Looking Back, Looking Ahead

By Meg Bower

In the United States, 2015 marked the beginning of legalized gay marriage, what looks like the end for the death penalty, and the emergence of institutional racism as a major national issue for the first time since the Civil Rights movement. In Baltimore, where I live, the criminal justice world will remember 2015 as the year of Freddie Gray, the year of the riots, and the year they closed the city jail.

While this year has been notable in many ways, great progress is often measured in inches rather than miles, and it is only looking backward across a broader span of time that one can see progress. The changes in the correctional system reflect a “coming of age” of old ideas now starting to bear fruit. These ideas—that incarcerated people are not disposable, incarceration doesn’t offer a simple solution to social problems, and that the environment should be preserved—shape my view of the future of corrections as we move into 2016. Here is what I see on the horizon, and beyond.

De-Emphasis on Incarceration

The U.S. has become well-known worldwide for having the greatest per capita incarcerated population, in part a legacy of the famous 1974 “Nothing Works” article by Robert Martinson which declared that, “With few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism.” This article, along with criminal justice policies, led to a strict punishment based model, which has defined our criminal justice system for almost four decades. The result is that our country is widely cited as housing 5 percent of the world’s population, and 25 percent of the world’s incarcerated population.

Fortunately, the pendulum appears to be swinging away from the purely punitive model. Most jurisdictions recognize the high monetary costs associated with the use of prison or jail, and we are also beginning to understand the indirect societal costs of high incarceration.

The greatest single example of the trend reversing is California rolling back its famous “three strikes” sentencing rule to serious or violent felonies only through Proposition 36. Sentenced defendants were allowed to petition for reduction of term. Enacted in 2012, Prop 36 reduced the incarcerated population of California by several thousand inmates. A Stanford Law School evaluation of 1,000 inmates released in the first few months found a percent recidivism rate, compared with a 16 percent recidivism rate for inmates not released under this policy during the same time period.

The reversal away from a fully punitive system has caught momentum and will continue to ripple outward around the country in coming years.

Decriminalization of Minor Offenses

Arrest is the step that initially brings individuals into the correctional system. The single largest category of arrests nationwide from 2009-2014 (Unified Crime Reports, Crime in These United States, 2009-2014), accounting for 28 to 29 percent of all arrests, is a group called “Other Offenses.” This category of arrests includes a diverse range of low-level crimes (sometimes violations) which occur in relatively small numbers, making them more meaningful nationwide in aggregate—offenses such as public urination, vandalism, open container laws, trespassing, abuse or misuse of public spaces, and similar violations.

One of the snowballing trends that achieved great progress during 2015 was the decriminalization of numerous minor offenses around the country, removing incarceration as a sanction. Although this decriminalization also occurred intermittently in prior years, 2015 saw a landslide of similar efforts nationwide.

Examples include:

- In NYC, legislative changes reduced behaviors such as open container, bicycling on the sidewalk, littering, being in a park after dark, and loud noise to citations and fines, rather than jail.
- In Hawaii, House Bill 1027 proposed decriminalization and the ability to pay fines by mail for minor traffic offenses, offenses related to bicycle operation, and abandoned vehicle charges.
- Durham, N.C. moved to decriminalize panhandling by implementing a kind of “outreach court” to direct homeless people to social services, rather than jail.
- Proposition 47 (late 2014) in San Diego, Calif., converted six felonies to misdemeanors, among them marijuana possession.
- Legalization of marijuana in Oregon, Alaska, Washington State, and Colorado, and is on the ballot for November 2015 in Ohio; decriminalization of drug possession in minor amounts in Maryland and other states.

While it is not realistic to expect the decriminalization of all low level crimes, it is certain that decriminalization of any of these “other” offenses means fewer jail intakes and fewer short-term sentences.

National Substance Abuse Problem

Looking to the other top causes of arrests after “Other Offenses,” the top reasons for arrests nationwide from 2009 to 2014, ranked second through ninth (which constitute another 38 percent of all arrests) were:

- Drug Abuse (12 percent)
- DUI (11 percent)
- Larceny/Theft (10 percent)
- Other Assaults (10 percent) (not aggravated assaults)
- Disorderly Conduct (5 percent)
- Liquor Laws (4 percent)
- Drunkenness (4 percent)
- Aggravated Assault (3 percent)

Along with an incarceration problem, it appears we also have a national substance abuse problem.

A range of treatment alternatives (Drug Courts, Day Treatment Centers, and inpatient treatment in the correctional setting) have been used for 20 years or more.

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Construction Cleared for Johnson County Jail

CLEBURNE, Texas — Johnson County, Texas finally received approval in late September to proceed with Phase I construction on its increasingly inadequate jail in Cleburne. The project will improve and modernize the 870-bed facility, built in 1989, expanding its capacity by more than 200 beds. As the local population is expected to double to 300,000 by 2050, the expanded jail will help the county better prepare for projected growth, reported the Star-Telegram.

