

Kean University

Center for History, Politics and Policy

White Paper Series

2012-2013



Preface

This paper, the ninth in a series of white papers sponsored by the Kean University Center for History, Politics, and Policy, explores the challenges of effectively handling prisoner reentry into the community, and discusses shifting U.S. drug policies. Connie Hassert-Walker provides a brief overview of the War on Drugs and its impact on incarceration rates. She provides practical recommendations for future correctional policy.

About the Author

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The End of the War on Drugs?

Connie Hassert-Walker, Ph.D.

Problem Statement

The U.S. approach to handling drug crimes and offenders over the past three decades – also known as the War on Drugs – has greatly inflated prison populations, harmed African American communities in particular, criminalized many poor women, and ironically done little to reduce Americans' substance use. Nearly 650,000 individuals are released from prison annually, and more than seven million people are released from jail (Council of State Governments, 2005). Many of these individuals served sentences for drug convictions. This white paper explores the challenges of effectively handling prisoner reentry into the community, and discusses shifting U.S. drug policies.

Drug Offense Related Incarceration: The Big Picture

The U.S. is the world's leader in locking people up. Nationally, the number of individuals serving time in federal prisons increased a whopping 127 percent during the 1990 to 2000 period (i.e., from 58,838 to 133,921)¹. A similar rate of growth – nearly 72 percent – occurred in state prisons (i.e., from 684,544 to 1,176,269) during the same decade. Growth slowed to 32 percent and 10 percent in federal and state prisons, respectively, from 2000 to 2010. The percentage of individuals serving time in federal prisons specifically for a drug-related offense has also increased over the decades, from roughly 25 percent of the sentenced population

¹ Table 6.13.2011, *Sourcebook of Criminal Justice Statistics*, University of Albany, School of Criminal Justice, Hindelang Criminal Justice Research Center. Downloaded from http://www.albany.edu/sourcebook/tost_6.html.

during the 1980s; to 37 percent in the 1990s; to nearly 60 percent during the 2000-2010 decade². Much of this increase is due to the modern U.S. War on Drugs – beginning in the early 1980s under President Reagan and continuing through today – and related punitive policies such as mandatory minimum sentencing and “truth in sentencing.” Modeled after a tough 1973 New York state drug law, subsequent state drug laws as well as the Federal Sentencing Guidelines of 1987 sought to reduce sentencing options and abolish early release of prisoners onto parole until the majority of the sentence had been completed (Walker, 1998). The result? Incarceration numbers climbed, state correctional budgets soared, and prisons became overcrowded. The War on Drugs has been particularly harmful to African Americans (Tonry, 2004; Sabol, Couture & Harrison, 2007; Nunn, 2002) and poor women of color (ACLU, 2007; Mauer, Potler & Wolf, 1999; Bloom, Owen & Covington, 2004).

Because most people who go to prison eventually come out, a new problem – reentry into their home community for hundreds of thousands of ex-offenders – emerged. How can returning offenders successfully reintegrate into a community, find gainful employment, and avoid risks that could lead to reoffending? Since some municipalities produce more offenders than others, how can these communities successfully absorb the returnees? Do communities eventually hit a tipping point at which town budgets and services are too stretched and they cannot effectively serve their residence? The National Institute of Justice devotes funding streams to research studies of effective reentry approaches, because to this day we have not definitively answered this question.

² Table 6.57, *Sourcebook of Criminal Justice Statistics*, University of Albany, School of Criminal Justice, Hindelang Criminal Justice Research Center. Downloaded from <http://www.albany.edu/sourcebook/pdf/t657.pdf>.

