



## Smart Criminal Justice Reform:

### Mississippi and Texas Leading Gulf South States By ALEX MIKULICH, PH.D.

“Today, a vicious cycle of poverty, criminality, and incarceration traps too many Americans and weakens too many communities” said U.S. Attorney General Eric Holder in a major policy initiative presented last August. He explained that “many aspects of our criminal justice system may actually exacerbate these problems rather than alleviate them.”<sup>1</sup>

Calling for a new approach to the “war on drugs,” the attorney general lamented “our system is broken” as “too many Americans go to too many prisons for far too long and for no truly good law enforcement reason.”<sup>2</sup>

Seventeen states, supported by the Justice Department and leaders of both parties, have directed funding away from prison construction toward evidence-based programs and services such as drug treatment and supervision, designed to reduce recidivism.

The effort to pursue alternatives to incarceration for low-level, nonviolent crimes is one of five key principles of the U.S. Justice Department’s “Smart on Crime: Reforming the Criminal Justice System for the 21<sup>st</sup> Century” policy initiative.<sup>3</sup>

Holder praised Texas for investing in drug treatment for nonviolent offenders and changes in parole policies that reduced its prison population by more than 5,000 inmates in 2012. Similar efforts in Arkansas helped reduce its prison population by more than 1,400.

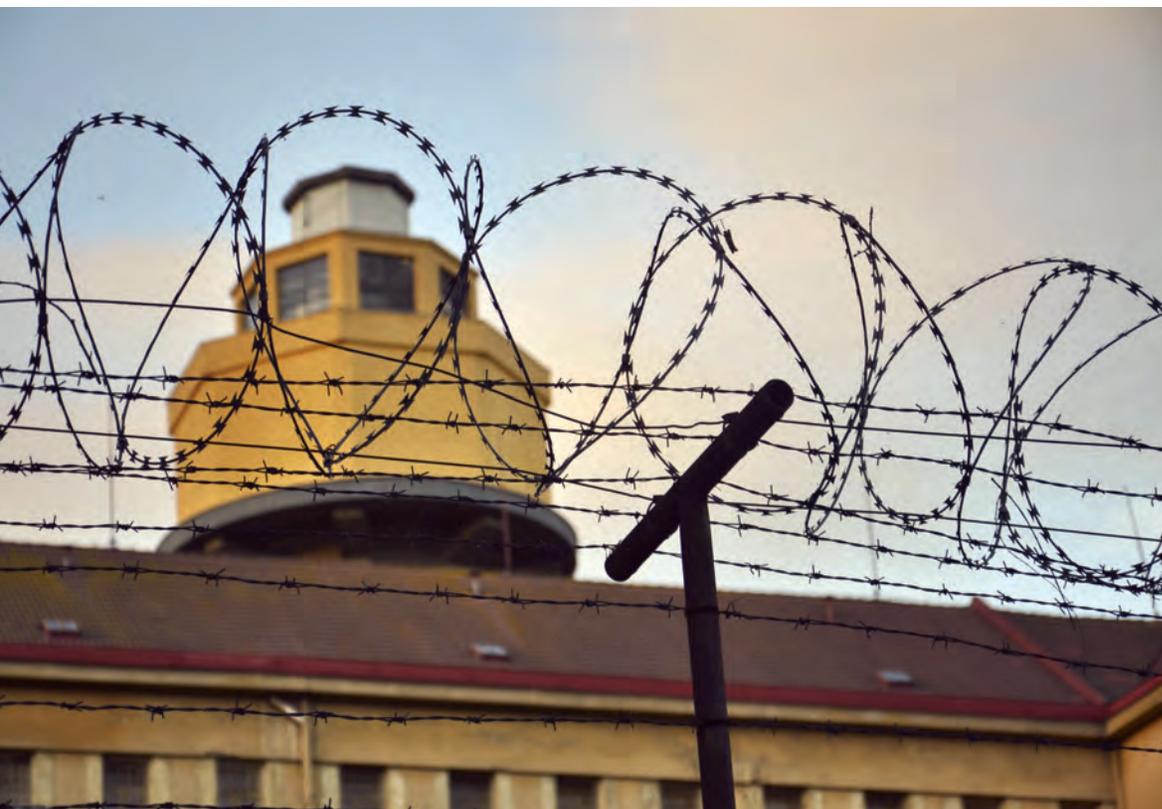
Unlikely advocates led the way for change in Texas, including the Austin-based Texas Public Policy Foundation (TPPF), member of a national network of libertarian, free-enterprise research and advocacy centers. Although TPPF was a proponent of “tough on crime” policies, it recently has advocated funding for alternative drug sentencing and drug treatment programs in the legislature. The \$200 million that Texas authorized in 2007 for drug treatment programs was estimated to save 10 times that amount in prison construction costs alone.<sup>4</sup>

Mississippi leads all Gulf South states in comprehensive reform. Like many other states, Mississippi saw its prison population grow over 300 percent between 1983 and 2013. Mississippi is second only to Louisiana for the highest rate of incarceration in the country.

