

**Kamala D.Harris, District Attorney of San Francisco**  
**American Bar Association Section of Litigation International Human Rights Award and**  
**Passing of the Gavel Luncheon**  
**Friday, Aug. 10, 2007**

Thank you Kim. As you all know, Kim Askew is a pioneer in complex litigation and the first lawyer of color to hold the prestigious national position of litigation section Chair. Kim thank you for your leadership. And congratulations to the new Chair, Judith Miller.

It is truly an honor to address the Litigation Section of the American Bar Association. Since 1973 you have been the national representative of our profession and the chief champion of the values that make our society and our democracy function.

The ABA has always stood for the rule of law even when it has been unpopular to do so. And let's face it, with the ongoing assault on our civil liberties, I know that your willingness to stand firm hasn't always been easy. I applaud your efforts and I am particularly proud to be here with the Litigation Section. Because of what you do for a living I thought it would make sense today to argue a case of importance to us all and to make an appeal to both your sense of humanity and justice.

As a prosecutor, I've stood before many juries asking them to return a verdict of guilty. As I look out among you, I confess to you that WE'VE been GUILTY. It's incontrovertible. We have been guilty as a national community of thinking far too narrowly about how to solve the problems presented by the persistence of violent crime in America.

There is evidence all around us of horrible crimes, so many tragic and so many preventable. Despite that evidence, the old simplistic dichotomy still defines the debate. The slogan that says you're either tough on crime or you're soft.

But as any working prosecutor, defense attorney or judge can tell you: success in criminal justice is really a matter of being smart and doing what works.

Most of all, it's a matter of confronting the evidence.

I'll tell you, what we've been doing in my state over the last generation raises serious questions about our approach.

Over the last thirty years, our prison population has soared. In 1980 California had a prison population of about 24 thousand in a state of 24 million. Today we have an inmate population of 172 thousand. Which means, since 1980, we grew 50% in people but a staggering 6 hundred and 17 percent in prisoners.

Today politicians of every stripe are being forced to confront the costs and consequences of this trend and ladies and gentlemen, we are releasing prisoners back into our communities at historic rates.

Every year, our prisons take in about 120,000 people, but 120,000 more walk back out of those gates.

And to no ones surprise these prisoners, once released, are committing more crimes and getting recycled back to prison. This is called recidivism and 70% recidivate within three years of their release.

There are many predictable reasons for the high rate of recidivism in California, and throughout the country, including a no-brainer: we are sending people who come from neighborhoods dominated by gangs, into prisons dominated by gangs.

And, when they come back, they are sent to us with \$200 in cash and told not to commit any more crime. Meanwhile, the only changed circumstance since they committed the original crime is that they were institutionalized.

As District Attorney I believe there is nothing more important than the security and safety of our families in their homes, schools and neighborhoods. And I will unapologetically argue that there are some truly bad people whom we need to lock up for a very long time. But I am also certain that law enforcement -- and all of us -- need to look beyond the tired rhetoric of the 1980's toward a new direction for our new century. It is time for us to move our dialogue about crime and violence beyond the old political model of who is "tough on crime" and who is "soft on crime" and instead discover how we can be smart on crime.

And this does not need to be a partisan issue. There is a growing awareness among conservatives and liberals that warehousing and releasing and then re-warehousing criminals is an endless, expensive and ultimately fruitless cycle.

It's time to reexamine our attitudes about rehabilitation. In 1972, the Governor of California pardoned Mr. Goldie Robinson for the crimes of first degree murder and attempted murder. In granting the pardon the Governor noted Robinson's (quote) "outstanding record over the past 20-year period during which he has maintained good social adjustment, demonstrated by his present endeavors in the areas of community and religious activities." In 1979, the Governor of California pardoned Mr. Raul Hernandez. The Governor wrote in Mr. Hernandez' pardon that since his release, he had established a school for the blind in his community and provided voluntary services as a translator for the Mexican courts.

Robinson and Hernandez were pardoned by two successive California governors: Ronald Reagan and Jerry Brown. And remember, these were pardons, not grants of parole. And let's be honest about something, in today's highly partisan atmosphere very few governors -- Democrat or Republican -- would take note of the successful rehabilitation of a convicted murderer and on that basis pardon them.