Ending the Drug War to Reduce Incarcerations

Reducing incarceration levels, particularly as a result of drug convictions, has been in the national spotlight recently (e.g., Savage [2013], “Justice Dept. Seeks to Curtail Stiff Drug Sentences”). As of September 2013, 20 states – including New Jersey – and the District of Columbia have passed legislation legalizing marijuana for medical purposes³. This movement is also part of an effort to reduce record numbers of individuals behind bars for low level, non-violent drug offenses where the punishment does not appear to fit the crime. Washington and Colorado have gone one step beyond, moving toward regulating the sale of marijuana for not-strictly medical purposes (Chokshi, 2013). (The process has begun in Colorado, and will commence in Washington on November 18th.) While states’ legalization laws are not in synch with federal drug law, the Justice department has indicated that it will not block states from moving towards marijuana legalization (Reilly & Grim, 2013).

New Jersey’s Drug Offense Incarceration

In 2010, New Jersey’s incarceration rate was lower than the national average, at 286 inmates per 100,000 individuals. (The national average was 403 per 100,000 in 2010.)⁴ While prison populations nationally and in other states increased during the 2000’s, New Jersey’s incarcerated population actually *decreased* during that period (Megerian, 2010). This decline has been attributed changes in parole policies including less use of non-dangerous technical parole violations (Greenwald, Johnson & Nagrecha, 2011); as well as a statewide drug court program, which diverts non-violent drug offenders to probation and counseling in lieu of prison, and an easing up of mandatory minimum sentences for drug crimes such as selling drugs within 1,000 feet of a school (Megerian, 2010). Since it costs upwards of \$40,000 (and sometimes more) to

³ <http://medicalmarijuana.procon.org/view.resource.php?resourceID=000881>

⁴ Data are from the National Institute of Corrections, downloaded from <http://nicic.gov/StateStats/?st=NJ>.

incarcerate an individual in prison for a year, reducing imprisonment levels can be beneficial to the state budget. By comparison, drug courts, which exist in every NJ county, cost less than \$12,000 per participant (Spoto, 2012). A year of inpatient drug treatment costs less than \$25,000 (Becker, 2012).

Governor Christie supports drug treatment over imprisonment, referring to the U.S. War on Drugs as a failure (Becker, 2012). Earlier in the year, the Governor – along with former NJ Governor Jim McGreevey – met with female inmates of Hudson County Correctional Center who are participating in a pilot recidivism prevention program coordinated through Integrity House in Newark, NJ⁵. Mr. McGreevey is a recovery specialist for Integrity House⁶ and spiritual counselor⁶ for the participating women. (His work with incarcerated women was the subject of the HBO documentary, *Fall to Grace*, which premiered at Kean University in March 2013.⁷) In 2012, Governor Christie signed legislation (S-881⁸) to establish a \$2.5 million pilot program to expand drug court programming in several counties; as well as expand the types of crimes that would render offenders eligible for drug court (Spoto, 2012). By making participation in drug courts mandatory rather than voluntary, the number of individuals to be served by these courts is expected to grow beyond the previous levels of 1,400 new participants annually⁹. More recently, Governor Christie earned praise from sensible drug policy advocates by approving the lifting of certain medical marijuana restrictions so that severely ill children may benefit from the plant's medicinal properties (Livio, 2013; Drug Policy Alliance, 2013).

Despite the good news, there are still grounds for concern. Despite steadily decreasing incarceration rates from 2000-2009, the decline appears to have leveled off (Greenwald et al.,

⁵ <http://newyork.cbslocal.com/2013/05/08/gov-christie-and-former-gov-mcgreevey-unite-for-prison-reform/>

⁶ <http://integrityhouse.org/jim-mcgreevey-integrity-house-make-people-magazine/>

⁷ <http://www.politickernj.com/64225/hbo-documentary-chronicling-mcgreeveys-fail-grace-airs-week>

⁸ <http://nj.gov/governor/news/news/552012/approved/20120719c.html>

2011). While around 12,000 people leave prison annually, roughly the same number enter prison; and more than half who are released from incarceration end up back behind bars within three years (Greenwald et al., 2011). Millions of tax dollars are spent annually on correctional expenditures and offender release assistance programs, yet the question of effectiveness remains. Why aren't re-offense and recommitment rates lower? Clearly, more work needs to be done.

