

Consensus questions for Criminal Justice Position Update:

1. What are the purposes of the prison system in addition to maintaining public safety by locking up those who threaten our security?
 - a. To punish offenders by locking them away from society and treating them harshly so that they will not commit crimes when released.
 - b. To provide rehabilitation for offenders to help them gain skills and become drug-free so they can return to society and lead normal lives.
 - c. Other:

2. Experts estimate that between 75 and 80 percent of the offenders in Montana's criminal justice system are non-violent individuals with drug addiction and/or mental illness. How should these individuals be viewed?
 - a. They are a menace to society and should be locked up.
 - b. These individuals are themselves the victims of drug abuse and mental illness, and should be getting treatment.
 - c. Other?

3. What is the appropriate role for police and the courts in dealing with non-violent offenders who are committing crimes because of drug addiction and mental health issues?
 - a. They should treat them just like any other criminals.
 - b. Police and the courts can help motivate these offenders to get the treatment they need through holding people accountable for their actions and requiring either prison or treatment.
 - c. Police and the courts should dismiss all non-violent drug and mental health offenders.
 - d. Other?

4. How should former inmates be treated once out of the prison system?
 - a. They earned their punishment; they have to deal with the consequences.

- b. Former inmates have paid their dues by serving their terms; they deserve the chance to get back on their feet.
- c. Barriers to getting housing, a job, treatment, a driver's license, etc., are difficult to overcome. Discharge planning for inmates should include a plan for housing, medical care, and reactivating a drivers license and bank account.
- d. The Montana legislature recently passed a bill to provide 6 months of living expenses to inmates upon discharge; however, the Legislature did not appropriate funds for this program, so it was not implemented. This program should be funded in the future.
- e. Recitivism is common among former inmates with untreated addiction and mental health issues. Without treatment, they return to the behaviors that led them to be arrested initially, and are likely to be arrested and incarcerated again. It is in our and their best interests to provide the treatment they need to keep them out of our jails and prisons.
- f. Other suggestions?

Removed question 5 as it was almost identical to question after it, which is now question 5.

5. What are the constraints holding Montana's criminal justice system back from implementing effective programs to both divert those with drug addiction and mental illness issues from incarceration in the first place, and to help former inmates integrate into society successfully without returning to prison?

- a. Lack of resources. The Legislature does not allocate sufficient funds to support the programs needed.
- b. Lack of public understanding and support. People tend to view those caught up in the criminal justice system as deserving punishment, and former inmates as second class citizens, so they are not interested in devoting public resources to helping those caught up in the criminal justice system. Legislators reflect the lack of public support.
- c. Other constraints?

6. Interviewees indicated that the local courts and public defenders in Montana are overloaded; individuals arrested by police may find themselves in jail for months before trial, incarcerated because they cannot afford bail. Their lives are upended, they lose their jobs, homes, contact with friends and family members, and all of this before they have been found innocent or guilty. The US constitution guarantees people a fair and speedy trial, yet for some who have to rely on public defenders, this is not happening. Should the League become involved in efforts to change this? Why or why not?

7. Upon what criminal justice issues could the LWV be most likely to wield influence with reasoned, well-researched information campaigns?

8. The last section of additional materials for study dealt with statistics on early childhood development and the positive effects of prevention strategies for pre-natal and early childhood. The Federal Reserve Study found that 26% of children in Montana under 18 were identified as having 2 or more Adverse Childhood Experiences (ACE): e.g. frequent socioeconomic hardship, parental incarceration, violence, living with someone who was mentally ill or with substance abuse problem, etc). ACE's are associated with risky behaviors and chronic health conditions. Should the League do a study in 2020-21 that would allow us to formulate a position that addresses prevention strategies that impact children before birth, as infants and at an early age?

Montana LWV Position on Criminal Justice (last adopted 2002)

Note: Proposed Changes are noted in italics and highlighted.

To protect society from criminal behaviors, while providing services to enable prisoners to become law-abiding citizens. *To ensure equal and fair procedural justice for all regardless of financial status.*

In general:

1. The pre-sentence investigation required by Montana law should include the defendant's immediate family situation, including specific information on whether or not the defendant is the custodial caregiving parent of a child under 13 (**change to 18**) years of age and, if so, the age of the child and the defendant's plans for care of the child during incarceration. A trained advocate should be assigned to each child to represent her/him at all procedures related to her/his welfare.

