

CRIME VICTIMS UNITED

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Justice Paul De Muniz
Oregon Commission on Public Safety
885 Summer Street NE
Salem, OR 97301

November 19, 2012

Dear Justice De Muniz:

From 1960 to 1984, Oregon's per capita violent crime rate increased by 626 percent. During this period Oregon responded by opening one new prison with a capacity of 400 beds. This egregious failure of Oregon government to discharge its most basic responsibility - protecting its citizens - turned Oregon's criminal justice system into a joke.

Don't take my word for it. Here is how a 1988 Statesman-Journal article put it (emphasis added):

Oregon's new corrections director is quick to admit that the state prison system has **lost its credibility - with law-abiding residents and with criminals themselves.**

"We don't have a deterrent to the guys on the street," Michael Francke says. "**We've lost control of it.**"

In part, Francke says, the opportunity to rescue a **crumbling system** is what brought him here from New Mexico . . .

Statesman-Journal, Salem, Oregon
Sunday, February 21, 1988

Prisons Under Pressure

Director strives for control

Residents, criminals lose faith in system

Oregon's new corrections director is quick to admit that the state prison system has lost its credibility — with law-abiding residents and with criminals themselves.

"We don't have a deterrent to the guys on the street," Michael Francke says. "We've lost control of it."

In part, Francke says, the opportunity to rescue a crumbling system is what brought him here from New Mexico nine months ago —

Michael Francke

Born: Oct. 2, 1946, in Kansas City.

Occupation: director, Oregon Corrections Department.

Family: wife, Bingta; sons, Joel and Trey; daughter, Marlo.

Hobbies: skiing, golfing, dirt bike riding.

Of interest: Deputies say he conducted his own weekend hunt after Diane Downs escaped from the women's prison in July. He predicted that she'd be shot by while other ad-



On January 17, 1989, Department of Corrections Director Francke was himself the victim of murder.

"To promote a balanced criminal justice system through public awareness and legislative action"

Restoring the Crumbling System

Starting in 1985 with long overdue prison construction, continuing into the mid-1990's with sentencing reform that finally squared Oregon's laws with the values of the overwhelming majority of voters, and continuing to the present day with the measured but firm application of those laws, Oregon was able to pull off a miracle - it restored credibility to the crumbling system that Director Francke inherited.

Since 1995 Oregon has seen a [50 percent decrease](#) in the per-capita violent crime rate. We don't claim that this is solely due to Oregon's belated adoption of the "tough-on-crime" stance - a stance previously taken by nearly every other state - but we do believe it played a significant part. Whatever the cause, Oregon's plunging violent crime rate adds up to more than [100,000 fewer violent index crimes](#) (aggravated assault, forcible rape, manslaughter and murder) relative to the 1995 rate.

The Oregon Criminal Justice Commission [estimated](#) that Oregon prevents 100,000 crimes of all types every year because of increased incarceration relative to 1995. This adds up to more than 1.5 million prevented crimes of all types specifically attributed to increased incarceration.

What is the cost savings associated with these prevented crimes? With all of the statistics presented to your commission, why has this question gone unanswered? And why unasked?

It is true that Oregon has seen a large increase in the prison population; that is in large part because of the miserable state of affairs we inherited from the stewards of previous decades. Even after 30 years of prison growth, thanks to our sensible policies and their measured application, as of 2010 Oregon still ranked just 33rd among states in incarceration rate.

Oregon's prison beds are, more than all other states, appropriately reserved for violent criminals and serious sex offenders. They make up nearly 70 percent of our prison population. Most of the rest are repeat drug manufacturers, drug dealers and property criminals many of whom have already failed probation and blown off treatment.