Looking Ahead: Recommendations for Future Correctional Policy

The winds of change have begun to blow with regard to incarcerating drug offenders. Politicians, particularly Republicans, have until recently been loathe to criticize the U.S. War on Drugs for fear of appearing soft on crime. (Some still are.) Over the past couple decades, however, research and statistics have begun to pile up, pointing to the unfortunate unintended consequences of this war: our prisons are swelling, draining state budgets. Few offenders get better – in behavior, attitude, health, or employability – while locked up. Most eventually leave prison, bringing their problems with them to their home community and family. Many ex-inmates – both on parole and those who have maxed out their sentence – will reoffend, and get rearrested and reconvicted. Lengthy incarceration terms (and the resulting large gap in legal work histories), lingering substance use habits, very low educational attainment, and the stigma of the other “F” word (felon) make finding, obtaining and keeping gainful employment questionable.

Even those ex-offenders determined to succeed ‘on the outside’ will encounter many challenges, among them limited employment opportunities, public housing restrictions, lack of a driver’s license, ineligibility for welfare benefits, and loss of the right to vote. Sometimes referred to as collateral consequences, these invisible punishments continue to plague ex-offenders long after their incarceration term has ended. ‘Invisible’ may well be an appropriate

term, as these restrictions lie not in the penal code, but are buried throughout myriad parts of various state laws (Ewald & Smith, 2008). Defense attorneys are not always familiar with all of them. During the 1960-1970 period, there was a reduction in the number of state laws imposing collateral consequences; however, “the last two decades have seen a steep increase in the amount, scope, complexity, and binding effect of these consequences” (Pinaire, Heumann & Lerman, 2006, p. 292). In addition, not all offenders are equally affected. Racial minorities are particularly vulnerable to these invisible punishments (Wheelock, 2005). For one thing, an individual’s felon status being used to prevent him from voting dates back to the racist Jim Crow era of American history (Chin, 2002). Collateral consequences are not limited to offenders who were locked up. Those convicted of a felony (i.e., a serious crime such as robbery) but sentenced to probation and community service (for instance) will still incur collateral consequences because they were *convicted*.

Gainful employment is a key ingredient to ex-offenders’ future life success, in particular not recidivating. To that end, easing collateral consequences so that ex-offenders succeed in obtaining and keeping good jobs is a form of crime prevention. Compassion, rather than the desire to punish, should guide our reentry policies. Exiting prisoners in general need help with acquiring identification, securing safe housing, reconnecting with family members (particularly their children), finding a job, accessing transportation to that job, and building appropriate on-the-job behavioral skill sets.

Ex-offenders who were sentenced for drug crimes, particularly those with persistent substance use habits, will need support (i.e., from family and drug-free friends) to remain clean, sober and employable. State policymakers and researchers should work together to monitor the success of NJ’s expanded drug court program, and make adjustments accordingly. Meetings of

free and anonymous 12-step programs like Narcotics Anonymous (N.A.) and Alcoholics Anonymous (A.A.) are held regularly throughout New Jersey as well as around the country. Both N.A. and A.A. have an Internet presence, including online meeting locators. Resources like these should continue to be tapped as appropriate.

Services Coordination, Data Collection, and Action: A Model for New Jersey

The Manhattan Institute for Policy Research produced a report (Greenwald et al., 2011) on prisoner reentry for the NJ Governor’s office, which includes interesting suggestions for restructuring existing administrative units and services⁹, and better tracking of ex-offenders as they return to the community. The report authors suggest that the New Jersey Parole Board oversee and coordinate the myriad ex-offender service providers and their services, including assessment, management of cases, and job readiness, placement, and retention (Greenwald et al., 2011). Participating service agencies would need to enter data about their clients into a “universal data system coordinated by the New Jersey Office of Information Technology” (p.11). The Parole Board would analyze the data with an eye for positive and negative outcomes, and regularly report results to the Governor. Another recommendation is that coordinators from both the Parole Board and the Office of the Governor “meet regularly with regional consortia of service providers and key local officials – particularly mayors” (p.2), since the majority of ex-offenders return to urban communities. Such regular meetings could help bridge the knowledge gap that currently exists between parole officers and service providers.

