



After the Fact | [Reform in the Most Incarcerated State](#)
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TRANSCRIPT

Dan LeDuc: Welcome to “After the Fact,” a podcast from The Pew Charitable Trusts that tells the stories behind the data shaping our world. Today, one of those stories. The number: number one. Sports teams, movie box office sales, there's lots of times when it's good to be number one. Then there are the cases where not so much. In a moment, we'll tell you about a state that was number one in something and wanted to change that.

You may recall that earlier this year, “After the Fact” spoke with Adam Gelb, director of Pew's public safety performance project. That project works with states who want help reforming their criminal justice systems, to hold offenders accountable and keep people safe, but to get a better return out of all the tax dollars they spend on prisons and other programs. One of those states has been Louisiana, and it was number one in America in terms of having the highest per capita imprisonment rate.

State leaders there wanted to lower that rate and make sure they were spending tax dollars efficiently, so they invited Pew to come help. Joining us today is Terry Schuster. He works on Pew's project and was part of the team that went to the state capitol in Baton Rouge. Thanks to research that showed sentencing patterns, state leaders came up with a package of new laws. And in a place where the governor is a Democrat and the Legislature is led by Republicans, they found agreement, gathered overwhelming support for the changes, and passed those new laws.

And Terry is here now to tell us how that happened and what it will mean for Louisiana in the coming years.

So number one is sometimes a good thing; sometimes, not so much.

Terry Schuster: Right.

Dan LeDuc: Explain incarceration rate and why it's an important marker in this type of work.



Terry Schuster: Sure. So in Louisiana, being number one in imprisonment meant that they had more of their own citizens behind bars than any other state in the U.S. or any other country in the world. And it was a distinction that they'd held for a really long time. And they weren't just number one. They were head and shoulders above number two.

And you know, compared to the United States, which is already fairly high on the ranking of, or highest, really, in the ranking of imprisonment rates, Louisiana's imprisonment rate was nearly double the national average.

They were spending two-thirds of a billion dollars every year on their prison population and keeping people behind bars when other states all around them were downsizing their prison populations and getting better outcomes—crime was coming down, recidivism was coming down, they were spending less and able to sort of use those savings in a different way on other priorities, and even in a different way within the justice system.

Dan LeDuc: And that's really what it's all about, right? The idea is keep people safe, lower the crime rate, and hold people accountable. So they were—had the same goals, but they weren't accomplishing them based on the way things were running in Louisiana. How did they get to that point?

Terry Schuster: Looking just at who comes to prison and how long they stay, there is one way of sort of measuring this. When you look at the top 10 crimes that people go to prison for in Louisiana, all of the top 10 are nonviolent crimes. And the number one by far was drug possession. You see in other states, the top crimes at admission to prison are not necessarily all nonviolent crimes.

They saw that more than half of their prison admissions every year were people who were out in the community on probation or parole supervision, and they were failing on that community supervision and coming into prison.

Dan LeDuc: So they didn't necessarily commit a new crime. They didn't go out and hold up a store or anything. They just sort of failed the rules of supervision, and that got them back in prison.

Terry Schuster: Right. And so one of the things that they had to do when sort of examining, how do we want to fix this, is really start with data. Start with, you know, who's coming into prison? How long are they staying? How has that changed over time in Louisiana, and how does it compare to other states? And use that as the starting point for a policy conversation.



One common measure that people like to look at is recidivism—the likelihood that someone's going to reoffend once they're out of prison or once they're out of the justice system. And study after study and sort of meta-analyses of all of those studies kept showing that for most prisoners, or for most people that go through the justice system, a longer prison stay was not going to reduce recidivism more than a shorter stay. So you could shave off months from prison terms and not have bad public safety outcomes. And a few months may not sound like a lot, but a few months multiplied across thousands of people could actually be big savings to the state that they could spend in a different way.

Dan LeDuc: And a lot of the money that is saved—and not just in places like Louisiana, but in other states where you've worked—has been either into drug treatment programs, or even elsewhere in other needs in a budget. Right? I mean, it just frees up these resources.

Terry Schuster: Among the things that are underfunded that could make a difference to individuals in terms of individual safety or to the public in terms of public safety are victim services or things like programming in the community that can be seen as an alternative to prison that's going to be working to reduce their likelihood of reoffending or help them get back on their feet after prison.

In Louisiana, your average felony probationer was carrying around thousands of dollars in criminal justice debt. They would come out with so much debt they wouldn't be able to get a loan or get an apartment. They would also have to make really difficult decisions between paying their fines and fees, or paying for food and health care and other needs, or taking care of their kids.

