

Virginia Executive Institute
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Addressing
Mass Incarceration
in Virginia

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Many are expressing concern that the criminal justice system is perpetuating the era of “Jim Crow” through the use of biased policing, inconsistent application of the law, mandatory sentencing guidelines and an overall extensive focus on a cycle of fine and punishment that limit the ability of people to become productive members of society.

What best practices should the Commonwealth consider to significantly reduce the number of children and adults in all areas of the criminal justice system?

Scope of Problem

- 37, 544 individuals under the jurisdiction of state or federal correctional authorities in Virginia. (2014 year end totals)
 - 449 individuals per 100,000 individuals.
 - 1.5% increase from previous year.
 - Ranks 12th in nation for # of individuals incarcerated.
(2015 Bureau of Justice Statistics)

Scope of Problem

- 2014 Average Census of VADOC Facilities – 30,342.

(2014 VADOC report)

- 7,449 individuals held in local jails.
 - 19.8% incarcerated population in local jail.
 - 6.8 increase from previous year.
 - 6th highest in nation.

(2015 Bureau of Justice Statistics)

Scope of Problem

- African Americans Disproportionately Represented.
 - 58.47 % of incarcerated population. (2014 vadoc report)
 - 19.4 % of total population. (2010 census data)

Broad Issue – Requires In-Depth Review

- Establishment of Governor's Task Force on *Developing Alternatives to Incarceration in Virginia*.
 - *Membership:*
 - *Law enforcement, state and specific to local level*
 - *Community Advocacy* (Example: Virginia Alliance Against Mass Incarceration, Virginia Community Criminal Justice Association, Virginia Cure, Bridging the Gap in Virginia)
 - *Local Mental Health Agencies* – (Resource VACSB)
 - *State Agencies* – VADOC, DBHDS, State Crime Commission

Task Force Review Areas

- Current Criminal Code and recommended updates.
- Juvenile Justice Reform.
- Restoration of Rights for non-violent offenders.
- Establishment of specialty courts and alternatives for sentencing.

Addressing Mass Incarceration

Code/Law/Sentencing Contributors

- Code review and modification.
 - Includes localities.
 - Codes not directly proven to increase public safety.
 - War on drugs codes.
 - Strong review of all marijuana possession, transports, production charges (which are still included as Schedule I drugs in Virginia).
 - Grand larceny value threshold.
 - \$200.00; \$577.54
 - Eliminate the third and any subsequent petit larceny automatic felony penalty.
- Review and revision of mandatory minimums/other sentencing guidelines.
 - Eliminating 3 strikes felony charges on non-violent offenses.
 - Eliminating mandatory minimums for Schedule I & II transport and possession.

Addressing Mass Incarceration

Code/Law/Sentencing Contributors

- Require use of non-violent deferment and explore the increased use of alternative sentencing.
 - Majority (52%) of nonviolent felony offenders are still being sent to prison.
- Eliminating “discretion” or prohibition barriers to housing and public assistance for felons.
 - Mandatory policies vs. Discretionary policies for PHAs
- Modification of code and public policy allowing for private prisons in Virginia.
 - Eliminate prison for profit and prison contracting effectively reducing the prison industrial complex.

TaskForce Focus Area: Juvenile Justice/Young Adult Reform

- Role in Mass Incarceration:
 - 400+ Juveniles in Two Correctional Centers.
 - Rearrest rates three years after release from juvenile correctional centers is at approximately 80%.
 - Roughly \$28-\$35 million each to operate the two existing juvenile correctional centers.
 - Virginia schools in a single year referred students to law enforcement agencies at a rate nearly three times the national rate.
 - DJJ identified continued statistically significant parity between minority contacts and non-minority contacts.
 - 21% of 2014 new DOC commitments were 24 years old or younger.

TaskForce Focus Area: Juvenile Justice Reform

- Recommendations To Consider:
 - Focusing More on School Resource Officers v. Law Enforcement.
 - Increased Funding and Focus on Community-Based Services v. Commitment.
 - Increased Programs for Younger Offenders for “re-start” after commitment or prison.

Economic Restoration

- Disproportionate targeting and sentencing has racially skewed the economic impact of incarceration on minorities.
- Once incarcerated, the ability to obtain employment and education are significantly impaired.
- Lack of education and employment opportunities are correlated to higher rates of incarceration.
- Between 60—75% of ex-offenders are jobless a year after release.

Economic Restoration

- More than 80% of U.S. employers perform criminal background checks on prospective employees.
- Nonviolent drug offenders can not obtain student loans, work-study, grants and other education resources to improve their economic outcomes.
- Criminal records are not expunged, and remain on the non-violent offenders record for life.

Economic Restoration

- Areas for Review
 - Workforce/education program to enhance economic opportunities targeted to nonviolent offenders.
 - Expungement of criminal record of non-violent offenders after a waiting period. Record still accessible for sentencing.
 - Advocacy to change federal requirements to limit access to education resources for nonviolent drug offenders.

Task Force Focus Area

Specialty Courts/Dockets

- **SUPPOSITION:** Removing people with Serious mental Illness and Substance Use disorders from our prisons would reduce mass incarceration rates.
 - 50% of people in prisons or jails nationally have Serious Mental Illness or Substance Use Disorder. (PBS.org Frontline)
 - 26% White non-Hispanic, 13.5 Black, 11% of Hispanic people incarcerated at the state level experience SMI/SUD. (Justice Dept. Bureau of Justice Statistics)
 - Limited availability in Virginia: We have specialty dockets in Norfolk, Virginia Beach, Richmond, Petersburg, Staunton, Roanoke, and Prince William.
 - DBHDS is aware of other jurisdictions who are interested in creating dockets should funding become available.

Reduction in Mass Incarceration

Specialty Courts/Dockets

- **SUPPOSTION:** By linking to necessary treatment through Specialty Dockets, the likelihood of recidivism is reduced.
 - Jail Days – MH Court participants had fewer jail days post enrollment than matched controls. (DBHDS 2014 Mental Health Docket Fact sheet)
 - Drug Courts report recidivism rate of 25%; MH Courts Report recidivism rates of 10-15%. (DBHDS 2014 Mental Health Docket Fact sheet)
 - Factors which reduce recidivism hypothesized to be related to intensive monitoring and strong therapeutic relationships.

In Summary

- Broad issue that cannot be fully represented in a brief presentation.
- Our recommendations are only a cursory review of a few focus areas in the incarceration process.
- Establish a task force to review all steps of the process to include:
 - Criminal codes
 - Statistics review for entire system (arrest to reentry) for disparity
 - Arrest
 - Pre-Trial & Trial
 - Sentencing
 - Incarceration
 - Re-integration