Pre-sentence investigation should include flight risk and financial capability in determining whether and how much bail is necessary, and consider using alternatives to bail. Alternatives to bail can include expanded use of the appearance ticket, release on own recognizance, conditional or supervised release, and detention by written determination of the judge that there is no other alternative.

LWV believes Montana should incorporate mental health and drug abuse diversion processes to reduce incarceration of non-violent individuals with addiction and mental illnesses.

LWV endorses the recommendations made in the document titled: Justice Reinvestment in Montana: Report to the Montana Commission on Sentencing, January 2017, and supports the evaluation of progress made towards accomplishing the goals outlined and the allocation of resources necessary to facilitate the full implementation of recommendations.

2. The State should not automatically sever parental rights if the parent is incarcerated for more than a year.
3. Mandatory life sentences, rather than capital punishment, should be considered when sentencing violent offenders.
4. A continuum of state-wide, community-based options, which provide for probation, halfway houses, deferred sentences, electronic monitoring, *drug and mental health treatment services* and restitution to victims, etc., should be available to judges and should be considered as alternative sentencing, especially in cases involving youth, non-violent and first offenders, and mothers of young children.
5. When planning to build or *remodel*, consideration should be made for the classification of the inmate population.

During incarceration:

1. The state prisons are appropriate placement for criminals requiring tight security.
2. Placement in local jails should be used only for those requiring temporary incarceration.
3. Family Services (DPHHS) and the Department of Corrections should coordinate to provide quality counseling and *education* programs in the prisons to enhance the prisoner's successful return to society. These voluntary programs should include education and vocational training, personal and family counseling and parenting classes, counseling to prevent victimization, and drug treatment. Measures of family reunification and recidivism should be included in evaluations of treatment and education programs for the inmates. Dependence on grants to fund the parenting programs should be replaced by a state funded parenting program staffed by educationally qualified personnel.
4. Provision should be made for regular communication between parent(s) and child(ren) in comfortable, quiet facilities. When necessary, transportation, meals,

and lodging should be provided. Halfway houses should include appropriate facilities for children plus emphasis on family integration.

5. There should be opportunities to meet the spiritual needs of inmates.
6. Montana needs separate and safe facilities for youth, first offenders, women, the habitually violent, sex offenders, and drug offenders.
7. Montana should provide equity in facilities and programming for state prison residents, regardless of age, sex, race, color, or creed. The exception to equity should be to address the unique needs of (1) pregnant inmates with prenatal, obstetrical, postnatal and infant care provided, all commensurate with regular hospital care, and (2) formerly caregiving custodial parents, whose plans for rehabilitation should include family reunification, parenting and job training.

8. There should be effective health, mental health and substance abuse treatment programs for inmates

9. There should be periodic and routine review of each prisoner by the rehabilitation *and medical* staff.

At exit/parole:

1. There should be regular, independent review of the method of selection of State Parole Board members and of the Board's operation. *Remove this section. Montana now has a professional Parole board of trained professionals. Renumber the remaining points below.*
2. The State should hire an adequate number of qualified parole officers, some of whom are qualified in child counseling and the teaching of parenting skills.
3. The Department of Corrections should consistently allow work and study furloughs and pre-release programs for all non-violent offenders, after screening by the professional rehabilitation staff of each prison.
4. Programs for *mental health and drug abuse* treatment and education, and advice on vocational education, college opportunities and job skills should be easily accessible before release, during pre-release processing, and in subsequent stages of re-entry to society.

Addendum

The League supports adequate provision by Montana state agencies in areas where local governments are unable to provide services. Health and legal services, such as guardian ad litem programs, for children should be available. Work/study programs are also considered invaluable.

The League recognizes the need for adequate funding and recommends the apportionment of money among the Criminal Justice System components to enable these recommendations *and ensure that all are treated equally regardless of financial ability. A reduction in the number of people imprisoned through effective diversion and re-integration programs will free up resources to help provide more effective drug and mental health treatment services and equal procedural justice for all.*