

# JustSouth QUARTERLY



# PRISON CAPITAL OF THE UNIVERSE

Louisiana's chance to change course on incarceration

BY SUE WEISHAR, PH.D.

Louisiana is the prison capital of the known universe. The Pelican State incarcerates more of its residents per capita than any other state, in a country that leads the world in incarceration rates. Louisiana's incarceration rate of 816 inmates per 100,000 residents is almost twice the national average,<sup>1</sup> three times Brazil's, seven times China's, and ten times Germany's.<sup>2</sup> The impact of Louisiana's bloated and costly criminal justice system on African American communities has been particularly devastating. One in 20 African American adult males in Louisiana is incarcerated, a rate exceeded by only six states. Although only 32 percent of Louisiana's population is Black, 67.8 percent of its prison population is Black, the second highest proportion of Black inmates in the U.S. (Maryland is first).<sup>3</sup> The state is in dire financial straits, yet Louisiana spends an astronomical amount of money on its criminal justice system: almost \$700 million a year,<sup>4</sup> with poor returns—42.5 percent of offenders return to state custody in five years.<sup>5</sup> Every dollar spent on prisons is a dollar not spent on schools, hospitals, and coastal restoration. The status quo of Louisiana as the "Incarceration Capital of the World" is financially unsustainable and morally unacceptable. Fortunately, major change is within reach.

In June, 2016, Governor John Bel Edwards convened the Justice Reinvestment Task Force, a bi-partisan group of cross-sector criminal justice experts and stakeholders and charged them with taking a hard look at what is working and what is broken in Louisiana. Evidence presented to the Justice Reinvestment Task Force at five public hearings held between June 2016 and November 2016 has clearly shown that **policy choices**—not crime—explain Louisiana's obscenely high incarceration rates. While other Southern states have crime rates similar to Louisiana's, Louisianans are sent to prison for nonviolent offenses at much higher rates. Indeed, the top ten most common crimes that land someone in prison in Louisiana are all nonviolent, and the most common by far is possession of drugs.<sup>6</sup>

Louisiana's Justice Reinvestment Task Force was advised by criminal justice reform experts with the Pew Charitable Trusts as part of the Justice Reinvestment Initiative (JRI). The JRI is a public-private partnership that includes the U.S. Justice Department's Bureau of Justice Assistance, the Pew Charitable Trust, Vera Institute for Justice, and other organizations. Since

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## Louisiana's chance to change course on incarceration

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2007, 33 states have reformed their sentencing and corrections policies through the JRI, including the Gulf South States of Alabama, Mississippi, Texas, and Louisiana. The goal of JRI initiatives is to improve public safety and lower taxpayer costs by prioritizing prison space for serious offenders and investing the cost savings into alternatives to incarceration for low-level offenders that have been shown to reduce recidivism.<sup>7</sup>

JRI policies generally fall into four categories: sentencing laws that instruct courts on how to sanction convicted defendants (Sentencing/Pre-Trial); release laws that determine conditions for leaving prison (Release); supervision laws that guide how people on parole or probation are monitored (Community Corrections); and oversight laws that track the progress of such policy changes (Sustainability). The table below tabulates sentencing and corrections reforms in these four broad policy areas that have taken place in Alabama, Mississippi, Louisiana, and Texas since 2007.

Although reforms initiated six years ago have helped to reduce Louisiana's prison population by 10.5 percent,<sup>8</sup> the state still is number one in the world for incarceration rates. On March 16, 2017, the Justice Reinvestment Task Force announced 21 policy recommendations that had unanimous support from Task Force members and which would reduce

### Alabama, Louisiana, Mississippi, Texas SENTENCING AND CORRECTIONS REFORMS: 2007-2016

SENTENCING/PRETRIAL	AL	LA	MS	TX
Reclassify/redefine drug offenses	x		x	
Reclassify/redefine property offenses	x		x	
Establish presumptive probation for certain offenses			x	
Revise sentencing enhancements	x		x	
Revise mandatory minimums		x		
<b>RELEASE</b>				
Revise parole hearing/decision/eligibility standards	x	x	x	
Expand good/earned-time prison credits/re-entry leave			x	x
Establish/expand geriatric or medical parole	x	x	x	
<b>SUSTAINABILITY</b>				
Require fiscal impact statements			x	
Establish leadership/board qualification requirements			x	
Require data collection/performance measurement	x	x	x	
Establish measures to streamline/improve efficiency of system			x	x
Improve restitution/victim notification systems	x		x	
Establish oversight council	x		x	
<b>COMMUNITY CORRECTIONS</b>				
Establish/expand for earned discharge			x	
Authorize performance incentive funding	x			
Authorize administrative jail sanctions	x	x	x	
Authorize graduated responses for violations	x	x	x	x
Cap revocation time	x		x	
Establish/improve electronic monitoring	x	x	x	
Establish mandatory re-entry supervision	x			
Require/improve risk-needs assessment	x	x	x	
Require evidence-based practices	x			
Reform/pilot specialty courts (HOPE, drug courts, etc.)	x	x	x	
Reduce probation terms	x			x
Improve interventions for substance abuse, mental health, etc.	x			x

Louisiana's prison population by 13 percent while saving the state \$305 million by 2027. The Task Force report groups these policy recommendations into six major categories.

