

Confine the Worst and Manage the Rest:

# Considering a Shift in Criminal Justice Spending

By Ephy Amoah-Ntim

*Author's Note: Points of view expressed in this article do not necessarily represent the official position or policies of the U.S. Department of Justice.*

“If we were to take a look at the entire portfolio of criminal justice, we might rapidly conclude ... that essentially, we own stock in a company called prison; we never get to see a dividend statement, but every year they send us a really big bill and it's bigger than the bill from the year before,” said Lawrence W. Sherman, Wolfson professor of criminology at the University of Cambridge, distinguished university professor at the University of Maryland and director of the Jerry Lee Center of Criminology at the University of Pennsylvania.<sup>1</sup>

Scholars' such as Sherman, Daniel Nagin of Carnegie Mellon University and Steven Durlauf of the University of Wisconsin propose shifting spending from corrections to policing. They contend that if policymakers change their focus from the severity-based sanctions of prison to certainty-based sanctions of policing, crime, prison costs and the imprisonment rate will likely decrease.

Findings from recent reviews of the literature on deterrence<sup>2</sup> question the effectiveness as well as the social and economic costs of present-day sanction policies that recommend putting offenders in prison. “If criminal justice policy these days were based on the current evidence of cost-effectiveness, we would have less money spent on prison, we would have more money spent on police, and we would have fewer serious crimes with less total harm and fewer states threatened with bankruptcy,” Sherman said.

## The Merits of Preventive Policing

Sherman believes there is “not enough optimizing of what the police do.” Durlauf and Nagin agree. According to these researchers, severity (the length of the prison sentence) alone does not deter a would-be offender. Certainty (the likelihood of apprehension or imposition of punishment) also matters. They are not alone in their assertion. Empirical support for the deterrent effect of certainty-based sanctions is far stronger than for severity-based sanctions reflected by long prison sentences.<sup>3</sup> In light of the evidence, Durlauf and Nagin propose more effective use of police to make the risks of crime clearer, and the consequences of crime quicker and more certain.

By increasing the visibility of police and employing deterrence-based tactics such as hot spot and problem-oriented policing, they say, officers can deter crime not only at high-risk locations but also among high-risk individuals. This decrease in criminal opportunities produces a domino effect that can reduce crime and imprisonment rates, according to Durlauf and Nagin. Arresting the offender is the first step toward conviction and punishment. If the sanction involves imprisonment, it prevents future crime by that offender. The arrest may also deter other would-be criminals by changing their view of the risk of apprehension and certainty of punishment. In other words, heightened sanction risks, when seen as credible, produce a lower crime rate, which equals lower imprisonment rates and lower prison costs.

Durlauf and Nagin are quick to caution that not all methods for deploying police are equally effective in reducing crime. Thus, recommendations for engaging the police as major players in a deterrence-based policy should be based on research and tailored to local conditions. Just adding police is not predicted to cause less crime or harm, Sherman said. “Rather, reductions in crime and the harm of crime could come even with fewer police, depending on how the police are used. The critical point here ... [is] doing the most evidence-based things for the greatest benefit and the greatest cost-effectiveness.”

## Potentially Criminogenic Effects of Imprisonment

Durlauf and Nagin say there is little evidence that the experience of imprisonment is a major deterrent to criminals; it may even increase an individual's criminal tendencies. Some research suggests that imprisonment may increase an offender's feelings of resentment against society and may also expose new offenders to hardened criminals from whom they learn the “tricks of the trade.” Other research suggests the stigma associated with being an ex-offender may cause an individual to be ostracized. If unable to gain access to housing and employment, the likelihood of reoffending may increase.<sup>4</sup>

Despite the evidence pointing to the possible criminogenic effect of incarceration, the nation's prisons continue to teem with inmates. In 2009, federal judges ordered the state of California to release more than 42,000 prisoners because its

overcrowded prisons violated inmates' constitutional rights. There were nearly 160,000 inmates in prisons designed to house 84,000. "The incapacitation effect of prison is wasted on many, if not most, of the people who are behind bars under the logic that they could be Willie Hortons. But in fact, most of the people behind bars are not Willie Hortons," Sherman said, referring to the convicted Massachusetts murderer who went on a run during a weekend furlough in 1986 and raped a woman after stabbing her fiancé.

## Offenders in Noncustodial Settings

A 2009 review of the literature on imprisonment and reoffending<sup>5</sup> inferred that most researchers found evidence of higher recidivism rates among individuals receiving custodial sentences than among those receiving noncustodial sentences. Yet the prison population continues to rise. "Every time a case like that [Horton] comes down the pike, such as the parolee who murdered a Philadelphia police officer in late 2008, the system just tries to defend itself from the public blame, and in the case of Pennsylvania, the parole board put a freeze on all parole releases," Sherman said. "The question is not how do we react to it after the fact,

but how do we anticipate it and try to prevent it?"

Sherman believes the use of actuarial risk assessments can lower imprisonment rates and the corrections budget without compromising public safety. He proposes a Crime Harm Index, "a kind of red, yellow and green approach to expending criminal justice resources ... for every part of the system: for police, for prosecutors, for pretrial people, for sentencing, for prisons, parole and probation." To assess risk of harm and classify individual offenders, the index would employ a formula that would be weighted according to the seriousness of each crime. By forecasting the harm individual offenders are likely to cause instead of counting specific offenses, authorities could identify the "high-frequency, high-harm" offenders and confine this high-risk group, while managing the lower-risk population in noncustodial settings. The less serious offenders, Sherman emphasizes, should be provided more crime-preventive attention by police, probation and parole than they currently receive.

Durlauf and Nagin readily admit the mechanics of shifting money from imprisonment to policing are challenging. However, they say the idea is worth pursuing. Sherman agrees and stress that before policymakers divert dollars from prisons, criminologists must develop a solid plan for

making the police more cost effective. Then, if the prison population is reduced to free up funds for law enforcement, that investment can have the greatest yield possible and the public can be confident that public safety will be improved.

### ENDNOTES

<sup>1</sup> All quotes by Lawrence W. Sherman taken from: Sherman, Lawrence W. 2010. Less prison, more police, less crime: How criminology can save the states from bankruptcy. Research for the Real World: National Institute of Justice Seminar Series, 2010. Retrieved from [www.nij.gov/nij/multimedia/presenter/presenter-sherman/](http://www.nij.gov/nij/multimedia/presenter/presenter-sherman/).

<sup>2</sup> Durlauf, S.N. and D.S. Nagin. 2010. *Imprisonment and crime: Can both be reduced?* Washington, D.C.: U.S. Department of Justice, National Institute of Justice.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Nagin, D., F. Cullen and C. Jonson (ed. M. Torny). 2009. Imprisonment and re-offending. *Crime and Justice: A Review of Research*, (38):115-200.

---

*Ephy Amoah-Ntim is a Lockheed Martin writer and editor who provides contractual communications support to the National Institute of Justice.*

***Reprinted with permission of the American Correctional Association, Alexandria, Va. All rights reserved.***