Dan LeDuc: Criminal justice debt, that's actual financial debt, right? I mean, states charge a lot of these offenders fees for probation or court services or they'll have to pay back victim restitution. I imagine that there's a possibility that they could even fall back into bad behavior as a way to get money to pay those fees, even though that's not the right thing to do.

Terry Schuster: Right. So the studies that have been done in this area say that when someone's criminal justice debt in relation to their earning power is really high, they're likely to abscond from supervision, run away, flee the state. They're likely to turn to illegal means of getting money if they can't otherwise get money legally, and sort of make the kinds of decisions that undermine the purpose of the justice system.

A lot of times the most innovative policies in this area are actually about clearing away barriers that we've put up to people's success.



Dan LeDuc: Pew has been in a lot of different states. How does it get started? They actually invite us to come in and do that work with them, right?

Terry Schuster: Right.

Dan LeDuc: Talk us through just real quickly how that process goes.

Terry Schuster: So we got an invitation to Louisiana from Governor Edwards, from the chief justice, from the speaker, the Senate president, and others, saying this is going to be a priority for the coming legislative session, and we want to make sure that the policies that we put forward are based in data, they're based in evidence, they are likely to get us the outcomes that we want.

Dan LeDuc: And you sort of sit down at the table with these policymakers and the governor to try to figure out what's happening and how to fix it, right?

Terry Schuster: So each branch of government will appoint people to a joint task force that represent, or that sort of come to the table with a lot of different types of expertise. So there will be law enforcement experts and corrections experts. There will be someone who is a victim advocate or a community advocate. There will be legislators and the attorneys who practice in courtrooms, both prosecution and defense and judges, who all come to the table and are the body that will make recommendations.

And so in terms of, how do we get to good policy when, by design, the criminal justice system is created to have advocates on one side saying one thing, advocates on another side saying another thing, and judges making a decision, is to kind of cut through anecdote and say let's just start with numbers.

Who's coming into prison? How long are they staying? How has that changed over time? Let's layer on top of that. What do criminologists say? What is the best research in the field about what works to change criminal offending behavior, and what doesn't work?

We're just talking about facts. We're just talking about numbers and research. And they can do with it what they want to do with it.

For some states, the only reason they were able to have a beginning of a conversation was the cost. If you continue to ratchet up penalties, where you land is with a prison system that you can't afford. It's unsustainably growing, or it's unsustainably large, as it was in Louisiana.



In Louisiana, they anticipate saving \$262 million over the next 10 years. Seventy percent of that savings they plan to reinvest. And a portion of that reinvestment will be back into services for crime victims, because it's an underfunded area in Louisiana.

Dan LeDuc: And I guess that's why they're starting to call this movement "Smart on Crime."

Terry Schuster: Right. The movement really has become sort of a national reframing of how do we demonstrate that we're tough on crime, to how do we get taxpayers a better return on their investment?

Dan LeDuc: So when you were down in Baton Rouge, you had a chance to talk with the very people who run the criminal justice system there. They're the folks in the courtroom, the police officers, the prosecutors. So what were some of the things you were hearing from them?

Terry Schuster: Yeah. And in addition to that, there were business leaders who came to the table and members of the State Bar Association who came to the table and faith leaders who all came to the table with different reasoning, too. So faith leaders, for example, had spent decades in Louisiana doing prison ministry and had really kind of framed this set of policy issues in a way that had to do with redemption or with keeping families together, which was a different lens to bring to this work.

For sure, we had lots of judges who weighed in on specific policies. Here's what's working. Here's what's not working. We had attorneys that are practitioners in the court. We had probation agency leaders, who were talking about ways that they could really drastically reduce the amount of time that they supervise people if they were doing well.

And so people came to the table with a lot of ideas, but there were individual sheriffs who came out really strongly for it. There was one who was so eloquent whenever he spoke. He got up when there were news cameras in front of him, and he said something to the effect of, you'd never see an ambulance drop somebody off at my jail because he was having a heart attack and say that he's my problem, or somebody with a broken arm, drop them off at the jail. But every day, somebody is brought to the jail who has a mental illness or a drug dependency issue, and we're not treating those issues. I'm seeing them over and over again. They return because of this underlying problem that we're not solving. And I liked the way he said this. He said, they're serving a life sentence six months at a time, and we can do better.

Dan LeDuc: To our listeners, thanks for joining us. We hope you've been enjoying this podcast. And if you haven't already, please subscribe to hear more stories about issues that matter.



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