

March 4, 2019

Senate President Larry Obhof  
Ohio Statehouse  
1 Capitol Square, 2<sup>nd</sup> Floor  
Columbus, Ohio 43215

SENT VIA E-MAIL AND US MAIL

RE: Criminal justice reform efforts & Senate Bill 3



Dear Senate President Obhof:

This letter is in response to your public solicitations for thoughts and ideas regarding sentencing and criminal justice reform in Ohio. As I trust you are aware, the overwhelming work of the ACLU of Ohio in the Statehouse revolves around the broad topic of mass incarceration.

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More specifically, our efforts include: Frequent testimony before the Senate Judiciary and House Criminal Justice Committees; meeting with lawmakers to share our thoughts; releasing reports about such issues as bail reform, debtors' prisons/ fines and fees, pay-to-stay jails, solitary confinement, private prisons; and public events where we inform citizens about the current state of and challenges regarding Ohio's criminal justice system. These efforts also include collaborating with various local, state, and national organizations and coalitions across the ideological spectrum on these issues.

We understand the basis of Senate Bill 3 this session may consist of recommendations from the Ohio Criminal Justice Recodification Committee, a plan jointly offered by Columbus City Attorney Zach Klein and Franklin County Prosecutor Ron O'Brien, and/ or ongoing Justice Reinvestment Initiative efforts in Ohio.

To the extent any of these plans, legislation, or additional input from other stakeholders improves Ohio's criminal justice system the ACLU of Ohio will be at least generally supportive. All reform is welcome reform, and we sincerely appreciate your desire to further improve a system with significant challenges and needed changes at all levels.

That said, the ACLU of Ohio encourages the Ohio General Assembly to think big. Ohio's prisons have been overcrowded for decades. Reform bills passed over the last several years have not resulted in meaningful reductions in prison numbers.

Consider where Ohio is now, as compared to ten years ago (January 2010):

Ohio prison population – January 2010 – 50,672

Ohio prison population – January 2019 – 48,954

Avg. stay in prison – January 2010 – 2.04 years

Avg. stay in prison – January 2019 – 2.33 years

This is for a prison system with a capacity ranging from approximately 37,800-38,500 people.

**If Ohio is serious about criminal justice reform, the number one priority must be an ongoing, comprehensive and thoughtful plan to reduce our prison population by *at least* 10,000 people.**

This should not be considered a radical or fanciful idea or proposal. Having our prison system operating at full capacity should be the maximum end of what is considered acceptable.

We realize a 10,000 person reduction cannot be accomplished overnight or via the passage of a single piece of legislation. Ohio did not suddenly find itself in this crisis situation, and it will not be suddenly rectified. To give you an idea how dire this problem is, Ohio could legalize all drugs, eliminate all drug crimes, do it *retroactively*, and our prison system would likely still be above capacity. In other words, concentrating on only lower-level drug laws and drug sentencing will result in limited impact.

Ohio needs to seriously examine all drug and non-drug felony and misdemeanor laws with a 10,000 person reduction in mind. We believe eliminating mandatory minimums; eliminating sentence enhancements for crimes committed near schools or juveniles or other locations; overall reductions in felony and misdemeanor penalties; desperately-needed bail reform; long overdue changes to Ohio's parole and probation systems; expanding earned credit and prison programming; and robust data collection and reporting are essential. As you know, many share these same opinions and ideas.

One important but overlooked factor thwarting past reform is the continual bipartisan introduction and passage of bills that increase prison and jail populations. The ACLU of Ohio first started calling specific attention to this factor four years ago with our Statehouse-to-Prison Pipeline Reports. The problem continues to worsen. Bills like last session's SB 1 and SB 201 were overwhelmingly passed and enacted with the knowledge they will increase Ohio's prison population. The only question now is by how much. More specifically:

During the 131<sup>st</sup> General Assembly (2015-16), 1,004 bills were introduced. 91 had provisions to put more people in prison or jail, enhance sentences, or expand current law to cover additional situations and actors. In the House, 10.6% of all bills contained such provisions. In the Senate, it was 6.4%. 16 of these bills ultimately became law.

During the 132<sup>nd</sup> General Assembly (2017-18), 1,114 bills were introduced. 137 had provisions to put more people in prison or jail, enhance sentences, or expand current law to cover additional situations and actors. In the House, 11.8% of all bills contained such provisions. In the Senate, it was 12.3%. 22 of these bills ultimately became law.

**We renew our call for a moratorium on any additional laws or bills that will increase the overall number of people incarcerated or facilitate this years-long trend of stagnant numbers.**

For now, we also have one more general recommendation we wish to bring to your attention. That is a commitment to widespread and adequate data collection across all aspects of the criminal justice system in our state. Ohio suffers from incomplete and/or an absence of data at all levels of government in numerous areas including, but not limited to – probation and parole, bail, drug courts, prison programming, sentencing, recidivism, and so much more.

As a result, legislation is often passed and efforts are undertaken without full knowledge of the positive and negative ramifications involved. When that happens, it is then more difficult to assess what needs changed and what is working.

Furthermore, because communities of color are negatively impacted by the criminal justice system far beyond their white counterparts, any data collection cannot ignore the racial impacts of laws and policies. This is but one example of where increased data gathering and reporting can lead to identification of problems and the necessity of rectifying them.

**We ask that any significant changes via legislation to the criminal justice system require robust data collection and a reporting requirement to at least the Ohio General Assembly so all Ohioans, elected officials and stakeholders will be as informed as possible about what works and what does not.**

Finally, we include with this correspondence copies of two reports. The first is titled *Blueprint for Smart Justice Ohio*. This report is from September 2018. The second is *Looking Forward: A Comprehensive Plan for Criminal Justice Reform in Ohio*. It is a joint publication of the ACLU of Ohio and the Ohio Justice & Policy Center. It was released in March 2016 and was sent to you as well as all Ohio legislators and various other stakeholders.

We call your attention to these reports because they provide further detail regarding the challenges facing Ohio's criminal justice system as well as our thoughts and suggestions in a number of areas involving mass incarceration. Suffice to say, the ACLU of Ohio remains thoroughly engaged on all these various issues, from the systemic to the specific.

In closing, the ACLU of Ohio's overall criminal justice mission is to reduce the number of people negatively impacted by convictions and incarceration, especially as it relates to communities of color. We look forward to the introduction of reform legislation, sharing our thoughts on the same, and ensuring this momentum has the greatest impact possible for as many people as possible.

We actively seek ways to be of assistance this legislative session as the General Assembly discusses and debates sentencing reform issues. Please never hesitate to contact the undersigned with any suggestions, questions, or requests as we all work towards common goals.

Sincerely,



Gary Daniels  
Chief Lobbyist



Jocelyn Rosnick  
Advocacy Director



cc: Sen. John Eklund (Primary cosponsor of SB 3)  
Sen. Sean O'Brien (Primary cosponsor of SB 3)  
Speaker Larry Householder  
All members of the following committees - Senate Judiciary, House Criminal Justice, and  
House Criminal Justice Subcommittee on Criminal Sentencing