

April 17, 2008

CORRECTIONS AT THE CROSSROADS

The Pew Center on the States recently issued a report with sobering statistics for lawmakers: 1 in 99 Americans is behind bars. The figures were startling. Only 1 in 837 people over the age of 55 are in prison, but for people in their 20s, that number is 1 in every 53. The ethnic disparities are even more alarming. One in 9 black men ages 20 to 34 is behind bars, compared to 1 in 30 men overall. Only 1 in 106 white men ages 18 or older is in prison, but 1 in 15 black men in the same age group are. The female prison population is also growing and showing ethnic disparity. One in 100 black women ages 35 to 39 is an inmate, compared to one in 355 white women. Our Hawaii statistics are just as worrisome: 44% or nearly one-half of our prison inmates identify themselves as Native Hawaiian/part-Native Hawaiian.

The implications for government were daunting. Over the 20 years of the study, corrections budgets climbed higher and faster than other areas of state spending, leaving less money available for other needs. Nationally, states spent an average of \$1 out of every \$15 on corrections. "Prison costs are blowing holes in state budgets but barely making a dent in recidivism rates," the Pew report concluded.

The Costs of the Wide Net

Public officials not wanting to look "soft on crime" find that casting wide nets translates into cutting or limiting other vital programs to foot the tab for housing, feeding, providing medical care, and supervising prisoners. The high cost of operating 24/7 prisons crowds out other government priorities. As University of Hawaii Professor Meda Chesney-Lind noted, the data shows that as more money is needed to imprison people, less money is available for the university system. The Pew report showed that from 1987 to 2007, in western states, corrections spending increased by 205%, while spending on higher education rose by only 28%.

Every dollar spent on corrections means one less dollar available for other needs such as education and health care, even to the point of being self-defeating. While health care can be funded through federal dollars, corrections and education are state expenses. Early childhood education is one of the most proven crime prevention strategies. Long-range studies show that pre-kindergarten dramatically reduced participation in juvenile and adult crime, and produced increased rates of high school graduation, employment and earnings, with a total benefit-cost ratio of 16 to 1. Investment in early childhood education forestalls corrections spending in the long run, but "lock them up" policies have left legislators spending more on growing inmate populations than on pre-kindergarten.

The cost of building and operating more prisons to accommodate the burgeoning inmate population is so staggering that a few states resolved the overcrowding problem by shipping inmates to prisons in other states. Washington and Wyoming, however, whose prisoners were housed in Nevada, found themselves having to deal with prisoners shipped back home when the growth in Nevada's incarceration rate required them to use in-state prisons for their own criminals. Hawaii right now spends \$52 million a year housing overflow in Arizona prisons, but Arizona's rate increase paralleled that of Nevada. As Arizona's need for facilities grows, they may find themselves having to ship our Hawaii inmates back to us. Will we be prepared when this happens?

Other economic hardships are less obvious. Incarceration renders a low-risk offender incapable of paying child support, victim restitution, or taxes. According to a 2001 Massachusetts study, more than 2/3 of parolees managed to make at least partial child support payments, paying an average amount that was seven times more than payments made by inmates. A study in Florida for FY 2004-2005 showed that probationers paid more than \$37.3 million in restitution.

Policy Choices Drive Incarceration Rates

Policy choices – on who gets sent to prison and how long they stay -- are the driving force behind prison population growth, more than crime rates, general population growth, or other factors. Because lawmakers largely control who goes in and when they get out, the Pew report concludes, legislatures "control their own fiscal destiny."

Florida was a case in point. Its wave of "get tough on crime" correctional policies and practices that began in 1995 fueled an exponential growth in its prison population. "Good time" credit and discretionary release were abolished. All prisoners, regardless of their crime, prior record, or risk of recidivism, were required to serve 85% of their sentence. A "zero tolerance" policy, other measures, and increased prison time for technical probation violations came next. Between 1993 and 2007, these policies and practices drove the inmate population from 53,000 to over 97,000. Crime fell in Florida, but dropped as much or even more in states that did not show increases in their prison populations.

Texas in 2007 decided to overhaul its corrections system. Its well-known "tough on crime" attitude increased its prison population by 300% from 1985 to 2005. Legislators who previously found it politically safer to build more prisons reached a point where they realized that continued construction might not be the smartest thing to do. Texas dramatically expanded drug treatment and diversion beds, increased the utilization of drug courts, and made broad changes in parole practices. Texas expects that cutting its prison population will help it avoid \$233 million in new prison construction costs as well as \$210 million in current corrections costs over the next two years.

