

CRIMINAL JUSTICE IN LOUISIANA

INTRODUCTION

The primary measure of success for a criminal justice system is its ability to make the community safer. In almost every instance, the key element in a criminal justice system is the incarceration of those who break the law for a period of time that is expected to hold them accountable for their actions and reduce the risk that they cause additional harm. In Louisiana, our system is well recognized as number one in the use of incarceration. However, we find that Louisiana's success is not reflected in a reduction in crime. Conversely, we continue to rank within the top 10 states in most crime reporting categories and we have not improved public safety or law enforcement safety.

THE CASE FOR CRIMINAL JUSTICE REFORM

Many people come out of prison less stable and more dangerous than when they went in. In Louisiana, we have a unique arrangement to house offenders in local jails; a cost-saving decision that was made in the early 1990's when our population began to increase. Today, 75 to 80 percent of the prison population discharging in Louisiana is doing so from local jails operated by our partner Sheriffs'. Since these partnerships began, research about what works in improving public safety has shown that incarceration cannot be about housing and feeding, but must include opportunities for rehabilitation; education; soft skills training; and, most importantly, preparation for return to the community using a new skill set. However, we still house and feed at the local level and release offenders back to the community from those facilities with very little, if any, programming, education, skills training, or preparation.

Additionally, a significant percentage of crime is related to drug addiction and mental health issues. Since our primary means of confronting these issues is through arrest and incarceration, our jails and state prisons house more people in need of drug and mental health treatment than our drug and mental health facilities. However, we do little of nothing to address these root problems in jails and prisons. In my opinion, and I am sure most criminal justice professionals would agree, incarceration cannot be Louisiana's primary strategy for improving public safety:

- First, it is an imperfect tool for addiction and mental illness.
- Secondly, it is better to work on prevention rather than be reactionary.

IMPACT OF THE "CYCLE OF INCARCERATION"

Louisiana's Criminal Justice System has become trapped in the cycle of incarceration which actually reduces safety in our communities and for our law enforcement officers. We must always remember that 95% of those sent to prison are coming home at some point. If they are going to become productive members of society, we must change the way we are doing business in our criminal justice system (local level) and look at ways to reduce the number coming to prison by addressing the underlying causes of the crimes they are committing. We fail to prevent crime because we ignore the underlying causes of it, including substance use disorders, homelessness, unemployment, and untreated mental health problems. The Louisiana model of housing offenders in local jails, with no programming, can and does do more harm than good in many instances. Offenders in local jails that are not geographically close to their homes can lose the positive family support systems that are critical to their reentry; they can learn from other offenders how to become better criminals; create criminal support networks out of fear; and they can be overlooked with regard to mental health needs due to the lack of mental health staffing in these facilities, causing more harm. In local jails, substance use disorders are often not treated; supports and systems to help plan for community transitions are limited; and confronting the root causes of their crimes is not part of their incarceration.

Incarceration destabilizes families; there are an estimated 94,000 children in Louisiana that have incarcerated parents. These children are more likely to use drugs, become trauma victims, and commit crimes themselves.

Not looking at the root causes of the crimes committed and depending upon incarceration as the automatic response, we clog our prison system with low risk individuals that could be better served with treatment and supervision. This approach prevents us from investigating and prosecuting serious crime, isolating high risk offenders, and from making sure that they get the resources needed to become the people we want living in our communities upon release. In addition, this approach results in these individuals being branded with a criminal record, which also increases the likelihood of recidivism by blocking/preventing legal employment and limiting housing and educational opportunities, which are key ingredients for building stable, responsible lives.

SOLUTIONS

In order to improve public safety, we must focus resources on prevention and utilizing arrest and incarceration only when they are the most effective option. Louisiana's criminal justice system and our community partners need to be equipped with an evidence base range of tools to address its underlying causes of crime, thus preventing crime.