The Commission on Public Safety

I have followed the 2012 Public Safety Commission proceedings this year with a growing sense of concern. I hear attitudes and proposals that are reminiscent of the 1960's, 1970's and 1980's. Among other points of concern I have heard:

- Minimizing the success of Oregon's "tough-on-crime" criminal justice policies
- Exaggerating Oregon's reliance on incarceration (e.g., grudging and belated acknowledgment of the fact that roughly [three-quarters of Oregon convicted felons receive non-prison sentences](#))
- Inaccurate characterization of Measure 11 (e.g., minimizing the [impact](#) of SB 1049 and SB 2367)
- A pronounced skew in the presentation and analysis of criminal justice statistics (not surprising since the organization you appointed to run this aspect of the commission has a clear agenda)
- An obsession with recidivism as a measure of public safety and a minimization of crime rates which do not support the official narrative (note though that recidivism is also down post-Measure 11)
- An absence of the concept of deterrence and its importance in maintaining a safe society

- Reliance on tools that are known to have gaping loopholes (the "risk" assessment tool omits juvenile, misdemeanor and out-of-state convictions)
- An unquestioning and unjustified confidence in the efficacy of treatment programs most of which have not been rigorously evaluated and some of which have not been evaluated at all
- The use of misleading euphemisms ("evidence-based" applied to programs that have not been rigorously evaluated or evaluated at all, "low risk" applied to violent criminals including murderers and criminals with 10 or more prior convictions)
- Policy proposals that chip away at truth in sentencing
- Taking cost structure off the table even though the cost of corrections is the reason for the commission's existence
- The absence of a cost/benefit analysis of Measure 11 or of incarceration in general as it is practiced in Oregon

I took the time to create a detailed analysis of the commission's August 2012 meeting. This analysis can be found on the [Crime Victims United web page](#). It provides support for many of the observations listed above.

I am concerned that, ignoring history, Oregon will take steps toward repeating it. The result will be illusory savings but real victimization.

Credibility

In listening to the commission's meetings I have noticed something missing. That is a sense of the role of credibility, with law-abiding citizens and with criminals themselves, in the public safety systems of the state.

Credibility is created through no-nonsense, clear and just policies that align with the values of voters and through the clear enunciation of and consistent application of those policies. The payoff is reduced crime through specific and general deterrence as well as incapacitation, respect for law through individual accountability, and respect for the criminal justice system on the part of law-abiding citizens.

Credibility is hard won and easily squandered.

If you think it is expensive to run a credible criminal justice system, wait till you see the cost of running one that lacks credibility.

Recommendations

I have observed Oregon's criminal justice system for 25 years and closely studied it over the last 15. From this experience I offer the commission the following recommendations.

Start by acknowledging that Oregon's criminal justice system has seen a remarkable recovery from dire straits since the 1980's and that our current system is nationally recognized as measured and balanced.

Protect the integrity of truth in sentencing. Failure to do so will cause loss of credibility among law-abiding citizens and criminals themselves.

Any sentencing changes should use the principals of SB 1049 and HB 2379 - that is, they should adjust the sentences of the least egregious criminals in a given category.

Subject any proposed sentencing change to the ultimate test: does it comport with the values of the voters. The voters are the ultimate authority.

Raise the level of evaluation of treatment programs to standards that are required in other fields - i.e., rigorous evaluation through randomized controlled trials. This will truly identify programs that work and programs that don't. If prison population growth can be slowed or reversed through treatment, as is often claimed, this is the only way to maximize the benefits and prevent waste of time and taxpayer money.

Over time, subject all of Oregon's myriad "prevention" programs to rigorous evaluation. Keep the ones that work and toss those that don't.

Look for more effective and more imaginative ways to prevent young people from engaging in self-destructive behavior which can lead to criminality. Recruit the people from whom our youth take their signals - athletes, musicians and actors - to delegitimize self-destructive and anti-social behavior and promote the values that lead to a safe, fulfilling and properous life.

I got involved in Oregon criminal justice 20 years ago and have spent thousands of hours working on a volunteer basis because I felt that government has a duty to protect our fellow citizens from attack and victimization. This is, I believe, the first duty of government. I hope that you and the other commissioners agree and that this duty informs all of your decisions.

Howard Rodstein
Policy Analyst
Crime Victims United