Keeping Prison Beds for Those Who Need to Be Behind Bars

Research-backed strategies for community corrections is vital in helping legislators deal with the realities of funding competing demands for tax dollars. New approaches help protect the public while ensuring that offenders pay the penalty for their crimes. States can now employ an array of new technologies to monitor whereabouts and behavior, as well as more effective supervision, treatment, and rehabilitative programs.

Two primary variables determine the size of the prison crowd: the number of admissions and the length of incarceration. Diverting lower-risk offenders away from prison into less costly settings, or reducing the length of time that lowest-risk offenders stay behind bars, or some combination of the two, are reaping big savings for states. Using these strategies requires the presence of strong community-based programs to ensure that offenders remain crime-and drug-free.

Strategy One: Reducing Prison Admissions

States are finding that using a diversity of criminal sanctions with options for low risk offenders achieves the goal of holding criminals accountable for their actions while still saving tax dollars. Sanctions other than re-imprisonment help less dangerous lawbreakers become productive, taxpaying citizens. The results in states that have chosen this route are proving that they can protect communities, punish criminals, and keep public funds available for other important needs.

The most common targets for diversion are non-violent offenders with drug addictions or mental illnesses, for whom drug courts and community treatment options are available. Kansas, faced with a price tag of nearly \$500 million to build and maintain new prisons, decided instead to aggressively pursue treatment and vocational programs for those who committed less serious crimes to keep current space in prison available for those criminals who must be locked up to keep the community safe.

Another group contributing to the high admission rate are "technical violators" -- those who fail the conditions of release on probation or parole. Parole violators account for more than one-third of all prison admissions, and those who fail probation make up half of the people in jail. States are choosing to punish them with community-based sanctions such as a mix of day reporting centers, electronic monitoring systems, and community service. These alternatives make offenders pay for their crimes while keeping prison beds available for more violent and chronic lawbreakers. It also increases the likelihood that violators will be able to pay child support, victim restitutions, and taxes.

Front End: Sentencing and Diversion. Three primary routes help steer low-risk offenders into community programs and away from prison. Comprehensive sentencing guidelines determine which types of offenders are best kept behind bars and which can

be adequately monitored and treated in the community. Targeted penalty changes modify mandatory minimums or direct selected low-risk offenders to community-based correctional programs. Drug courts help break the cycle of crime and addiction through use of frequent drug tests, treatment, and penalties for violations.

Back End: Parole and Probation Violations. These reforms hold ex-offenders accountable for "technical violations" without throwing them back into prison. Performance incentives shorten terms of supervision for offenders who comply with their conditions and fulfill obligations such as victim restitution and child support. Intermediate sanctions such as day-reporting centers hold ex-offenders accountable through swift, certain and proportionate responses for each violation. Short-term residential facilities house persistent rule violators with substance abuse problems.

Strategy Two: Reducing the Length of Stay -- Reducing Risk Before Re-entry

Freeing up cell space through reducing prison terms for those who complete rehabilitation programs is another important tool for states trying to reduce their prison numbers. Shorter terms give prisoners an incentive to behave, cut recidivism rates by increasing participation in risk-reducing programs, and frees up cell space. Nevada expanded earned-time credits for prisoners who were not convicted of violent or sex crimes by increasing the amount of time an inmate could earn for good conduct and completing education and treatment programs, as well as making the law retroactive to prisoners sentenced prior to the law's effective date. The policy changes have resulted in a moderate decline in the prison population and no increase in crime, arrests, or court filings.

Sufficient program availability in prisons and the community help inmates successfully re-integrate into society by getting the treatment and rehabilitation they need. Risk-based release instruments are research-based analyses of actual recidivism patterns that help authorities decide who should stay incarcerated and who might be ready to release early. Risk-reduction credits give inmates an incentive to participate in and complete treatment and education programs that reduce recidivism by allowing them to be released slightly earlier. Earned-time credits also shorten an inmate's term and are offered for demonstrating good behavior or meeting some other benchmark.

The Legislature, recognizing that overcrowding and recidivism are best treated by investing in programs that optimize inmates' ability to turn their lives around, funded \$4.2 million in reintegration programs last year. The Governor has yet to release the funds. I introduced a resolution regarding parole and probation practices and expanding earned time credit. The Department of Public Safety is expected to issue a report in response.

The Time is Ripe

Hawaii, faced with the same set of overcrowding problems as our sister states, is at a crossroads. We need to prepare inmates to turn their lives around to become productive, contributing members of society through treatment and education programs after their release from prison. We need to keep a sufficient amount of prison beds for those criminals whose crimes warrant that they be kept behind bars to keep the public safe. We need to be fiscally prudent so that spending on corrections does not crowd out other equally important public purposes. Meeting all of these goals requires that we use research-based methods for accomplishing all of these goals. It is time to overhaul our corrections philosophy, practices, and system.