

Reduce the Prison Population, but Jail Violent Criminals Longer

Why will the men who beat Giants fan Bryan Stow into a coma face shorter sentences for their assault than for illegally possessing guns?

Conor Friedersdorf Feb 21 2014, 7:39 AM ET

They nearly beat the man to death.

In the Dodger Stadium parking lot, after a game against the San Francisco Giants, Marvin Norwood, 33, and Louie Sanchez, 31, knocked a man wearing a jersey of the opposing team to the ground. A witness heard his skull thud on the asphalt.

Bryan Stow lay on the ground helpless.

But his attackers kept up the assault. One repeatedly kicked the off-duty paramedic in the head. He was lucky to survive. After arriving at the hospital, he was put into a medically induced coma. He'd stay in professional care facilities for two years. He could've stayed longer, but his insurance money ran out.

Now he lives at his parents' house.

For the rest of his life, he will suffer from brain damage and require caregivers. He was beaten so severely that, forever more, he'll need to wear an adult diaper. "He has to be reminded why a plastic shunt juts from the base of his skull," the *Los Angeles Times* reports. Yet the men who nearly beat him to death, when sentenced Thursday, got just four and eight years in prison. This despite the fact that both "had previous felony convictions, including one case each of domestic violence."

The man who got the four-year sentence would've walked out of jail today, given time served for the 2011 attack as well as reductions due to prison overcrowding in California, but for the fact that the two attackers will now stand trial on federal weapons charges by a lucky fluke. (They weren't armed at the time of the attack. But a search of their homes yielded a stash of five guns hidden in an attic that allegedly belonged to one man but were being held by the other. Neither is allowed to possess firearms because they're both convicted felons.) If found guilty on the federal gun charge, each man could face up to 10 more years in a federal prison.

That isn't half of what they deserve.

At the same time, doesn't it seem crazy that beating a man into a coma until he has permanent brain damage, results in a shorter maximum sentence—so long as it stops short of attempted murder—than illegally possessing firearms in one's attic?

On the whole, the United States incarcerates too many people for too many years: Despite a four-year decline in our correctional population, the U.S. has the highest prison-population rate in the world, full stop. There are, in other words, numerous tyrannical countries that incarcerate a smaller percentage of their citizens. Since the mid-aughts, as the national crime rate has dropped, a push for sentencing reform has gained momentum. It's a cause that the Cato Institute has been advocating for at least 20 years, as evidenced by David Kopel's 1994 analysis.

The details of his case clarify why it seemed like the best policy to right-leaning libertarians even during the 1990s, when fear of crime was at its height. "The most effective reform would be to return prisons to their primary mission of incapacitating violent criminals," Kopel wrote. "Revision or repeal of mandatory minimum sentences for consensual offenses, tighter parole standards, and tougher laws aimed at repeat violent offenders can help the state and federal criminal justice systems get back to their basic duty: protecting innocent people from force and fraud."

That prescription is still apt. Usually when I write on this subject, I emphasize the folly of multiyear prison sentences for nonviolent drug offenders or even young men who wear baggy pants. Or I lament the inexcusable prison conditions that our polity tolerates, whether in Mississippi or at Guantanamo Bay. The need for attendant reforms, and many other reforms besides, cannot be flogged enough.

Most sound reforms would make the system less punitive. But a surfeit of inadequate sentences in assault cases persuades me that when it comes to some violent crimes, a more punitive approach is needed. Comparing punishments is enough to know that something is not right: What kind of insane criminal-justice system hands down a 25-year sentence for selling pain pills to a friend, 10 years for an illegal gun sitting in an attic, and four to eight years for beating a human into a coma and giving him brain damage because he was rooting for the wrong baseball team?

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Now what if the numbers were reversed? If these domestic-violence convicts who beat a paramedic into a coma, destroying life as he knew it forever, were given 25 years each for their latest crime, would that strike any readers as excessive or unjust? To be sure, not every assault warrants a quarter century in prison, but unprovoked assaults that involve repeatedly kicking the victim in the head while he's down?

The criminal-justice system I want would reflect a larger cultural norm, which America may well lack, that initiating violence against others is the worst thing one can do. Thieves, fraud artists, and tax evaders all need to be punished, no doubt, but the physical and mental consequences of

violent attacks are grave and irreversible. There is a lot of savvy in America's criminal element, and whether they're robbing a house or thinking about jumping a San Francisco Giants fan in a parking lot, I want them making an internal calculation: that burgling a diamond ring from the house or taking a baseball bat to the opposing fan's fender may get them arrested, convicted, and thrown in jail for a year or three; while raising a fist against the homeowner or the baseball fan will put them away until they're old.

There are so many prisoners in America who deserve to be released early—so many I'd pardon right now if I had the power, and so many steps that should be taken to make our prisons safer and redemption more possible for those who've served their time. But there's a subset of violent criminals that get off far too easily. Fixing both of these problems in state and federal crime bills shouldn't be difficult in theory. We should be able to create a society where self-interested criminals worry more about seriously hurting people than, say, carrying a gram too much of a controlled substance. We should be able to create alternative punishments to prison for many, and to focus the prison system on incapacitating violent felons. They should be incarcerated humanely—and for a long, long time.