⁹ The One-Stop Career Center (<http://lwd.dol.state.nj.us/labor/wnjpin/findjob/onestop/PastProblemsSolutions.html>) is an example of resources currently available for ex-offenders returning to the community. See also <http://nplwebguides.pbworks.com/w/page/5673578/Prisoner%20Re-Entry> re: resources from the Newark public library system.

Greenwald and colleagues (2011) highlight the promising work of Newark’s Office of Reentry and its program, the Newark Prisoner Reentry Initiative (NPRI)¹⁰, under former Mayor Corey Booker. In fact, the Newark initiative is the inspiration for the suggested statewide model. Preliminary data show that NPRI’s participants reoffend at much lower rates (i.e., less than 10 percent) than both the state and national norms; and “their six month job-retention rate stands at 70 percent” (Greenwald et al., 2011, p.12). To what is NPRI’s success attributable? A combination of factors, according to the report authors: rigorous mentoring and case management; data collection on effectiveness of services provided by assistance agencies; and a management structure that facilitates taking action informed by data analyses. Also worth mentioning is that the funding for NPRI does not derive solely from public money. In addition to tax dollars, private funds were raised (Greenwald et al., 2011). While partly funding a program via philanthropy has risks, it shifts the burden off of citizen tax payers *and* increases the pressure for effectiveness. More effective programs mean better outcomes – less recidivism, more gainful employment, more reunited families – for participants.

To summarize, the following steps are recommended:

- As per the Manhattan Institute report (Greenwald et al., 2011), replicate Newark’s Prisoner Reentry Initiative at the statewide level, including consolidating administrative units under the New Jersey Parole Board (for instance) to facilitate better tracking of offender returning to the community.
- Continued coordination and communication between agencies providing services to ex-offenders.
- Continued support of New Jersey’s drug court initiative.

¹⁰ See also here: https://www.manhattan-institute.org/html/cci_moving_men_into_the_mainstream.htm and <http://online.wsj.com/news/articles/SB10000872396390443866404577565170182319412>

- Ease state laws that restrict ex-offenders' access to employment, particularly those fields in which offenders receive job training while incarcerated. If offenders can be trained in a skill or profession while behind bars, they should be able to work in that capacity once out of prison.
- Continued support of businesses and agencies that do not discriminate in hiring based on past felony convictions.
- Support for the service and governmental infrastructure in those communities that absorb disproportionate numbers of returning offenders.
- Strengthen support for returning offenders particularly in the areas of drug treatment, safe housing, means of transportation to/from work, educational attainment, and work readiness.
- Continued support for research into the effectiveness of prisoner reentry and offender drug treatment initiatives.

New Jersey is doing better than many other states in correctional initiatives, partly thanks to the work of Governor Christie. The next NJ Governor should continue on this path.

Conclusion

Offenders may be rule violators, but they are also vulnerable individuals deserving of compassion, support, and second chances. Much like the scarlet letter "A" made Nathaniel Hawthorne's heroine Hester Prynne a social outcast, the label "F" (Felon!) or "C" (Convict!) perpetuates the stigma and vulnerability of individuals attempting to rebuild their lives. If "a

chain is no stronger than its weakest link,”¹¹ then communities can only strengthen themselves by supporting their most at risk members.

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¹¹ Quote from philosopher and psychologist, William James, as noted at <http://quotationsbook.com/quote/11741/#sthash.IT77wOMO.dpbs>.

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