

AN ASSESSMENT OF REENTRY INITIATIVES, RECIDIVISM AND CORRECTIONS SPENDING



Testimony of R. Seth Williams
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Good morning Chairman Wolf, Representative Fattah and other members of this subcommittee. My name is R. Seth Williams, and I am District Attorney of Philadelphia. I am indeed grateful for this opportunity, as well as to appear with the distinguished group of individuals sitting with me. I was sworn into office about 13 months ago; my predecessor had served for almost two decades. In little more than one year, we have implemented a number of critical changes and made a series of investments that will make our city safer, improve community relations, and save precious taxpayer dollars. I have often referred to many of these changes as investments in our office and our city.

This morning, I want to discuss how we can look to reduce corrections spending by reducing recidivism. And that way is through justice reinvestment. With our limited budgets and struggling economy, it remains a challenge to find the necessary capital to invest in programs that will improve public safety. As District Attorney of Philadelphia, I want to invest in good programs that will reduce recidivism and reduce the size of our prison population. But, the money just is not there. Justice reinvestment affords prosecutors like me, as well as other public officials, to have a real impact at making our communities safer and saving precious taxpayer dollars.

To that end, I have three primary points this morning. First, I want to talk about justice reinvestment generally from the perspective of a big-city district attorney. Second, I want to provide examples of the kind of public safety investments we are trying to implement in Philadelphia, and how justice reinvestment would help us in that mission. And finally, I want to address the practical importance of obtaining and using good data.

1. Justice Reinvestment

There are three concomitant elements to justice reinvestment: 1) improving public safety; 2) reducing corrections costs; and 3) utilizing good and reliable data to inform our decisions. Justice reinvestment teaches us that we cannot reduce corrections costs merely for the sake of trying to save a few dollars. Such misguided policy will lead to more crime and increased costs. Instead, we know we can reduce corrections costs by reducing recidivism—and by reducing recidivism we make our streets and neighborhoods safer. And when we decide what programs we are going to invest in to reduce recidivism, we must always look to accurate data and research, not merely anecdote or gut feelings about things.

This approach is more than a theoretical aspiration. In these difficult economic times, when our states and municipalities are struggling for dollars, it is the most responsible and economically sound approach we can undertake. Investing in the right programs and reinvesting those savings simultaneously makes our communities safer and saves precious taxpayer dollars—and that is what I call being smart on crime. As we talk about justice reinvestment and as we continue to show that this is the most effective way of saving money and making our cities and towns safer, I believe there will be more innovations, efficiencies, and data-driven approaches to public safety.

But here is the challenge. In many cases, programs that will lower the recidivism rates require us to spend some money well before we can realize greater savings. For those of us on the municipal level, it remains a challenge to receive the upfront capital to invest in the first place. More than 90% of my office's budget goes to salaries. Therefore, I have little discretionary funds that I can merely set aside. I have made the argument to my mayor, Michael Nutter, that such investments will yield Philadelphia both greater financial savings as well as safer streets and neighborhoods. Mayor Nutter and his staff understand this argument, and we continue to work together to fund important investments. The tough economy and looming absence of Recovery Act dollars should incentivize all of us to find the necessary funding to implement public safety programs that will save taxpayer dollars.

2. Public Safety Investments in Philadelphia: Improvements Made, Money Saved, Public Safety Improving

Let's use my office as a brief case study. I have undertaken a number of initiatives—some with other public entities—that have saved Philadelphia millions of dollars, made our criminal justice system far more efficient and victim friendly, and, most importantly, improved public safety. Specifically:

Revamping Our Charging Unit. On my first day in office, I revamped our Charging Unit, the Unit that takes the details from police arrest sheets and writes them up as criminal charges. The Charging Unit used to be seen as a place you were sent to if you did something wrong, and it was staffed with individuals who had very little criminal justice experience. This is a critical improvement because misjudgments in the decision to charge have had very real consequences, including clogging the courts and hampering the ability to get convictions. Now, the charging unit charges only what we can prove—not more and not less—and we will get it right from the start—not ask our judges to simply sort things out later.

Diverting Low Risk, Non-Violent Drug Offenders. In order to move thousands of non-violent cases out of our main court system, we now process cases involving small amounts of marijuana as summary cases rather than misdemeanor trials. By this method, there are no appointment of counsel costs, no police witnesses necessary, and no need to incur lab analysis costs. In the first six months of this program, we processed 2,318 cases as summaries rather than misdemeanors, and the penalties the offenders receive are typically the same as what they received before we implemented this program.

Accelerated Misdemeanor Program. I have also implemented a program that accelerates appropriate misdemeanor cases for diversion into community service. With no misdemeanor trial, the City saves appointed counsel costs and reduces police court overtime. There were 464 such cases in the first 6 months of this program.

