

# Hard time: Reflections on visiting federal inmates

by MARK W. BENNETT

CORBIS

I was standing two feet away looking the killer straight into his eyes. I last saw him 10 years ago. Then, his 19-year-old eyes were steely, his gaze piercing, emotionless. Was he really involved in the brutal gang execution of a 15-year-old boy kidnapped from a small Iowa town and shot in the head while on his knees pleading for his life in the dark basement of an abandoned Southern Minnesota farmhouse? After a three-week trial, a federal jury said yes. He was given a mandatory life sentence. In federal court that means you almost certainly die in one of 115 federal prisons run by the Federal Bureau of Prisons (BOP). I know this—I was the judge.

His eyes were much softer now and he smiled at me with surprising warmth—like greeting an old friend. He was shy and unassuming and more slight of build than I had recalled. He still looked like a teenager—I thought, does he even shave yet? Why was I here at a federal prison in the middle of the woods of Wisconsin seated next to him having this one-on-one conversation?

I had sentenced nearly 2000 folks to federal prison in the intervening decade—virtually all the names and faces have faded from memory. Many are coming back to me now as I criss-cross the nation visiting inmates I have sentenced. We had a very personal conversation about his life in prison. As I was getting up to leave his eyes welled

## A federal judge meets with those he sentenced.

with tears. He asked in a whisper, “Will I ever be able to go home?” I tensed up knowing the answer. “No,” I said. “Your only possibility is a Presidential pardon and on the facts of your case I do not believe that would ever happen.”

As the words were floating from my mouth it seemed like time had slowed and this was happening in slow motion. I realized how harsh this must seem to him. Was I too brutally honest? I did not want to create any false hope—but removing all hope—how wise is this? He was so young. His actions more than a decade ago were drug crazed and fueled by his meth addiction—but a Presidential pardon? I asked if he had learned about the procedure for a pardon and if he had anyone who could help him. He said no. I had long ago finished my involvement with his case so I volunteered to find a law school legal clinic or pro bono lawyer to help him. It was an extreme long shot but it was also a matter of hope.

For a lawyer, being appointed a United States district court judge is considered by many as the best legal job in America. As one of 678 in the United States, I conduct civil and criminal jury trials in federal courts. If you like courtroom action and the unfolding of human drama that is often stranger than fiction, this position is terrific.

I have always had a hard time with sentencings. It is an awesome responsibility to take one’s liberty away. Even

though I have sent more than 2500 people to federal prison, it is no easy task for me. Early in my judicial career, a much more experienced federal judge mentor told me about the emotional drain of sentencing: “Don’t worry, Mark, it will soon get much easier” he advised. Out of respect for my mentor, I remained silent but my self-talk said to me: “If this ever is easy either shoot me or I should resign immediately.” Neither has happened.

### Visiting inmates

In 2009, I visited 10 BOP facilities to meet with more than 200 inmates I had personally sentenced. I am in my 17th year as a United States district court judge in the Northern District of Iowa—a district that, surprisingly, had the 5th heaviest criminal caseload per judge among the nation’s 94 district courts last year.

At each prison visit I am privileged to meet with the warden. I always ask, among my many questions, if they have ever had a federal judge come to meet with inmates they have sentenced. The answer is always the same—no. One of the major reasons for writing this article is to encourage other judges to try this.

I have been visiting inmates I have sentenced for over seven years. The idea came to me years ago when I was touring a federal prison in Long Beach, California, with the ominous name Terminal Island. During the tour, I spontaneously asked the warden if I could “interview” 3 or 4 randomly selected inmates. In half an hour I was in a small room with a full-bodied tattooed Hispanic gang banger, an Anglo drug dealer, and an aging African-American recidivist crack addict. The 90-minute discussion flew by fueled by my questions on everything from why they became federal felons, to what they thought of their defense lawyers, sentencing judge, and federal prosecutors. We also talked about our families and how things were so rapidly changing outside their walls.

As it was time to leave, the African-American inmate sitting less than an arm’s reach on my right started

to sob. I was concerned that I had unknowingly offended him. Placing my right hand on his knee, I asked softly what I had asked or said that upset him? I was confused. It took him nearly a minute before he was able to speak. He said quietly, through his tears, something I will carry with me to my grave—“Judge,” he said, “never in my wildest imagination did I ever think I would be in a room with a federal judge and he would be asking my opinion about something.” I was deeply touched. That response repeated itself in my mind over and over on the way back to my hotel and on the airplane back to Iowa the next day.

I took no immediate action but the response from the Terminal Island inmate was unforgettable. About a year later, I received a very nice letter from the new warden at the federal prison in Yankton, South Dakota, inviting me and my staff to visit and tour the prison.

Five of us went driving near the route that Lewis and Clark had taken 200 years ago. After touring the prison and having lunch with the inmates, I asked to meet privately with a small group of inmates. None of the inmates selected by the warden had been sentenced by me. I think the warden was trying to make the session easier for me and the inmates. I found the inmates intrigued by the notion I was visiting, eager to ask lots of questions from the specifics of their cases, to advice on reentry into society, and even about parenting.

Driving back to our courthouse my staff was very chatty. I was unusually quiet—my thoughts focused on the inmate discussions. Lots of questions flowed non-stop into my mind: “Did I say anything that might have been helpful to the inmates?” “Why am I drawn to these discussions?” “Why do I find them so meaningful?” “Why is it that more judges do not do this?” “Am I naive in my belief in the inmates’ abilities to change and become productive citizens?” “Am I able to inspire change in these inmates?” “Am I being conned by them?”

Ninety-five percent of the responses of the inmates I visit are extremely positive. A few are hostile and, with one exception, I have managed to lessen the hostility with further discussion and follow-up correspondence. Once, at the request of an inmate, I sat next to her in drug treatment class. When I whispered, so as not to disrupt the class, how proud I was of her for the positive changes she was making, she broke into the grandest smile I have ever seen. Picture this—a white, male federal judge in his late 50s sitting next to a recovering crack addict from the rural south in her early 20s—our only encounter before this moment was when I sentenced her to a 10-year congressionally-mandated minimum sentence. I will hold the image of that smile with me forever. There are also moments of deep sadness. Fifteen or so inmates have told me I was the only visitor they have ever had.

There is no happy or sad ending to this and few answers to my questions. I am optimistic the answers will reveal themselves in time. These prison visits have changed me in profound ways. I have a much greater appreciation for the ability of people to make fundamental changes in their lives but also understand how hard this is in the prison context. I have great admiration for BOP employees from wardens to correctional officers. We all owe them a deep debt of gratitude for their unyielding dedication. These visits have reinforced my views on personal responsibility and change. We are all personally responsible for our past actions and future aspirations. We can receive help from others but ultimately all change must come from within. Finally, the visits have reinforced my belief in the role of hope in all our lives. ☪☪

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#### MARK W. BENNETT

is a United States District Judge in the Northern District of Iowa.  
(mark.bennett@iand.uscourts.gov)

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