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YOUR LOVED ONE WAS SENTENCED TO LWOP

By

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I. This is serious.

If a sentence of life without the possibility of parole (LWOP) is the outcome of the trial or is the plea deal, chances are this is the culmination of some very serious events. It is still possible to be sentenced to LWOP for relatively minor crimes, but odds are it was a grave issue. However, now is the time for everyone to take a deep breath because the dramatics of the beginning are pretty much over.

Your loved one will be heading off to prison, if they weren't whisked off straightaway, and several months of processing is about to begin. This can be a tough time for families and friends because we all fear change. In this case, though, the change in living conditions will probably be an improvement as jail is the bottom of the criminal justice system as far as treatment of prisoners goes. But be prepared for interruptions in mail, in a loss of contact by phone, and for some extended periods of uncertainty.

This is also the time in the process when your loved one may be expressing tremendous sadness and regret. The shock of arrest and trial has passed and with it the hope, no matter how far-fetched, that exoneration and release are still possible. You may hear some dejected thoughts and receive some depressing letters. These changes are tough for your loved one, too. Try your best to be patient.

II. What is the actual meaning of a LWOP sentence?

Life without the possibility of parole means what it says, essentially. A prisoner so sentenced is expected to remain imprisoned until they die of old age, unless something intervenes to hasten that process. I know that's a harsh reality, and I don't present it that starkly to be mean-spirited. Rather, my

intention is to pull no punches so you can be fully informed about this brutal sentence.

Small consolation, neither you nor your loved one are in this predicament alone. The best estimates, as of 2012, put the total number of LWOP prisoners in this country at 41,000+. They are mostly men, of color, and from the bottom quintile of the socioeconomic ladder. In the 49 states, plus the federal system, that use LWOP sentences there are a wide variety of local specifics about the practice. They will probably, particularly at the beginning of this sentence, be placed in a maximum-security prison on a high custody status, and will normally be housed in a general population setting.

Most states, and the federal system, restrict the types of programs a prisoner serving LWOP can be involved in and this can be a real sticking point. (Being involved in programs makes doing time a little less onerous.) Drug treatment programs, vocational training programs, and many other rehabilitative programs are not available to LWOP prisoners. In some states, these programs are available to all lifers, including those serving LWOP. My own experience teaches me that as a prisoner serves their time and learns the ropes of the system, many previously barred doors open.

Visiting and phone calls for LWOP are usually the same as for other lifers and mail privileges are also the same. Access to the yard, canteen, and receipt of packages are, likewise, the same.

The biggest differences in the treatment of LWOP prisoners as opposed to other lifers are twofold. The first, and the most immediately felt, is perpetual housing in the worst prisons. In virtually every jurisdiction that uses LWOP sentences housing is confined to maximum-security prisons. In most states this works out to the one, big, central prison, and in those states with several prisons, it's usually the ones furthest out in the boondocks. These prisons are also the most chaotic, the most violent, and the least program-oriented. Your loved one, by dint of their sentence alone, will probably be housed in a lousy prison.

The second, and ultimately the far bigger issue, is anyone sentenced to LWOP isn't ever released. Ever. Yes, it's theoretically possible to be granted a commutation of sentence and that does happen every now and then. But the state's expectation is your loved one will not be released until they pass away. This is the rationale for the various restrictions on programming opportunities, that it's wasting scarce resources educating, training, and treating LWOP prisoners. It's because of this expectation of terminal hopelessness that LWOP prisoners tend to

be blocked from job assignments in sensitive areas and are banned from minimum-security prisons. We are held in a sort of less-than status.

III. What you shouldn't and can't do.

You can't do your loved one's time, no matter how much you wish you could, even if for only a moment. A prisoner serving LWOP faces a daunting set of challenges that only they can meet. First and foremost among these challenges is coming to terms with the reality of the sentence.

You can't fight your loved one's battles for them. This is particularly true for moms with youngsters sentenced to tough prisons far away. This isn't school, and the guards aren't teachers wanting your input and help. Most of the day-to-day struggles of a prisoner have to be dealt with on the spot, be they irrational cellmates, unpleasant neighbors, or difficult and irritating guards. Trying to push your way into the prison over everyday problems will almost certainly cause more problems for your loved one.