SMART Rooms. This SMART program [which stands for Strategic Management ARC (Advance Review and Consolidation), Readiness and Trial] has dramatically changed the way that pleas are negotiated in cases. Pleas are offered as soon as possible in the criminal process, and they emphasize sentencing alternatives that do not involve county prison time (such as diversion, probation, alternatives to incarceration for less serious offenders and state sentences for serious offenders). This program combined with other changes in plea offers reduces police court overtime, appointed counsel fees, and pretrial detention time.

Zone Courts. This program has centralized all criminal proceedings in the Criminal Justice Center, with prosecutions assigned by geographic zones. This approach is designed to improve the quality of justice in the City, but also has the added benefit of reducing court continuances and, in turn, reducing police court overtime.

Prison Legislation. In 2008, my office, working together with Governor Rendell, Adam Gelb at PEW and both Michael Thompson and Dr. Tony Fabelo of the Council of State Governments obtained 4 legislative enactments designed to improve many aspects of sentencing, parole, and state and county prison practices. These legislative enactments have dramatically reduced our county prison population by more than 1,000 individuals.

Preliminary Hearing Changes. Working collaboratively with my staff and me, the Pennsylvania Supreme Court has issued rule changes that will no longer require the presence of civilian witnesses at preliminary hearings in certain non-violent crimes (such as burglary and car theft). We believe that these changes will significantly reduce the number of preliminary hearing listings and police court overtime.

All told, we estimate the total cost savings of these improvements to be around \$15 million. To be sure, we could not have made these changes without the cooperation with other agencies in Philadelphia, including the courts and the police. But the principles of justice reinvestment would permit me to receive a portion of that money back and use it for programs that would reduce recidivism, which in turn would save even more money.

But these changes were more than just a money saver: statistics have shown that judges are dismissing fewer cases and more cases are being held for trial. In other words, more offenders are being held accountable for their crimes.

The next question is what kind of program would we invest in with such savings. Let me discuss one example.

I am working on implementing a program called The Choice Is Yours (TCY). This program, loosely based on a successful program begun by California Attorney General Kamala Harris when she was district attorney of San Francisco, recognizes that non-violent drug offenders too often cycle in and out of jail. It is a comprehensive employment and education pre-entry program that provides job training, education, access to faith based organizations, and other

important life skills as an alternative to incarceration. Those first-time non-violent offenders who have committed the crime of possession with intent to deliver narcotics—usually crack—and are subject to a state mandatory minimum sentence of at least one year will be eligible for the program. If they fail the program, they will go to the state prison; but if they succeed, their records will be expunged and they will most likely be able to be productive members of our society.

We are working closely with Public/Private Ventures to implement this program, and will be receiving funding from the Lenfest Foundation. We were obligated to seek foundation money because there simply was no money available in the state budget, even though this program will save Pennsylvania substantial amounts of money. We estimate that we will target in the first year about 150 non-violent drug offenders. We are fortunate to have the support of the Lenfest Foundation, but we know that if this program is to be successful—and I believe it will be—a dedicated funding source is needed. An investment of a portion of the money we have saved the city of Philadelphia with the initiatives that I discussed earlier could serve as this dedicated funding source, and other counties could adopt the program as well.

Historically, the federal Justice Assistance Grants (JAG) have provided much needed funding for important and innovative programs, like our drug and mental health courts, technology improvements, and establishment of our local Criminal Justice Advisory Board (CJAB). I know that the Department of Justice already has a solicitation pending for justice reinvestment programs, and I hope that JAG funding going forward will allow law enforcement officials to implement innovative programs that will promote public safety and reduce corrections costs.

3. Importance of Reliable Data

Another critical aspect of justice reinvestment is the import it places on basing decisions on data—good data. It is fitting that I am sitting with Mr. Thompson and Mr. Gelb, because both individuals worked with members of my staff and officials in the Commonwealth to develop legislation enacted in 2008 to, among other things, reduce recidivism by providing earned time credits for those offenders who complete programs likely to reduce the likelihood of re-victimization. Their work was invaluable.

But something interesting and unexpected has happened since this legislation was enacted into law—the state prison population has increased from over 49,000 in December, 2008 to over 51,000 in December, 2010.

There are a number of possible explanations for why this has happened, but among them is poor data. To be sure, without this legislation, the size of Pennsylvania's prison population would be

higher than it is now, and it can be said that, at a minimum, the legislation slowed the rate of prison population growth.

With that all said, it appears that the prison population projections that were generated to accompany this legislation were too optimistic, and the projections by the Pennsylvania Department of Corrections about how many offenders could complete programming in order to receive earned time credits were too high. And unfortunately, the problem of bad data continues. Some of the current proposals that have subsequently been introduced to reduce the size of the prison population are based on incorrect numbers that miscalculate how many offenders district attorneys throughout Pennsylvania are recommending be diverted to diversionary programs.

All of this is a long way of saying that data matters.

Mr. Chairman, thank you for this opportunity. There are so many programs and changes we can make to reduce recidivism, improve the safety in our neighborhoods, and reduce corrections costs, and I hope to work with many of you in the future to achieve these goals. I would be happy to answer any questions you and the other members of this subcommittee may have.