

# The Struggle to Slow Mass Incarceration Movement In PA.

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During last year's annual opportunity to pontificate on institutional issues in this respected venue, I mentioned the possibility of groundbreaking legislation in Harrisburg that would address prison overcrowding. The bill, titled SB 100, did pass into law and became Act 122. This year, I will examine the final legislative product and offer my thoughts on its effectiveness and provide context on the struggle to slow the mass incarceration movement in Pennsylvania.

In my capacity as the executive director of the Pennsylvania Institutional Law Project, I frequently tour our prisons and jails. Recently, I looked out over the recreational yard at the State Correctional Institution in Dallas, Pa., and saw hundreds of predominately young African-American men milling around and participating in several recreational activities. It brought to mind an old joke by Richard Pryor who had gone to a prison and was expecting to see the fruit of our justice system but saw only "just us," meaning a huge number of African-Americans. A similar experience in the Philadelphia Prison System was even more striking as individuals other than African-American were few and far between.

The past three decades have seen an explosion in our incarceration rate, often referred to as mass incarceration. Pennsylvania has seen a sixfold increase in its Department of Corrections (DOC) population since 1980, with a tenfold increase in the DOC budget from \$200 million to almost \$2 billion annually. Minorities increasingly bear the brunt of these increases. There are more African-Americans in jail today than there were slaves in 1850. During the Jim Crow era, African-Americans comprised only 10 to 20 percent of the prison population. Today, one-half of all African-American youth are under some form of supervision of our criminal justice system. Half of the state DOC population is African-American. Philadelphia has 300,000 ex-offenders in our midst.

About 10 years ago, the Pew Foundation decided to tackle the difficult problems associated with mass incarceration. Thus, the term "justice reinvestment" (JRI) was born. The concept called for measures to reduce prison populations and the savings from such would be invested in the communities ravaged by the crime wave and the loss of so many young men to violence and prison sentences. Pew partnered with the Council of State Governments and developed strategies to reduce prison populations. To date, 27 states including Pennsylvania have signed on to the concept with mixed results. Governor Tom Corbett signed Act 122 into law July 5, 2012. The law sought to reduce prison overcrowding by expanding the eligibility criteria for the State Intermediate Punishment program designed to get low-level drug offenders treatment and reduce their sentences accordingly. It also expanded the eligibility criteria for the Recidivism Risk Reduction Incentive, which rewarded inmates with time off their sentences if they took constructive rehabilitation programs. It also moved short-termers more quickly and more efficiently through the system. Probationers were given three chances instead of one before they were put in prison for technical violations of the conditions of probation. Over \$600,000 was designated for reinvestment in poor communities in the most recent state budget.

Sadly, the legislative process took its toll and many of the excellent provisions were greatly weakened by the elimination of the pre-release program. This program allows inmates within one year of their minimum release dates to serve that year in a halfway house. Tragically, an inmate in that status killed a Philadelphia police officer after escaping from the facility. The powerful law enforcement lobby headed by the District Attorneys Association and the victims' rights movement had been pushing for this elimination for years and agreed to back the bill only if pre-release was eliminated. Throwing the baby out with the bathwater has been a favorite legislative concept that led to the mass incarceration problem. Anecdotal legislation has dug us deep into the fiscal hole we find ourselves in today. Any time a heinous crime is committed, many have to pay for the sins of a few. Since the passage of Act 122, the DOC population has been reduced by 300 people. The elimination of pre-release just went into effect. Experts predict a wash in the long run and another opportunity to address prison overcrowding will have passed. The DOC budget was increased by another \$77 million this year while K-12 schools, higher education and health care continue to be cut.

The sentencing project just published a detailed analysis of the JRI movement and has called for a mid-course correction. Putting too much emphasis on legislation that is often compromised, as it was in Pennsylvania, has taken the wind out of the sails of JRI. There is a need to bring in more stake holders and rely on grassroots organizing. The Pennsylvania Prison Society, the nation's oldest prison reform group, has taken up this cause and built a coalition around SB 100. A group called Deincarcerate just walked from Philadelphia to Harrisburg to protest continued funding of new prisons and cuts in education. Justice and Mercy, a faith-based prison reform group in Lancaster, has also been active in this area. Even the Commonwealth Foundation, a conservative think tank, has been active in addressing prison overcrowding due to cost considerations. The late former Governor George M. Leader had joined with the Commonwealth Foundation in this endeavor. We need to pool these resources, develop coordinated strategies and help educate the public on the need for a change in attitude and shift in resources. These efforts are to be commended but much more work needs to be done. Only then can the true promise of JRI be realized.

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