You can't break your loved one out of prison, metaphorically speaking. They have to come to terms with prison and their future in prison. Transforming yourself into a Peter Pan character, ready to sprinkle magic dust and fly them away to Neverland isn't actually helpful. Making promises that aren't real or aren't able

to be accomplished is actually a form of unintentional cruelty. Remember, a prisoner serving LWOP sees him or herself at the bottom of a deep well with no rope to climb out. Your promises of magical assistance are ropes, and anyone at the bottom of a well will grab at any kind of rope, no matter how ephemeral or flimsy.

You shouldn't be an enabler of bad behavior. In most prisons there are numerous and easily accessible vices available for the prisoner who wants to dull the pain. These vices are also extremely expensive, by and large, and support the worst elements of the prison sub-culture. It might be necessary to put your foot down and say enough is enough. Helping someone in any situation destroy themselves is a bad thing, and this is no less true of those in prison.

You shouldn't cut your loved one off from their family and friends. It is humiliating to see our loved ones, particularly our children, in prison visiting room. There will be tears shed and raw emotions exposed; it is the nature of this experience to be forced to deal with unpleasant issues. Some prisoners serving LWOP will nobly volunteer to cut themselves off in the family's interests, mostly out of fear that this will eventually happen, anyway. On the other side of that coin, some family members will want to abandon their imprisoned loved one out of anger, sadness, or just the plain inconvenience of it all. Try not to let this

happen. The end result is deep regret and resentment, particularly from our children.

You shouldn't stop your life because your loved one is now serving LWOP. It ultimately won't serve anyone's best interests as the weight of this experience begins to take its toll. It's hard for a prisoner serving LWOP to watch the world gradually move away from them, and it's hard not to feel resentful or depressed at everything you're missing. Over the long haul, though, continuing to live your own life to the best of your ability will help you to endure the struggle as the years progress.

Most of all, if at all possible, you shouldn't abandon your loved one to the prison system's tender mercies. To whatever degree is possible for you in the context of your own life, stay connected. Prisoners serving LWOP are often plagued by an existential fear of abandonment, of simply disappearing into the hold of the prison ship, so much ballast and nothing else. In the end, you'd come to regret a decision to leave, which is almost impossible to rectify within the confines of a LWOP sentence.

IV. What you should and can do.

You can and should endeavor to remain in touch with your loved one who's serving a LWOP sentence. The whole idea of the sentence, and one of the fundamental fears associated with serving it, is the disappearance of the prisoner. On this side of the

fences, it's too easy to lose perspective and become isolated from friends and family, from the normal course of events.

The easiest way to stay in touch is to write letters, a lost art and something of a relic of the past, but for now the primary method of making contact. Every letter doesn't need to be super-heavy and filled with the sadness of separation. A simple hello and a list of news from home is often just the tonic needed to help a prisoner serving this sentence feel a moment's respite from the weight of it all.

Sending some photos in a letter is another excellent way to help your loved one remain connected to the world. Again, they don't always have to be the serious stuff. Pictures from a family vacation, a day at the beach, or a ball game are all good for the spirit of a prisoner. Too often, those serving LWOP are left out of the developments of people's lives back on the outside.

If writing a letter is too hard for whatever reason, time or emotional constraints, a simple card is an excellent alternative. Holiday cards are always a great balm to the isolation, but don't forget the occasional "thinking of you" card.

You can and should, if at all possible, offer to help a prisoner serving LWOP become involved in positive and enriching things. If you can afford to send books, particularly good books, send them because everyone benefits from healthy reading.

Subscriptions to magazines are authorized in most all jurisdictions, and they have the double benefit of coming on a regular basis in the mail.

Another option for those with the means is to offer to pay for an educational course. There are numerous correspondence courses available in everything from serious academic subjects to paralegal studies to art instruction. It does the mind good to stay involved in growth.

You can and should, if at all possible, be willing to accept a collect call, at least every now and then. Recent rulings by the Federal Communications Commission, after outstanding activism by numerous entities, including Prison Legal News, have greatly reduced the cost of a 15-minute phone call, which will now be less than \$4.00 from anywhere to anywhere else in this country. To be able to hear the voices of friends and family is a big deal to someone serving time far away and surrounded by strangers. If cost is still an issue, be honest and ask your loved one to only call once a month, but try and find a way to say yes.