To address root causes of crime to improve public safety it must be attacked at four distinct stages:

PREVENTION

Programs that prevent individuals from becoming involved in crime in the first place by increasing the delivery of effective programming that has integrity.

- a. Investment in Education
 - Early childhood education
 - Helping more students graduate from High School
 - One study reflects that by raising the graduation rate by 10%, the murder/assault rate was lowered by 20%
- b. Investment in Housing, Employment, and Treatment Structure
 - CBT Programming
 - Chemical Dependency Treatment
 - Employment Programs
 - Social Support (Establish faith-based programs)

There is a small percentage of individuals that are responsible for a large percentage of arrests, jail bookings, ambulance rides, and hospital visits. These “frequent fillers” cycling in and out of jails and hospitals are mainly due to homelessness, untreated mental illness, and drug addiction.

Louisiana will begin, what will be named, “Project 20” through the Louisiana Prisoner Reentry Initiative (LA-PRI). Through this project, we will enroll 20 male and females from 5 parishes who are identified as high risk individuals and top users of prisons and hospitals. We will work with them on specific transition plans that includes redirecting funding from prison savings to transition services, including housing and drug treatment.

- c. Trauma Recovery Centers
 - Address the issue of mental health/trauma by providing mental health treatment, counseling, relocation assistance, and compensation support for crime survivors.

DIVERSION

Prevent crime by removing low-risk individuals from the criminal justice system and diverting them to programs that addresses the root causes of their crimes

We should look at opportunities for law enforcement training and use of diversion programs and case management supports prior to booking. This approach would move those who commit preventable crimes related to substance abuse and mental health issues from the criminal justice system and into treatment that gives them tools and opportunities to be successful and reduces risk of re-offense. Public safety improves when these cases are instead admitted to intensive, wrap-around, rehabilitative programs that confront the foundational causes of their

crimes. With case management of these offenders, individuals with addiction and mental illness can get support in maneuvering the bureaucracy around access to mental health treatment, healthcare/Medicare, housing, and employment. Miami Dade's Criminal Mental Health Project (CMHP) is an example of this type of approach.

- a. Restorative Justice: Through conferences that bring together offenders, crime survivors, family members, and community members so that offenders can take responsibility for their actions and directly answer to those affected. Restorative Justice forces the perpetrator to listen to the crime survivor, respond, and take responsibility. Restorative conferences are proven to reduce reoffending rates and save Criminal Justice resources. Conferences also improve victim satisfaction with the system.
- b. Finance Driven Bail System: We must address the inequities in the process for making decisions on keeping someone in jail while they await trial. These decisions should be based on the offender's risk to public safety, not on how much money they have. We should not keep people in jail because they are poor, and we should not allow dangerous people to buy their way out. It is estimated that half of the people in jail today have not been found guilty, they are waiting because they cannot afford to pay bail. Consequently, the system allows higher risk offenders with greater resources are allowed to walk.

LA needs a system focused on public safety by finding a combination of risk assessment with financial capability thus allowing more people the opportunity to keep their jobs and be at home to support their families, while we keep those who present a threat off the streets.

SAFETY FOCUSED INCARCERATION

Our focus on criminal justice reforms must ensure individual sentences are determined in the interest of public safety which includes the increase of the use of a risk, needs, and responsivity tool (TIGER Tool), which we anticipate implementation by this summer.

One size fits all sentencing is sending a much larger share of offenders to prison and keeping them longer. This was shown through the PEW studies presented during the JRI Task Force meetings.

Expanding the use of effective alternatives to prison and allowing judges and DA's to hand down sentencing that speaks to the individual's circumstances of a crime is important. -Judges are currently prevented from weighing common sense factors because of mandatory minimum sentencing enhancements. They haven't been afforded a validated Risk/Needs tool that provides factors to consider when issuing a sentence.)

NOTE: Safety in communities and prisons are dependent upon a just system and to ensure that exists, we must adequately fund Public Defenders to represent those charged with crimes.

