circumstances of those around them, particularly fellow prisoners. For instance, according to the author easy keepers have established themselves as role models for fellow prisoners, particularly younger prisoners with release dates (30). Easy keepers are well aware that in adult prison youth are at risk of victimization, sexual and physical assault, suicide, and death, and have a small chance of enrolling in programming such as educational and counseling services compared to their peers in juvenile facilities (Ryan, 2014). For this reason, they dedicated themselves to mentoring younger prisoners and encouraging them to pursue meaningful activities such as employment, education, and other programming. More importantly, they discourage younger prisoners from joining gangs and advise them to refrain from using drugs. In addition, they encourage fellow prisoners to participate in drug and alcohol recovery programs. Easy keepers according to Herbert also serve as peacemakers and play an important role in crisis intervention within the institutions. For example, they will step up to quell fights between fellow prisoners and even interpose themselves between prisoners who are about to get into a fight. Arguably, easy keepers indirectly play an important role in reducing the risk to public safety and preventing recidivism by rehabilitating fellow prisoners who are eligible to return to society.

One inescapable challenge that easy keepers dread the most is the fact that they will not remain easy ad infinitum and will eventually rot and die alone and shamefully in prison. Herbert writes that as the number of older prisoners aged 55 or older continues to be on the rise death of prisoners in correctional institutions will become a common phenomenon. In fact, according to Chavez (2016), in 2013 the BJS released a report that found over 4000 cases of prisoner death in custody across the US, and approximately 90% of those deaths are attributed to diseases such as heart, cancer, liver disease, and AIDS. Given this statistic and the wide range of health challenges that are common among this group of prisoners, correctional staff will have to struggle with taking care of easy keepers as more and more of them age, decline, and ultimately die in their midst. Most of the easy keepers, according to

Herbert, came to prison with various health conditions ranging from gunshot wounds, and histories of substance abuse to chronic illnesses such as diabetes, cancer, and heart disease. Unfortunately, most of the healthcare staff who are hired to work in prisons have little to no experience dealing with some of these health conditions. In addition, correctional healthcare services struggle with a shortage of staff and must impose mandatory overtime on their existing staff to meet the basic medical needs of these populations. Furthermore, due to a lack of proper equipment for handling complex health issues, most prisoners have to be transported to medical facilities outside the prison wall which tends to be costly and exhausting to the already underfunded institutions. Herbert writes that transportation of prisoners to medical appointments in the community creates a “logistical nightmare” (89) for custody staff due in part to the number of staff needed to complete this task and its financial cost which amounts to approximately a quarter of a million dollars paid to staff in overtime compensation annually.

Throughout this book, the author reiterates his call for reconsideration of punishment policies and illustrates why they necessitate reform. Herbert claims that the current punishment policy prohibits offenders from fully atoning and making amends for their offenses. It prevents them from reaching out to their victims or victims’ families and expressing remorse for causing them harm. It also doesn’t reward nor recognize offenders’ accomplishments that deserve a compliment. Moreover, not only does it deny prisoners the possibility of parole, but it also impedes them from accomplishing anything that is meaningful to them. In general, the American system of punishment is merely designed to isolate offenders from public view, warehouse them in prisons, and render them nothing other than the offenses they committed.

It is important to note that by calling for policy change the author is not implying that America should abandon retribution as its guiding philosophy of punishment. In fact, Herbert has made it clear that he does not support the abandonment of retributive justice and does not disagree with the retributionist view on the immorality of crime, imposition of deserving punishment on wrongdoers, and granting victims the justice they deserve. However, Herbert doesn’t agree with the just the desert view of punishment that involves the deliberate infliction of pain and suffering on offenders. Professor Herbert is well-informed that incarceration is not meant to be fun and doesn’t have to be miserable and unpleasant either. Herbert wishes to see some sort of balance between retribution and rehabilitation such that prisoners who exhibited good behaviors throughout their course of incarceration should be given

opportunities to engage in self-betterment projects. In this case, easy keepers deserve recognition and reward because they have spent their entire lives behind bars redeeming themselves by engaging in good behaviors and making positive contributions to the institutions that they called home. Herbert is advocating for easy keepers because he wants policymakers to ease up on the “pointless sentencing” (115) approaches that simply warehouse offenders in prisons. Moreover, Herbert is confident that if easy keepers are released to society, there is no doubt that they will be capable and productive law-abiding citizens.

Towards the conclusion of the book, the author propounds his point of view on policy changes. Herbert suggests for example that policymakers should embrace a more humane and fiscally responsible punishment policy and one that takes into account prisoners’ capacity to change (125). Herbert argues that since easy keepers have exhibited resilience and creativity, they should be granted more opportunities to develop and improve themselves and share their various capacities with others both inside and outside the institutions. Moreover, with the rising cost of care for elderly prisoners, states like New York, for instance, is spending between over \$ 100,000 per older prisoner yearly compared to around \$60,000 for their younger counterparts (Farid & Whitehorn, 2014), Herbert suggests that policymakers should reconsider changing punishment policy, release easy keepers to society on parole and invest most of the fund on them in the community rather than spend it on those behind bars.

It is evident from reading this book that the author is not insinuating that all prisoners serving LWOP sentences deserve consideration for release. In fact, Herbert understands that many of the life-sentenced prisoners are behind bars because they have perpetrated horrific crimes, and as such they shouldn’t be released. The author, however, is advocating for the release of life-sentenced prisoners who have shown sincere remorse for the harm they caused to others, dedicated themselves to becoming positive and productive forces within the institution, and demonstrated behaviors that do not threaten public safety. More importantly, Herbert is more concerned about non-violent LWOP offenders who, due to harsher sentencing laws and increased enforcement during the war on drug era ended up serving meaningless sentences in prisons for the rest of their lives. Needless to say, most of the prisoners whom Herbert interviewed understand that early release from prison is not possible unless policy change transpires.

This book is worth reading for several reasons. First, it provides a fascinating insight into the paradigm shift that is occurring among

incarcerated persons in America's prisons and how these individuals are using their crimes as a turning point to atone for their mistakes. Throughout this book, the author echoes the seldom-told stories of introspective transformation that many prisoners serving life sentences undergo, thus getting the readers to understand that even individuals convicted of serious violent crimes can redeem themselves. At the same time, the author speaks directly to policymakers and hopes that they will reconsider punishment policy by taking into consideration the fiscal and moral challenges that their hyperpunitive policies are causing to both the prisoners and the institutions that implement them. *This book* is a noteworthy contribution to the field of criminal justice. I highly recommend this book; it is likely to be of particular interest to those who work in correctional settings.

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