You can and should, if at all possible, visit with your loved one in person, at least every now and then. This is the biggest deal for the average prisoner and especially for an LWOP prisoner. Remember, barring a fortunate turn of events that may be decades

in the future, this is the only way your loved one will ever be able to see anyone in their life again.

In most states, LWOP prisoners are allowed to visit in regular contact visiting rooms like all other general population prisoners. These visiting rooms are generally not too restrictive, and visitors are not treated too poorly, although it would be a lie to claim they are welcoming places. Even though these rooms are designed and designated for the use of free people they are part and parcel of a prison, staffed by prison guards, and will be restrictive to varying degrees. It is important to note that prison visiting rooms are extremely safe; visitors, including children, are in no jeopardy of physical harm.

Every state has its own peculiar policies about visiting, and it's important to learn the rules and regulations. It's also likely that the trip will be a long one due to the location of most prisons far from most urban centers. All that said, if at all possible, visiting your loved one should happen from time to time.

You should and can be generous with your loved one without reminding them they are helpless. Anyone serving LWOP is fully cognizant of their inability to take good care of themselves. It's important to remember that your loved one probably can't get a job assignment with a pay number, at least at the outset of

their term, and the pay numbers that do exist rarely cover the surprisingly expensive costs of living inside of a prison. It's also important to remember that reminding someone of how hard it is to help them will rarely elicit a positive response.

You should and can be willing to make phone calls and write letters in behalf of your loved one for serious and emergency situations. Sometimes, the only way a prisoner serving LWOP can receive adequate medical care or not be transferred to a worse prison is when the administration is reminded that there are people on the outside that still care. In the particular case of medical problems, time is occasionally of the essence and prison medical services are rarely offered or provided in a timely fashion. The grievance systems available on the inside are, likewise, rarely timely. In those cases when a genuine emergency exists, the intervention of loved ones from the outside can be a matter of life and death.

V. Your loved one is still sentenced to LWOP.

There's no way around the fact that anyone sentenced to LWOP is in a really tough spot and the prospects for things getting better for them aren't good any time soon. For the loved ones of LWOP prisoners, it's no doubt a rough row to hoe, as well. But, like any other complicated and difficult situation, it's not impossible to deal with.

Friends and family members need to be realistic in their expectations, neither anxiously awaiting miraculous outcomes nor throwing in the towel and abandoning all hope. The whole truth is the sentence of LWOP is coming under increased scrutiny and a growing body of academic literature is coming to the conclusion that LWOP is not a rational sentence. The astronomical costs of keeping old men and women in prison for the rest of their lives, well past any realistic threat to society, are taking a growing bite out of state budgets. The pendulum of punitive sanctions is beginning to move back toward a saner approach to criminal justice.

The best thing you can do for your loved one, after treating him or her with compassion and respect, is become an advocate for changing the system. If that means, simply, voting for candidates who are willing to entertain the idea that an ever-expanding prison system isn't a good thing, that's better than nothing. Better still, if all the friends and family members of the more than 41,000 men and women sentenced to slowly die in prison were willing to ask the obvious "why" questions of policy makers, things would change.

I'm convinced the best possible way to keep from going crazy when someone you love goes to jail or prison for any amount of

time is to take hold your power and demand they be treated fairly and justly.

Here are a few books that can help to better explain the sentence of LWOP:

Life Without Parole: America's New Death Penalty? (New York University Press, 2012) Edited by Charles J. Ogletree, Jr., and Austin Sarat

Too Cruel, Not Unusual Enough (The Steering Committee Press, 2013) Edited by Kenneth E. Hartman

By Heart (New Village Press, 2008) By Judith Tannenbaum & Spoon Jackson

Bio:

Kenneth E. Hartman has served 34 years of a life without the possibility of parole sentence. He is the author of the award-winning memoir *Mother California: A Story of Redemption Behind Bars* (Atlas & Co. 2009). Ken is also the founder and executive director of The Other Death Penalty Project, a grassroots organization of prisoners serving LWOP with the goal of ending all forms of the death penalty. He can be reached, indirectly, at kennethehartman@hotmail.com.