We can learn some important lessons from the past. Under Governors Reagan and Brown, when prisoners were released they were closely screened and monitored by a parole system that sought to rehabilitate people and reintegrate them back into the fabric of our society.

But this work is more difficult today. Today, we are living in a world economy in which a 25 year old man in San Francisco is not merely competing against 25 year olds in Los Angeles and Dallas, but against 25 year olds in Taipei, Bombay and London. An economy no longer dominated by manufacturing. An economy in which even a college degree is no guarantee. We have to face the facts: It is no longer possible to release someone from prison and expect them to become a productive member of society without a decent education and substantial job training.

So the question becomes, how do we begin to make a difference? Frankly, in the longer view we need to find a way to reduce crime in the first place. That means we're going to need to begin investing again in our public education systems and facing hard choices about how those systems should be reformed.

But for now, how do we start to make a difference with those who do end up in our state's prison cells? I'll tell you what I saw in the beginning of my career as a prosecutor. I saw the same people coming back again and again. And it soon became evident to me that unless we started doing things in a fundamentally different way, we would never have a chance to break the pattern of crime, prison, release – crime, prison, release. And yes, we must always be clear, that for some of these criminals, the answer IS longer prison sentences. But for many others, we can stop this costly and dangerous cycle.

In San Francisco, we have pioneered a new initiative called “Back on Track.” Our goal is to prevent former offenders from committing more crimes while saving the taxpayers money and making our streets safer. Back on Track focuses on young, first-time drug offenders with no history of violence or gang involvement. The program is based on tough love – it is all about accountability and public safety, not social work. Every participant must plead guilty, but agree to a delayed final sentencing for a year while they complete a rigorous course – a course that involves intensive supervision and requires them to get a job, an education and to reengage with their children and families.

The stories from this initiative tell you every thing you need to know about its success. One Back on Track participant, Richard, grew up in public housing and as a minor, he was in and out of juvenile hall. He had never held a job and had dropped out of high school in the tenth grade. When he was 17, he fathered a daughter, and as a dad, he had a history of never paying child support. At 19, Richard was arrested for selling drugs to an undercover officer on a San Francisco street corner. When he came to court, we gave him an ultimatum, plead guilty to selling drugs and enter Back on Track, or face prosecution and a jail sentence. Now, after 10 months in our program, Richard is working full time in a warehouse, he has earned his G.E.D, and is enrolled in evening classes at San Francisco's Community College. Richard is now paying child support, has enrolled in health insurance and his daughter is in Head Start.

The key to turning around lives like Richard's is offering real opportunities, but also having real consequences for failing to play by the rules. If our participants miss a deadline or fail to meet expectations, they go directly back to serving their full sentence, no discussion. People tell me that's too tough, but you know something, a program like this doesn't work unless you're tough.

Back on Track is producing phenomenal results. Nearly three years into this program, we've reduced recidivism among our participants from 50% to less than ten percent. Everyone in the program is either employed or in school. For every one dollar we invest in programs like this, we save five dollars in jail costs alone. This year alone, the initiative has saved the City of San Francisco \$2 million.

And this program does not have to be unique to San Francisco. Innovative prosecutors around the country have exciting programs like Back on Track. Brooklyn's great District Attorney, Joe Hynes, is here today. He created a successful reentry program called ComAlert. The best programs are rigorous, with serious consequences for failure. But when the participants prove they are ready to play by the rules, we must be ready to invest in their success.

And when we make that investment, they do succeed. When I looked into the faces of my first graduating class of Back on Track, I saw an incredible look of accomplishment and confidence in their eyes. It was clear to me and them that their lives had changed.

And yes, we are changing lives. But, despite this success, we are still doing this on a very small scale compared to our country's need. So I've come here today to ask that you take this idea back to your communities and find a way to work with your local prosecutor to establish a Back on Track initiative. I want your help in working with federal, state and local governments to make rehabilitation once more an integral part of our justice system. We've got to take the blindfold off that allegorical statue of justice that adorns so many courts in our nation and ask justice to look into the eyes of troubled youth and see that so many of them can be redeemed, to look into the eyes of victims of crime and see that it doesn't have to happen again, that we can stop the cycles of crime.

I am convinced that, with imagination and innovation we can begin to chart a new and successful course. It's time to move past that old dichotomy of "tough on crime" versus "soft on crime" and once again start to ask the question: How can we be smart on crime?