

Recent opinion pieces and news articles in this newspaper and others around the Commonwealth have taken the position that Pennsylvania's prisons are overflowing with non-violent, "low-level" offenders who do not deserve to be behind bars. This thesis conveniently ignores the many effective programs already serving to hold prison populations down.

Make no mistake, ensuring the safety of our fellow citizens will always be the first priority of Pennsylvania's prosecutors. Public Safety is a duty that we will not abdicate even in the face of an intense, pro-offender public relations campaign. However, district attorneys throughout this Commonwealth also recognize the importance of promoting programs that meet the twin goals of protecting the public and turning offenders into productive citizens.

In fact, Pennsylvania's prosecutors spend a significant portion of their time conceiving, planning and executing diversionary and alternative sentencing programs designed to minimize prison time while maximizing treatment and rehabilitation.

Take for example Cumberland County, where the District Attorney's Office has participated meaningfully in the development and implementation of virtually every type of offender treatment and diversion program.

The programs available for offenders in Cumberland County mirror the offerings available around the state. An understanding of those programs leads to no other conclusion than "low-level" offenders have many opportunities for diversion or treatment prior to entering prison. In fact, by the time prison becomes a reality for the "low-level" offender, it is extremely likely that one or more of these programs has been offered or attempted.

ARD

Putting aside Driving Under the Influence (DUI) cases for a moment, a first time offender in Cumberland County who commits all but the most serious felony offense is eligible for the Accelerated Rehabilitative Disposition (ARD) program. As the public should expect, offenses such as rape, robbery, arson, burglary and large scale thefts are generally excluded from ARD. ARD requires up-front

payment of fines, costs and restitution, attendance at crime prevention classes and other counseling in addition to good behavior for a set period of time (generally six months). Upon successful completion of ARD, charges are dismissed and the offender's case is expunged. The decision to propose a case for ARD is completely within the discretion of the District Attorney, and is a prime example of how Pennsylvania's prosecutors exercise our discretion in favor of rehabilitation and treatment for "low-level" offenders.

Sentencing Guidelines

The next level of protection for "low-level" offenders is the Pennsylvania Sentencing Guidelines themselves. The Sentencing Guidelines, promulgated by the Pennsylvania Sentencing Commission, take into account the prior record of the offender and the seriousness of the offense. Unless an offender has developed a significant prior record, the guidelines do not call for substantial jail time for "low-level" offenses. In fact, in my experience, crime victims are constantly surprised by what they consider to be minimal jail time recommended by the guidelines, even in serious cases.

For example, an offender with no prior record who commits a burglary of a business with no one present faces standard range sentencing guidelines of probation to 9 months in prison. The same offender who burglarizes a home with a person present faces a standard range sentence of between 12 and 24 months. A burglary is a felony of the first degree, one of the most serious offenses under the crimes code. I can attest that most crime victims do not consider house burglars "low-level" offenders.

Intermediate Punishment

For the truly drug-addicted offender who consents to be evaluated, the Intermediate Punishment (IP) Program at both the state and county levels combines treatment with intense supervision to reduce or eliminate jail time. IP programs, which require meaningful participation from offenders, recognize that treatment and supervision can be more successful than incarceration. In so doing, these programs serve the twin aims of protecting society and rehabilitating offenders in an effort to reduce recidivism.

Treatment Courts

Many counties in Pennsylvania, Cumberland included, have instituted Treatment Court programs. Treatment Courts are collaborative efforts among the courts, prosecution, defense, probation and drug and alcohol treatment providers to essentially give "one last chance" to offenders who have amassed significant prior criminal records directly related to drug addiction, alcohol addiction or mental health issues. Treatment Courts include intense training for all parties involved and are generally reserved for those offenders who would otherwise be imprisoned.

Among the realities that Treatment Courts recognize is that offenders will relapse during the course of the program. Offenders are intensely supervised, randomly drug-tested and appear in court once per week at a minimum. When they are successful, the offenders are rewarded. When they relapse, re-offend or otherwise violate program requirements, offenders are sanctioned. Regardless, prosecutors play a key role in their success, for it is the prosecutor who must agree to dismiss or significantly reduce the offender's charges upon successful completion of the program.

DUI-Intermediate Punishment and Day Reporting Centers

In addition to Treatment Court, Cumberland County, through our Criminal Justice Policy Team, has recently established a DUI-Intermediate Punishment Program and a Day Reporting Center to ease population pressure on our County Prison.

In DUI cases, barring serious injury or a prior felony record, most first-time offenders qualify for ARD and receive no jail time. Second and third offenders within 10 years can potentially face 90 day and one year mandatory minimum sentences under the DUI law that took effect in 2004. These enhanced mandatories for repeat offenders had an immediate impact on Cumberland County's prison population. In response, our Criminal Justice Policy Team created a DUI-IP program. This program consists of significantly less prison time followed by house arrest with electronic monitoring and intense supervision. The Day Reporting Center, specifically targeted at technical probation and parole violators would otherwise be taking up

space at the prison, also emphasizes counseling, training and personal responsibility.

Each of the programs listed above has been developed in Cumberland County with the direct participation of the District Attorney. It is the same throughout the Commonwealth. The Pennsylvania District Attorney's Association has been at the forefront of issues of treatment and alternatives to incarceration. Far from being single-issue robots who attempt to secure long prison terms for all crimes, District Attorneys throughout the Commonwealth spend significant time and effort on programs specifically designed to treat offenders and reduce recidivism.

There can be no doubt that the pro-offender lobby in Pennsylvania and Pennsylvania's Prosecutors will disagree on certain issues. But the next time you read an article or opinion piece claiming that "low-level" non-violent offenders are clogging Pennsylvania's prisons, take a moment to consider the opportunities that have been created to help those offenders avoid prison. Perhaps those offenders are not so "low-level" after all.