

## CORONAVIRUS

# My Turn: Sarah Martino: Post-COVID justice system should be smaller, smarter

**Staff Writer** The Providence Journal

Published 5:00 p.m. ET May 26, 2020

While the road to a national recovery from the COVID-19 pandemic is long, many are eager for things to return to normal. But the calls to go back to business as usual are being rebutted by those of us who recognize that “normal” in pre-pandemic America was already marked by staggering inequality, driven partially by the overuse of our criminal justice system. We now have an opportunity to make operating a smaller, smarter criminal justice system an integral part of Rhode Island’s “new normal.”

America is the leader in mass criminalization, with 2.2 million incarcerated and another 4.4 million supervised on probation and parole. We make more than 10 million arrests and process more than 17 million criminal cases a year in our state courts. However, as keeping people out of courts and jails has become a tool for pandemic control, we’ve seen criminal justice leaders across the country call for decreased use of arrest and incarceration.

In Rhode Island, this decrease is most clearly illustrated in our corrections population. There were only 2,197 people incarcerated at the Adult Correctional Institutions on April 28, only 60% of the institutions’ full capacity. The Department of Corrections director noted in this paper that the ACI’s census is the lowest it has been in 30 years.

Many who would have previously been held at the ACI on bail awaiting trial are now being released at arraignment, and the corrections department, Public Defender’s Office, courts and attorney general’s office are reportedly coordinating to keep pre-trial detention to a minimum. Fifty-two people with less than 90 days remaining on their sentences were released early per a state Supreme Court order. Law enforcement officers appear to be avoiding some arrests for minor offenses, including drug possession.

We should be taking more dramatic action to further decrease our corrections population, but the fact that this coordination is happening at all shows that our state and criminal justice leaders know it is a matter of life and death. An outbreak of COVID-19 at the ACI could be deadly for incarcerated people, corrections officers and their families, not to mention the additional strain placed on our hospitals. The same is true of a packed court, where exposure to the virus would quickly ripple through many communities.

But decisions about how we practice criminal justice have always been high stakes for hundreds of thousands of Rhode Islanders and their families, and the changes we have seen during this pandemic

have underscored that they are, in fact, decisions — we make choices about what our justice system looks like.

We have yet to see the downside of arresting and incarcerating fewer Rhode Islanders, but there is much to gain if we keep it up. Fewer disruptions in employment, health care and family life, particularly for our black and Latinx neighbors, who are disproportionately impacted by the criminal justice system. Fewer people racking up drug convictions that put up additional barriers on the road to recovery. Fewer people with mental illness being criminalized for being homeless or lacking access to treatment. More resources that can be used to tackle poverty, the driver of so much of crime.

Change is never easy. Once the most immediate threats of COVID-19 pass, the impulse will be to quietly watch as new commitments once again cycle in and out of the ACI. We will be tempted to ramp up policing as crime returns to its pre-pandemic rate, though that rate was historically low. But we can chart a different course.

Our state's criminal justice leaders have shown us that they have the discretion to make decisions that balance public safety with public health, and to prioritize diversion at all levels of the system. We can and we must continue to make bold choices to reduce our reliance on the criminal justice system and adopt alternative strategies for keeping all Rhode Islanders healthy and safe.

*Sarah Martino is the deputy director of the Center for Prisoner Health and Human Rights at The Miriam Hospital.*