SUCCESSFUL REINTERGRATION

To reenter society, prepared to become successful, contributing citizens, those incarcerated need to have access to programs, both in prison and after release, that are proved to reduce recidivism by ensuring each prisoner's reentry is productive and safe for his community, the victim, the family, and the offender.

We cannot say enough how important it is to provide education, job training, life skills, counseling treatment, and mental health care to support prisoners in getting their lives on track upon release. And we can't forget the challenges that exist in Louisiana with the number of local level releases from our local jails (85%).

Our Probation and Parole Division must be able to focus their work on prevention; supporting those on their caseloads from returning to prison or reoffending. Effective prevention means providing offenders with resources to confront those foundational causes (i.e. mental health and drug addiction) at the root of their criminal behavior. Today, our Probation and Parole officers do not have enough of these tools and coupled with the lack of programming at the local level, 58% of prison intake is P&P revocations.

We must focus on and address collateral consequences. In the name of protecting the public, we block individuals from certain housing, employment, and licensing opportunities, as well as social services. However, most of these barriers bring no public safety benefit, and many, in fact, hurt public safety by increasing the chance that individuals with convictions end up unemployed and homeless. All of this leads to an increased likelihood that they will return to crime to survive.

CONCLUSION:

If the recent reform efforts are any indication, focusing only on reducing LA's prison population will be a strong temptation to just reduce the cost of the DOC. But the main concern with a prison population reduction only approach is that it will not improve the efficiency of the CJ system. Smaller prison populations will likely result in less warehousing (lock and feed) at the local level, which would be a positive development. However, if a reduction in our prison population is not approached by an increase in effective and strategic programming resources, the recidivism rates will assuredly stay the same. After all, why should we expect the outcome to be different.

If more prisoners are being placed in the community without an increase in community based programming resources, there is the risk that prison reduction could hurt public safety. If this happens, then the reform critics will position themselves in the "I told you so." Arena and not be interested in further evaluating reform opportunities because they believe prison reduction and rehabilitation will not work. These critics might argue the only proven tactic is getting tougher and more punitive.

A large body of evidence (PEW findings in other states) show that there are evidence-based correctional interventions that efficiently reduce recidivism. Increasing the delivery of programming to eliminate warehousing in our local jails and, more broadly, shifting the focus from punishment to rehabilitation would constitute a major change. A change of this magnitude is needed, however, to make our criminal justice system effective in reducing recidivism. The shift toward rehabilitation would not require additional funding to provide more programming to our local jails and communities. Instead, the same level of funding would be used differently. Seventy percent of the "savings" from reallocating funding are slated to be reinvested towards improvements in programs and services.

LA has a long tradition of over using prisons and being tough on crime. This approach still has us ranked in the top ten of most crime states. If we begin to implement strategies of rehabilitation, legislators and criminal justice officials may be accused of being too soft on crime. We could face criticism for success in eliminating the practice of warehousing in our local jails and providing community resources.

If we are trying to create a criminal justice system that is more cost effective and better at reducing recidivism, the evidence suggests that we need to shift our focus from punishment and retribution to rehabilitation. In doing so, we will end up spending less in corrections, criminal justice, and reducing crime in general by increasing prisoner involvement in effective programming. Reduced public spending on prisons could then be reinvested in other areas of education and health care.

The chief problem with the long term approach is that it does not provide any immediate gratification. A reduction in crime and the cost associated with it would not be realized until some years down the road. In my opinion, one of the reasons why increasing the severity of sentencing has been so politically popular is that it provides lawmakers with relatively quick results.

The choice of whether we embrace reform or retain status quo is complicated. But the ramifications from this decision is relatively clear. If we maintain the status quo, we will continue with our costly and mostly ineffective over use of our prisons and local jails. And if we do not deliver effective programming then the recidivism rates will almost certainly remain high.

If we truly want our criminal justice system to be more effective, then we need to initiate reforms which will enable us to do more with less or, perhaps, more with the same amount.