

A Permanent Panel is Key to Reform

**By Barnett E. Hoffman
and Peter J. Barnes**

New Jersey residents have every right to insist that the state's criminal justice system promote public safety by implementing sentencing policies that reduce crime. Particularly in light of the budget crisis we now face, it's imperative that these policies make fiscal sense. As many states have demonstrated, these goals are not mutually exclusive. It's time for New Jersey to follow these examples.

Since 2001, more than 13 states, including New York and California, have taken legislative action to amend or repeal mandated sentence provisions, particularly those targeting nonviolent drug offenders. No less than California Gov. Arnold Schwarzenegger was a prominent supporter of Proposition 36, which was passed by 61 percent of California voters in November 2000. This initiative allows people convicted of first- and second-time nonviolent, simple drug possession to receive drug treatment instead of jail time. In the first five years of the program, more than 150,000 Californians will have entered treatment, saving taxpayers an estimated \$1.5 billion.

In the last 20 years, spending on correction-related items in New Jersey has increased more than 555 percent, from \$203 million in 1982 to \$1.033 billion in 2006. This increase was largely due to the explosive growth of New Jersey's prison population. From 1977 to 2002, the number of state inmates more than quadrupled. By 2002, 27,891 were behind bars. New Jersey also

suffers the very costly distinction of having, by a wide margin, the highest percentage of prisoners incarcerated for drug offenses (36 percent compared with the national average of 21 percent). Given New Jersey's perilous financial condition, it seems not only appropriate but urgently necessary to ask what kind of return New Jersey residents are getting for the more than \$1 billion invested in the criminal justice system annually and whether resources could be used more effectively.

Although New Jersey is by no means unique in having to confront the exorbitant costs attributable to large and expanding prison populations, it lags behind many states that are promoting innovative reforms that reduce expenditures on corrections without sacrificing public safety. Thereason? Since 1979, 22 states and the federal government have established permanent and independent sentencing commissions.

In 2004, the New Jersey Commission to Review Criminal Sentencing was created, but only on a temporary basis, to ask just such questions and provide answers based on the best current data and state-of-the-art analytical research. Pending legislation would make the commission permanent and charge it with the task of reviewing all proposed bills related to criminal sentencing. Passage of this bill would ensure that legislators and the public receive solid and impartial information on which to base their votes to guarantee that taxpayers get the most for their buck on corrections spending.

In our view, three factors explain the success of permanent sentencing commissions. First, most are explicitly required to address the issue of costs and limited resources when promulgating sentencing policy. This mandate has spurred many states to aggressively explore alternatives to imprisonment for

nonviolent drug offenders. At the very least, this requirement compels officials to carefully consider the costs of longer sentences against the perceived benefits. Alternatives such as treatment instead of incarceration have saved other states millions of dollars. Again, our budget crisis cries out for such an analysis. Second, independent sentencing commissions are made up of experienced and seasoned members whose positions within the criminal justice system make these entities broadly representative. Finally, and most important, by serving as comprehensive repositories of sentencing data, permanent commissions ensure that policy recommendations are grounded on hard facts as opposed to anecdotal information. This empirical approach serves to bridge philosophical and political differences, correlates policy to available resources and achieves sound and cost-effective sentencing policy.

It is obvious that New Jersey would greatly benefit from establishment of a permanent sentencing commission. Not only is such a commission long overdue, but the failure to follow in the footsteps of other states that have achieved concrete sentencing reform based on the work of their commissions would be, in a word, criminal.

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