

To Arrest or Not to Arrest?

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The criminal justice system is changing before our eyes. When I was a probationary officer back in 1990, arrestees either went to jail, the hospital, or a rescue mental health facility, period. Fast forward twenty-five years, and one finds police budgets drastically reduced, social service agencies more abundant, and jails much fuller. The mindset has shifted from putting everyone in jail, to putting the *right* people in jail.

For decades, law enforcement officers had few options regarding what to do with those individuals who have committed a relatively minor offense, where jail might not be the best answer, or those who have broken the law, but seem to be suffering from some type of acute mental health, or drug facilitated crisis.

Ohio currently has more than 50,000 incarcerated citizens. The State of Ohio alone incarcerates more people than the entire country of Canada! Ohio's twenty-seven prisons are 30% over capacity and costs about \$1.6 billion dollars a year to run. (Toledo Blade, Jan. 17, 2016)

The director of the Department of Rehabilitation and Corrections, Gary Mohr, is not building any additional prisons in Ohio and is vowing to reduce the prison population by 2 percent by January, 2017.

What do we do?

Without question, a chief's first responsibility is to keep both his officers and the community he or she serves safe from those in society who wish to prey on them. However, we, as law enforcement leaders, must come to the realization that we cannot, and should not, try to arrest ourselves out our problems. Fact be told, some people who break the law should simply not be in jail.

For example, if the reason a person is breaking the law is to fuel a Heroin addiction, putting that person in prison will only temporarily solve the issue. What we should be doing is assisting in getting that person well. Once the addiction is beat, the criminality will cease. I understand it's counterintuitive for a police officer to advocate not arresting a law breaker. But, we do it every day.

In countless traffic stops handled across this nation every year, law enforcement officers explain traffic laws to citizens who have violated motor vehicle laws. If the officer feels educating the motorist will suffice, a warning should be issued. This is what is best for society; using the least punitive measure available....*that will ensure public safety*. I understand it's a giant leap from running a red light to burglary, but you see the correlation.

In Toledo, and Lucas County, there are several initiatives we are working on to help reduce incarceration rates, find alternatives to incarceration and reduce disproportionate minority contact at every level of the criminal justice system. I will briefly touch on each.

Safety and Justice Challenge:

Lucas County's is a finalist for a MacArthur Grant that would be used to re-tool the criminal justice system here. Participation in the Safety and Justice Challenge has provided a unique opportunity for this community to take a profound and comprehensive look at how we utilize incarceration, with the shared goals of improving community safety, creating a more just society, and establishing sustainable reform.

Elected officials and chief executives of key criminal justice organizations together have committed ourselves to creating a comprehensive map of our criminal justice system, reviewing aggregate and case level data, and developing initiatives from pre-arrest to post-conviction which address over-incarceration and racial and ethnic disparity.

One of the major initiatives we are looking at is creating a "Virtual Assessment Center." While the gory details are still being worked out, the basic program would look like this;

A police unit or sheriff deputy encounters an individual who has broken a law, such as Disorderly Conduct, and is clearly suffering from a mental health crisis. The LEO could either check on his or her MDT to determine if there are any beds available at a social service agency (or they could call a centralized phone number to find an available bed). The LEO would complete all required reports and affidavits. However, if the person in question completes treatment the charges would not be made official. If the person simply walks out of the facility after the officers leave, the charges would be filed with the appropriate court.

This program is not just for those suffering a mental health crisis. Individuals charged with drug possession, disorderly conduct, and obstructing official business, absent a mental health issue, will also be able to participate in the program.

As I write this, I am imagining my fellow chiefs feverously jotting "what if's and but's" in the margin of this article. I did the same thing myself since I was a part of the group which designed this initiative. The details are not completely worked out and there will most certainly be some "tweaks" as the process evolves, but I am confident readers can see the quality of the intent.

This concept works.....I have proof.

Juvenile Justice – Assessment Center

Several years ago, I was lucky enough to be part of a group of incredibly dedicated and talented individuals from the Lucas County Juvenile Court. Under the leadership of Judge Denise Navarre-Cubbon, Court Administrator Deb Hodges, and Assistant Court Administrator Kendra Kec, the group examined the way juveniles were charged, held, and were processed. A Juvenile Court Assessment Center was established in the same building as the Juvenile Justice Center. With the input from law enforcement agencies across Lucas County, decisions were made regarding when a juvenile would be taken to the assessment center, or who would be booked in the Juvenile Justice Center, based on the criminal charges.

Computers and the necessary paperwork were staged at both locations so officers can take care of the required reports/affidavits without the need of bringing the juvenile to a police facility.

A “cheat sheet” card was created and provided to every officer so they knew where to bring the juvenile. Additionally court staff teaches at our basic academy in order to ensure our new trainees understand the “whys” of the need for an assessment center rather than just booking the offender. We wanted to make sure officers did not believe this was another *Hug-a-Thug*, politically correct new program.

The push-back was very minimal and I have since directed all officers at TPD that unless a detective needs to speak with a juvenile they are to no longer come to a police facility, but taken directly to the Assessment Center or the Juvenile Justice Center.

Summons in lieu of Arrest

At TPD, we have a policy which allows officers to issue summons in lieu of arrest, and to issue people court dates if they have warrants for their arrest (depending on the charges). This gives the officer on the street the ability to book the offender if they so please, or to provide wanted individuals new court dates without having to book them in our already crowded jail.

Last year I joined a group of law enforcement executives who have formed an organization know as **Law Enforcement Leaders to Reduce Crime and Incarceration**. This group unites more than 150 current and former police chiefs, sheriffs, federal and state prosecutors, and attorneys general from all 50 states to urge for a reduction in both crime and incarceration. We believe the country can reduce incarceration while keeping down crime, and we support changes to our criminal justice system to achieve that goal.

The mission statement reads; “As current and former leaders of the law enforcement community – police chiefs, sheriffs, district and state’s attorneys, U.S. Attorneys, attorneys general and other leaders – protecting public safety is a vital goal. From experience and through data-driven and innovative practices, we know the country can reduce crime while also reducing unnecessary arrests, prosecutions, and incarceration. We can also reduce recidivism and strengthen relationships with communities. With the goal of building a smarter, stronger, and fairer criminal justice system, we are joining together to urge a change in laws and practices to reduce incarceration while continuing to keep our communities safe.”

The group has identified four Priority Issues they will be addressing.

1. Increasing alternatives to arrest and prosecution, especially mental health and drug treatment.
2. Restoring balance to criminal laws.
3. Reforming mandatory minimums.
4. Strengthening community- law enforcement ties.

I strongly encourage all of you to take a look at the group’s web page. It can be found at <http://lawenforcementleaders.org>.

Conclusion

Every day, police departments across the country are judged by the way they reduce crime, solve cases, and lessen the fear of victimization. Safety of those we are sworn to protect must always be our highest priority.

But we as law enforcement executives must do more than simply reduce Part 1 crimes; we have to diligently work to reduce the number of people arrested each year. A drop in crime and a drop in arrest rates should mirror each other. When this happens it shows that people are voluntarily abiding by societies norms.

It's our duty to develop alternatives to incarceration, and incorporate new methodologies to address how police agencies across this nation assist the criminal justice system, as a whole, in rehabilitating individuals in settings outside of prison walls.