

What mercy in the criminal justice system could look like

## What if all were extended the gift of a second chance?

by [Peter W. Marty](#) in the [December 4, 2019](#) issue



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I first met Shon Hopwood shortly after his appointment as professor at Georgetown University Law Center. His improbable story is well chronicled elsewhere: Dropped out of college. Committed five armed bank robberies. Served more than a decade in federal prison, from where he wrote two successful petitions for review to the US Supreme Court. Accepted into the University of Washington School of Law. Passed the bar exam. Won awards. Served a prestigious clerkship.

All these pieces of his remarkable journey are eclipsed by Hopwood's current passion—establishing channels of mercy within a criminal justice system that's all but given up on rehabilitating felons.

Hopwood never heard the word *rehabilitation* spoken during his entire incarceration. "We were constantly told explicitly and implicitly that we were garbage. Worthless

trash. Nothing about our lives mattered except that we deserved continual punishment.” Over a recent lunch, Hopwood asked a few of us to imagine what life would be like had we never been given a second chance by any superior in our lives. He asked us to imagine every fresh opportunity available to us being crushed because of some personal wrong. If every parent, grandparent, teacher, coach, or employer of ours had refused to grant us any break after mistakes made, we’d be completely broken and lifeless people.

In the name of protecting the public, the criminal justice system has used excessive mandatory sentencing laws to create a huge underclass of convicts and ex-convicts. “I understand the importance of paying a penalty,” Hopwood told me. “But relegating people to second-class citizenship for the rest of their lives is simply wrong.”

By second-class citizenship, he was referring to the collateral punishment that stems from incarceration. A felony conviction, possibly involving nothing greater than drug possession or stolen property, bars all kinds of good people from ever being able to rebuild their lives. Ex-cons are lucky if they gain employment at a wage above the poverty line. Regularly denied student loans, college admission, housing, food stamps, a driver’s license, and more, ex-convicts are ineligible for serving in all kinds of professions. Twenty-one states currently deny felons the right to vote.

There’s still more collateral punishment from overcriminalization and mass incarceration. Lengthy imprisonment severs inmates from vital community ties and valuable family support. It lumps them together with other prisoners guilty of committing serious crimes, only encouraging more dangerous and antisocial behavior. When prisoners get released into a life of poverty and debt, where family support may have disintegrated decades earlier, their choice is often homelessness or crime. “Who wouldn’t choose crime all over again?” asked Hopwood.

His commitment to establishing channels of mercy is grounded in a rich concept of biblical redemption. All kinds of biblical figures, including Moses and David (both of whom murdered), received second chances in life. For his part, Jesus organized much of his ministry around lifting up people whom others had convicted or condemned.

The problem with prosecutors and federal judges laying down inordinately long prison sentences at the front end of a conviction, says Hopwood, is that they can’t measure a person’s capacity for change or know their will to be redeemed. “My 22-

year-old brain, in all of its present-tense stupidity and impulse, matured . . .  
thankfully. I was also graced with multiple second chances.”

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