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Safe & Just
Michigan

Excluding violence from criminal justice reform undermines progress, experts say

Carving violent crimes out of reforms ignores research on recidivism

LANSING — In Michigan and throughout the country, increased energy and attention has been given to criminal justice reform in recent years, leading to new laws and proposed reforms such as medically frail parole and Clean Slate. But the common practice of carving out “violent” or “assaultive” offenses from these new laws hamstring the reforms and goes against scientifically-based research on crime, according to specialists who participated in an online panel discussion about the exclusion of violence from criminal justice reform.

The discussion was sponsored by Safe & Just Michigan, a Lansing-based nonprofit working to lessen Michigan’s over-reliance on incarceration and to create safe communities throughout the state. The discussion was moderated by Safe & Just Michigan Executive Director **John S. Cooper**, who was joined by Fordham University Law Professor and author of “Locked In” **John Pfaff**, University of Michigan Law Professor **Sonja Starr**, and Safe & Just Michigan Outreach Director **Troy Rienstra**.

In order to gain enough political will to pass into law, legislators often exempt crimes deemed to be “violent” or “assaultive” from these reforms. This weakens the reforms and leaves behind hundreds of thousands of people who could have benefited from them. It also ignores years of research showing that people convicted of such crimes are the least likely to recidivate and return to prison.

“The research on violent crime recidivism--which shows that those convicted of violent crimes reoffend at very low rates, and are *less* likely to reoffend than those that are not--is at odds with many aspects of Michigan's current sentencing and corrections policies, and suggests that Michigan incarcerates more people that it should for longer than necessary, and

at a much greater cost than necessary,” Cooper said. “This has left Michigan with among the oldest prison populations in the country and among the longest average length of stay.”

While carving out violent crimes from reform suggests that people in prison are more likely to be a risk to public safety when they return to their communities, evidence-based research shows the opposite. Analysis performed by Safe & Just Michigan in 2015¹ found that more than 99 percent of people paroled on homicide and sex offenses between 2007 to 2010 didn’t return to prison within three years with a new sentence for a similar offense. Just two of the people in the study, or 0.2 percent, were convicted of another homicide. Several other studies, including one from the FBI², shows that people become less likely to engage in violent activity as they age.

"According to our official statistics, more than 55 percent of people in U.S. prisons are there for crimes of violence,” Pfaff said. “Given how that data is gathered, we know that the real percentage is even higher still. Any effort to achieve real, substantive, transformative change requires us to confront, head-on, difficult questions about how we want to address violent crimes.”

Despite the research and evidence, misperceptions and fear continue to drive public policy when it comes to excluding certain crimes from criminal justice reform. That has significant consequences, as it leaves behind the majority of people currently inside Michigan prisons. Approximately 75 percent of people incarcerated by the Michigan Department of Corrections are serving sentences for an offense deemed to be “violent” or “assaultive.”

“The way we treat people convicted of violent crimes has been driven by a level of fear that far exceeds what the data tell us about actual risks to public safety,” Starr said. “That fear drives mass incarceration, and in the current pandemic, it is making all of us *less* safe.”

Policymakers are grappling with whether to allow some people out of prison during the COVID-19 crisis — either through parole, home arrest or other measures. It’s unlikely that there would be enough political will to consider the release of people incarcerated on violent offenses, despite research showing that many could safely return to their communities.

"I entered into the criminal justice system as a person with a non-violent conviction and returned to prison for armed robbery. Violence is most often a progression that occurs as a result of trauma. But once a person has faced their trauma and come to realize the way their

¹ <https://www.safeandjustmi.org/2015/06/11/new-capps-report-10000-fewer-prisoners-strategies-to-reach-the-goal/> - see page 44

² https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171207_Recidivism-Age.pdf - see page 3

actions impact the lives of others, they can change, and in effect become a person who can work to break the cycle of perpetual trauma and violence," Rienstra said.

A video of the webinar on excluding violence from criminal justice reform will be available on Safe & Just Michigan's YouTube channel, located at www.youtube.com/channel/UCUbRFInVe0cMEqRZtrOLlkw, late Wednesday afternoon.

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Safe & Just Michigan (www.safeandjustmi.org) works to advance policies that end Michigan's over-use of incarceration and promote community safety and healing. We partner with Michigan organizations and leaders from across the political spectrum, including business and community leaders, faith communities, crime survivor organizations, formerly incarcerated individuals, prisoners and their families, as well as Michigan taxpayers statewide.