Fort Worth, Texas-based Burns Architecture LLC is the project architect, hired in 2014 when the project was initially approved. Sedalco Construction Services, also of Fort Worth, was awarded the $18.6 million construction bid, which is specific to the project’s first phase. Together, the new Phase II building, which will focus primarily on improving the existing facilities, the project is expected to total $25 million. Funding will largely be provided through a $20.6 million bond, as well as county funds.

The county’s existing jail complex consists of four buildings: C1, C2, C3, and C4. Though still functioning, the buildings suffer from rusting bars, aging fixtures, and other deterioration. The first phase of work will add a new building, C5. Building C5 is designed to include new and larger intake, release and arraignment areas. A new kitchen and laundry as well as transportation and sallyport areas will also be built. In total, C5 will add 212 new beds spread across four separate housing pods.

Following the completion of Phase I, Phase II will concentrate on renovations inside building C1, which was originally designed to hold 311 inmates. C1 is approximately 25 years old and currently contains the small and aging intake, release, kitchen, sallyport, medical, housing, and administrative offices. The kitchen will be a particular area of focus, as the existing space serves approximately 800 inmates daily, though it was designed for just more than 500. Similarly, the current sallyport contains just enough space for a single vehicle.

The project’s second phase will also add an expanded control center, a new video visitation center and 28 new sallyport cells. Renovations and expansion work will also be completed on the existing administrative spaces — which will be brought into compliance with Texas Accessibility Standards — as well as the existing communications center and housing area. Estimated construction cost for Phase I is $16.5 million, while Phase II is estimated to cost $4 million. constructing the C5 building will also ensure inmates displaced during renovations to C1 will not have to be housed outside the county at an added cost.

Key design elements include much-improved sight lines in all areas as well as spaces large and flexible enough to support both current and future needs. Each housing pod will include six, eight-bed multiple occupancy cells surrounding a correctional officer station providing unobstructed lines of sight into each cell or dayroom as well as five separation cells. Two pods will share exercise, multipurpose and first aid areas located between each of the pods creating a symmetrical layout.

While Sedalco Construction Services has been cleared to begin construction, the official groundbreaking ceremony has not yet been scheduled.

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on a jurisdiction by jurisdiction basis, but these programs have often relied on the personal commitment of individual local stakeholders (judges, prosecutors, jail managers) to be established. The resulting programs vary widely in mission, purpose, and degree of evidence-based rigor, and can end abruptly when funding ends or stakeholders move on. Outcome measures are challenging to establish and difficult to transfer from one jurisdiction to another.

The development and implementation of rigorous, consistent rehabilitative approaches to substance abuse issues on a national level is an initiative that has come into its own. The next wave of correctional system change is likely to focus on big-picture strategies to assess and divert arrestees with substance issues into treatment facilities, while relying on nationally recognized evidence-based best practices from bio-psycho-social models of treatment. Whether implemented inside correctional facilities or in lieu of incarceration, substance abuse treatment as a diversion has a strong role to play in the future criminal justice system.

Improving Chances of Success

Unless we plan to discard the 90 to 95 percent of inmates who are released back into society like so many used water bottles, we need to figure out a way to “re-cycle” former inmates back into society as law-abiding citizens who work, pay taxes and consume goods. Correctional systems have begun to appreciate the impact pre-release planning can have on an inmate’s chance of success post-release, and to implement increasingly sophisticated pre-release/re-entry preparation.

The State of Nebraska correctional master plan of 2013 led to the identification of gaps in low-custody housing. Instead of a traditional minimum custody facility, leadership within the NDCS opted to develop a pre-release addition to an existing community corrections facility in Lincoln, focused on preparing inmates to return to society during the two years prior to release. This facility will help to network inmates with community resources prior to release, to bridge the gap between prison and private life.

The Commonwealth of Virginia has had a step-down program in place within its correctional system since 2011, focused on high custody offenders. This program provides an incremental process whereby inmates earn privileges through programming, and ultimately achieve a lower custody status. This program is receiving recognition for success and is likely to be replicated in other correctional systems.

The increasing focus on skills-building while in prison serve to prepare inmates (particularly those who have been incarcerated for more than five years) to return to society equipped for success, rather than recidivism, will increase in popularity as evidence demonstrates success.

Aging Capital Infrastructure

Correctional facilities have a longer typical lifespan than other building types, and competition for limited funds renders renovations and additions far more common than new construction. Already notorious for high-energy consumption, correctional facilities rely on lights, electronic locking systems, and cameras for security, all of which must remain operational 24/7/365. As such, jails and prisons represent the high end of a continuum of energy consumption while the rest of the building industry is striving for energy efficiency.

New construction can only replace a fraction of the correctional inventory each year; therefore, this industry will need to rely on renovation strategies, clever building upgrades, and innovative replacement of building systems to achieve the desired reductions in energy consumption. Continued innovation in sustainable technologies will increase the inventory of options available as part of renovation projects.

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