1) *Ensure clarity and consistency in sentencing.* A specific recommendation here is to implement a felony class system, linking each felony class to eligibility criteria for prison alternatives, hard labor requirements, and jury size. 2) *Focus prison beds on those who pose a serious threat to public safety.* This will require expanding alternatives to detention and revising drug penalties to target higher-level drug offenses. 3) *Strengthen community supervision,* including focusing community supervision during the first months after release—the time period probationers and parolees are most likely to recidivate. 4) *Clear barriers to successful reentry,* such as eliminating the restriction for those with drug convictions from receiving SNAP benefits during their first year of reentry and ensuring that criminal justice related fees and fines do not cause financial hardship. 5) *Reinvest more than half the dollars saved from the reduction in the state prisoner population into the expansion of programs to address returned citizens' education, treatment, and training needs as well as victim services.* 6) *Mandate data collection and tracking of performance measures to monitor implementation and outcomes.*<sup>9</sup>

The Task Force made five recommendations that received majority support from its members, but not unanimous support. The majority recommendations are: 1) *Provide the opportunity for parole to Louisiana's longest serving inmates,* including those serving mandatory life for second degree murder, after serving 30 years and reaching age 50; 2) *Prospectively eliminate life without parole for juveniles,* allowing juveniles convicted of a life sentence to be eligible to apply for parole after serving a minimum of 30 years; 3) *Make parole eligibility changes retroactive to Justice Reinvestment sentences by setting parole eligibility at 55 percent of sentence served;* 4) *Focus habitual offender penalties on more serious crimes,* not the non-violent, low-level incident offenses for which they are often used; 5) *Target mandatory minimum sentences for firearm possession by a felon on those with prior violent felony convictions.*<sup>10</sup>

The most vociferous opponent of the non-unanimous Justice Reinvestment Task Force recommendations is the Louisiana District Attorneys Association. Its leaders claim those recommendations will compromise public safety and break the promises DA's have made to victims of violent crimes.<sup>11</sup> However, there is strong bi-partisan support for all 26 Task Force recommendations from such diverse groups as the Louisiana Association of Business and Industry and a new coalition of progressive advocates, Louisianans for Prison Alternatives.<sup>12</sup>

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At stake in the 2017 Louisiana legislative session, that began April 10, are critical moral questions about the kind of state Louisianans want for their children and grandchildren. Other states have shown that incarceration and crime can be reduced simultaneously and that reform efforts can change lives and save resources in the process. JSRI encourages our Louisiana readers to work for the reforms so urgently needed in our state's criminal justice policies by joining our advocacy email list at [www.loyno.edu/jsri/take-action](http://www.loyno.edu/jsri/take-action).

### ENDNOTES

- 1 See <http://www.sentencingproject.org/the-facts/#map?dataset-option=SIR> The state imprisonment rate for the U.S. is 471/100,000. The overall U.S. rate of incarceration, including state and federal prisoners, is 698/100,000.
- 2 See <http://www.sentencingproject.org/wp-content/uploads/2016/03/international-incarceration-rates.png>
- 3 Ashely Nellis, *The Color of Justice: Racial and Ethnic Disparities in State Prisons*, The Sentencing Project, 2016 at <http://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>
- 4 The total cost for the LA Department of Corrections in FY 2015-16 is \$658,657,905. See <http://www.doc.la.gov/media/1/Briefing%20Book/Oct%2016/budget.oct.16.pdf>
- 5 See <http://www.doc.la.gov/media/1/Briefing%20Book/Oct%2016/recidivism-admissions.releases.oct.16.pdf>

- 6 From *Louisiana Data Analysis Part 1: Prison Trends*, Pew Charitable Trusts, August 11, 2016, a PowerPoint presentation to the Justice Reinvestment Task Force, author's files.
- 7 See <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/11/33-states-reform-criminal-justice-policies-through-justice-reinvestment>
- 8 James LeBlanc, *Criminal justice reform sees real progress*, *The Baton Rouge Advocate*, May 27, 2016 at [http://www.theadvocate.com/baton\\_rouge/opinion/article\\_cc7afd9c-5b10-5a6b-aaa6-d4977bc04dde.html](http://www.theadvocate.com/baton_rouge/opinion/article_cc7afd9c-5b10-5a6b-aaa6-d4977bc04dde.html)
- 9 *Louisiana Justice Reinvestment Task Force Report and Recommendations*, March 16, 2017 at [http://www.lasc.org/documents/LA\\_Task\\_Force\\_Report\\_2017\\_FINAL.pdf](http://www.lasc.org/documents/LA_Task_Force_Report_2017_FINAL.pdf)
- 10 Ibid.
- 11 Rebekah Allen, *Task force reveals massive proposed reforms to reduce Louisiana's prison population, save \$150 million*, March 16, 2017 at [http://www.theadvocate.com/baton\\_rouge/news/politics/legislature/article\\_959130e8-09dc-11e7-bd76-4f00146e68f2.html](http://www.theadvocate.com/baton_rouge/news/politics/legislature/article_959130e8-09dc-11e7-bd76-4f00146e68f2.html)
- 12 See <https://www.facebook.com/louisianansforprisonalternatives/>

## WHITE DOMINIONISM

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- 13 <https://www.bls.gov/opub/reports/race-and-ethnicity/2015/home.htm>
- 14 Wilson, Valerie. "People of color will be a majority of the American working class in 2032." Economic Policy Institute, June 9, 2016, <http://www.epi.org/publication/the-changing-demographics-of-americas-working-class/>

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