

FIFTH MEETING of the CRIMINAL JUSTICE REFORM SUBCOMMITTEE

Justice Reform Across the Country and in New Mexico: Trends and Next Steps

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- I. Introduction to the Justice Action Network
 - a. Bipartisan national network
 - b. What we do:
 - i. Lobbying at state and federal levels
 - ii. Educational events for the public and policymakers
 - iii. Paid and earned media, social media strategies
 - iv. Polling
 - v. Outreach to law enforcement, business, faith-based, veterans, and victims' rights groups
 - c. The reforms we support: an evidence-based approach
 - i. Evidence-based reforms are NOT:
 - 1. Merely reducing prison sentences
 - 2. Ending the use of prison
 - 3. Ignoring accountability
- II. The Impetus to Act
 - a. Crime and public safety
 - i. Between 2008 and 2016, 35 states cut crime and imprisonment at the same time; 21 states posted double-digit declines in both rates
 - b. Fiscal concerns
 - c. Moral drivers
- III. Research Context
 - a. Custodial sentences do not reduce recidivism more than noncustodial sanctions
 - b. Imprisonment is likely "crime generating"
 - c. Low-risk offenders most likely to experience the increase in recidivism
 - d. What works to change behavior:
 - i. Assess risk and needs: "who" and "what"
 - ii. Motivate and incentivize
 - iii. Target four to six criminogenic needs
 - 1. I.e.: social skills, thinking errors, vocational training, misuse of leisure time, drug and alcohol abuse, lack of self control
 - iv. Fidelity and training
 - 1. "Programs that scored highest on program integrity measures reduced recidivism by 22 percent; programs with low integrity actually increased recidivism"

- v. Clear rules, consistent consequences
 - vi. Measure results; use measurements
- IV. Examples From Other States: Gradation, Accountability, Incentives
- a. Utah: House Bill 348
 - i. Made significant changes to criminal code
 - 1. Reclassified over 150 offenses from Class C misdemeanors to “infractions.”
 - 2. Reclassified some Class B misdemeanors to Class C misdemeanors
 - ii. Reclassified drug possession from a 3rd degree felony to a Class A misdemeanor
 - 1. First two convictions only; third conviction is a felony
 - iii. Focused the drug free school zone sentencing enhancement
 - 1. Applied from 6a to 10p only; reduced the span from 1000 feet to 100 feet
 - iv. Created swift and sure sanctions for technical violations (three consecutive days; five total days over 30 days)
 - v. Created earned time for probation and parole
 - vi. Created earned time in prison for non-life inmates who complete programming
 - 1. Not less than four months; priority given to highest-ranked program in case plan
 - 2. May be forfeited upon violations
 - b. Mississippi: House Bill 585
 - i. Created thresholds for larceny (\$1,000/\$5,000/\$25,000) and other property crimes (malicious mischief, forgery, embezzlement, shoplifting, computer fraud)
 - ii. Created thresholds for controlled substances: < 2 grams, 8 years; 2-10 grams, 3-20 years; 10-30 grams, 5-30 years
 - iii. Defined trafficking as more than 30 grams or 40 dosage units of Schedule I/II; 500g/2500 DU of Schedule III/IV/V
 - iv. Defined aggravated trafficking as trafficking in more than 200g
 - v. Provided clear sanctions for technical violations:
 - 1. Department may impose: no more than two days, two times per month
 - 2. Court/parole board may impose: 90 days for the first, 120 for the second, 180 for the third
 - vi. Provided parole eligibility after serving one-quarter of the sentence if:
 - 1. Nonviolent, non-sex, non-habitual offender, parole is not prohibited, the offense is not trafficking
 - vii. Provided parole without a hearing if:
 - 1. Completed case plan, victim didn’t request hearing, no major violations in last six months, agreed to terms of release/supervision, inmate has a discharge plan

- viii. Created earned-discharge credits for those on community supervision
 - ix. Created earned time for prisoners
 - 1. Meritorious time for completing programming (at DOC commissioner's discretion)
 - 2. Earned time releases trigger mandatory supervision
 - c. Maryland: Senate Bill 1005
 - i. Created different penalties for 1st/2nd/3rd offenses for drug possession
 - 1. Previously: a misdemeanor, but 4 year penalty; now, first offense, one year; second, 18 months; third, two years)
 - ii. Updated mandatory minimums (now maximums; provided an avenue for resentencing)
 - iii. Narrowed enhancements on subsequent convictions for drug crimes (criminal history must include a crime of violence)
 - iv. Increased thresholds for theft/other property crimes to \$1500
 - v. Reduced a handful of traffic offenses from misdemeanors to fine-only offenses
 - vi. Created graduated sanctions for probation/parole violations
 - vii. Limited incarceration for technical violations to 15/30/45 days
 - viii. Created earned time and good time for work/programming
 - ix. Created earned time on probation for nonviolent probationers
 - x. Created the option for an administrative caseload
- V. Issues for New Mexico Lawmakers
 - a. Continued monitoring of pretrial reforms
 - i. Critical to address pretrial detention
 - 1. Can result in increased recidivism before trial and up to two years after; increased and longer prison sentences
 - b. Probation supervision, drug and mental health issues
 - c. Technical violations
 - i. Recent increase in incarceration due to technical violations on parole
 - d. In-house parole
 - e. Growing female incarceration
 - f. Use of specialty courts
 - g. Record sealing and collateral consequences
- VI. Questions for Lawmakers:
 - a. Is the sentence determined by one factor or the whole picture?
 - b. Are different levels of harm treated differently?
 - c. Will individual accountability result from the sentence?
 - d. Are sanctions and incentives appropriately balanced?
 - e. Are the costs and benefits acceptable for New Mexico?