A bipartisan task force commissioned by the governor and Legislature found that if Mississippi did nothing, the state’s prison population would grow by 1,951 inmates at a cost of \$266 million over 10 years. The data reveal that nonviolent offenders and those revoked for probation or parole violations account for a large share of the growing prison population.

The task force found that five factors drive prison population growth in Mississippi. First, nonviolent offenders comprised 45 percent of all inmates. Second, the analysis revealed that an

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84 percent increase of offenders sent to prison in 2012 was due to a revocation of parole or probation. Parole and probation revocations exceeded all new sentences in 2012. Seventy-five percent of probation revocations were due to failure to comply with supervision terms, such as missing meetings with a supervisor or failing a drug test. Third, uncertainty in length of sentences resulted in increased time served. Fourth, few alternatives to sentencing existed. Fifth, the state provided insufficient resources for supervision.

Policy-makers in Louisiana, Alabama, and Florida should study Mississippi's bipartisan, comprehensive, evidence-based study that developed 19 specific policy changes.<sup>5</sup>

Chaired by the commissioner of corrections, the task force included legislators, judges, prosecutors, law enforcement officials, and civil rights advocates. The project included extensive stakeholder outreach including a roundtable of victim advocates and a public safety summit convened by Governor Bryant in November 2013.

Mississippi partnered with the Pew Charitable Trusts and the Crime and Justice Institute at Community Resources for Justice. This assistance represents a

private-public partnership between Pew and the Justice Reinvestment Initiative of the U.S. Department of Justice.

Mississippi's reform is structured around six primary goals. First, it ensures certainty and clarity in sentencing to reduce uncertainty in early release and overall time served. Second, it increases access to alternatives to prison, including specialty drug courts to impose alternative sentences to reduce recidivism. Third, it focuses prison beds on violent and career offenders. Fourth, it strengthens supervision and intervention. Fifth, the Mississippi law safeguards local jurisdictions by ensuring that state inmates do not overburden local facilities. It also implements comprehensive re-entry planning to assist all offenders returning to the community. Finally, it ensures quality and sustainability of reforms by creation of a formal oversight panel and review process, provides enhanced training for parole board members and community supervision officers on evidence-based practices, and requires a 10-year fiscal impact statement to accompany future sentencing and corrections legislation.

Measures designed around these six goals were adopted in H.B. 585 with bipartisan majorities in both chambers and signed by Governor Phil Bryant on

March 31, 2014. The Pew Trusts expects that Mississippi will avoid all of its projected prison growth over the next 10 years and save \$266 million due to the new law.<sup>6</sup>

H.B. 585 was supported by the Catholic Dioceses of Mississippi and by participants in the February 19, 2014, Catholic Day at the Capitol in Jackson.<sup>7</sup> The law is consistent with Catholic social teaching about restorative justice.<sup>8</sup>

The challenges that Louisiana faces are similar to Mississippi, only more daunting. Louisiana leads the nation in the rate that it incarcerates its citizens—868 out of every 100,000—and the majority of its inmates are nonviolent offenders.

Louisiana could significantly relieve its fiscal stress through sentencing reform. Louisiana's prison population increased from 21,007 in 1992 to 39,709 in 2011.

Whereas the state paid out \$442.3 million (2011 dollars) in corrections expenditures in 1992, it spent \$757.4 million in 2011, an increase of \$315 million (71 percent).

Libertarian and conservative think-tanks are touting the fiscal case for criminal justice reform in Louisiana, including the Reason Foundation, the Pelican Institute, and the Texas Public Policy Foundation. Although Louisiana legislators have pursued modest reforms in recent years, other states, including Mississippi and Texas, have gone further.<sup>9</sup>

These conservative and libertarian think-tanks argue that Louisiana spends scarce prison resources on nonviolent offenders who “pose little or no threat to society [and] are routinely sentenced to exceedingly long terms in prison with no opportunity for parole, probation or suspension of sentence, in most cases because of the state's determinate sentencing laws.”<sup>10</sup>

Although these reforms do not address all drivers of hyper-incarceration, especially racial disparities in policing, arrests, and sentencing, Mississippi and Texas demonstrate how bipartisan leadership can bolster public safety and reduce the costs of over-incarceration.

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ENDNOTES

- 1 Attorney General Eric Holder, Remarks at the Annual Meeting of the American Bar Association's House of Delegates, San Francisco, CA, August 12, 2013. Online at [www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html](http://www.justice.gov/iso/opa/ag/speeches/2013/ag-speech-130812.html)
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- 10 *Ibid.*

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