

Don't max out, Canada warned

An expert on criminal sentencing says the country is headed down a 'discredited' path by embracing U.S.-style tough-on-crime policies, writes Don Butler.

Don Butler, The Ottawa Citizen

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The Harper government is embracing tough-on-crime policies even as the United States backs away from similar approaches that have produced record levels of incarceration, huge taxpayer costs and racialized prisons, says an American expert on sentencing policy.

"They're definitely repeating some mistakes ... that we've learned in the United States the hard way over the last 20 years or so," says Marc Mauer, executive director of the Sentencing Project, which promotes reforms in sentencing law and alternatives to incarceration.

"We've had this get-tough movement for three decades now," says Mr. Mauer, who will speak at Saint Paul University tomorrow.

"If that's the best way to produce safety, we should be the safest country in the world, and clearly that's not the case. It tells us there's something else going on there."

Mr. Mauer's observations are relevant because the federal Tackling Violent Crime Act, which received royal assent on Feb. 28, apes the punitive approach to crime adopted in the United States in the 1980s.

Among other things, it increases mandatory minimum sentences for gun crimes and impaired driving and requires those convicted of three serious sexual or violent offences to prove why they should not be jailed indefinitely.

The Harper government pushed the bill through even though crime rates in Canada have been falling steadily since the early 1990s and are now at their lowest level in 25 years.

Mr. Mauer says the government's crime policies "have been largely discredited by any serious researchers looking at them. There's little one can point to in terms of reducing crime in any significant way."

In the U.S., three-strikes laws and widespread use of mandatory minimum sentences have resulted in a record 2.3 million people behind bars -- 700,000 more than in China, which has four times the population.

With less than five per cent of the world's population, the U.S. has almost one quarter of the world's prisoners. It has 751 people in prison for every 100,000 in population -- nearly six times the median rate for all nations. In Canada, the rate is 108 per 100,000.

African-Americans are incarcerated at nearly six times the rate of whites, and now constitute 900,000 of all U.S. inmates.

A black male born today has a one-in-three chance of doing time in prison in his lifetime. Hispanic males face a one-in-six chance of doing jail time. "Those are really striking figures," Mr. Mauer says.

The war on drugs has helped fuel the incarceration boom in the U.S. In 1980, just prior to the inception of the drug war, about 40,000 people were locked up for drug offences. At the time, there were fewer than 500,000 people in American prisons or jails for all crimes.

Today, there are half a million people imprisoned for drug offences alone in the U.S., many of them low-level offenders serving mandatory five- or 10-year prison terms. And it's costing taxpayers \$100,000 or \$200,000 over the course of each mandatory term to house these low-level offenders, Mr. Mauer says.

"There's not a lot of demonstrated evidence that it's very effective in reducing drug abuse or drug selling," he says.

The U.S. now spends \$60 billion a year on federal, state and local corrections -- money allocated at the expense of other priorities, particularly higher education.

"In some states, like California, there's been almost a dollar-for-dollar tradeoff in the amount of money going to the prison system and declining, in many cases, for higher education," Mr. Mauer says.

As in Canada, crime rates in the U.S. have been falling steadily since the early 1990s. But it's not clear tough-on-crime policies have had much to do with that.

Studies suggest that about one quarter of the decline in crime was due to higher rates of incarceration, Mr. Mauer says. That's not trivial, he acknowledges. "That's a significant number of people who were not victimized."

But three-quarters of the decline was due to other factors, he notes, such as low unemployment, a decline in the proportion of young males in the population, community policing programs and a reduction in crack cocaine use.

"Even if prison was responsible for a quarter of the decline," Mr. Mauer argues, "that still doesn't tell us if it was a cost-effective way to produce that."

Research suggests investment in drug treatment and pre-school programs and improving high school graduation rates is more cost-effective than expanding the prison system, he says. "It's really a question of the tradeoff here."

One thing is clear: the U.S. approach has not reduced recidivism by ex-convicts. Two-thirds are re-arrested with three years of being released from prison, Mr. Mauer says, and half are back in prison.

All of this is causing U.S. policymakers to re-evaluate their approach to crime, he says. While tough-on-crime policies are still very much in force, "there's begun to be a shift in the political climate and the nature of the discussion about crime policy."

One marker of this emerging view is the Second Chance Act, which President George W. Bush signed into law in April.

The act, endorsed by liberal and conservative legislators alike, authorizes \$362 million in spending to expand programs for inmates, those returning to the community after incarceration and children with parents in jail or prison.

More generally, Mr. Mauer says confidence is waning that large-scale incarceration, particularly for drug offences, is effective. "I think there's a growing recognition that putting somebody who's got a drug problem in prison for five years without treatment doesn't do anybody any good."

There's been a dramatic increase in the growth of drug courts in the U.S. -- specialized courts that look at drug cases and try to divert appropriate candidates into treatment outside the prison system.

While there are high failure rates, Mr. Mauer says offenders who go through drug courts have reduced rates of drug abuse and involvement in crime.

Concern is also mounting about the racial imbalance in U.S. jails and prisons, Mr. Mauer says -- in particular the impact on black families and communities.

"A million and a half children now have a parent who's locked up in prison on any given day," he says. "In black communities, one out of every 14 children has a parent behind bars."

The impact of that on children is enormous, he says, both in terms of the loss of financial and emotional support and the shame and stigma associated with having a parent in prison.

It's even creating a shortage of men, Mr. Mauer says, disrupting family formation. In one black neighbourhood in Washington, D.C., there are now only 62 adult males for every 100 adult females.

Some of the missing men are in the military and some have died. "But many of them are behind bars," Mr. Mauer says. "And there's no reason to believe that Washington's unique in this regard."

The sheer cost of incarceration is also driving a reassessment of current policies, Mr. Mauer says, particularly at the state level, where budgets are tighter and most states are obliged to balance their budgets. "Increasingly, governors and legislators are looking at ways to cut the costs," he says.

"Essentially it's become a question of where do we want to be going over the course of the next generation. Do we want to be building prisons or creating opportunities for education for our children?"

Despite growing doubts over American crime policies, prison populations in the U.S. continue to expand. That's because drug arrests continue to rise and tough-on-crime sentencing policies remain in place and are increasing the number of long-term sentences substantially, says Mr. Mauer. Until that changes, substantial reductions in the prison population are unlikely.

The good news, he says, is the rate of increase in incarceration is slowing. "There's more diversion and alternative options being explored now. So I think the climate is beginning to change."

CBC host Michael Enright will do a public interview with Marc Mauer in the amphitheatre of Saint Paul University, 223 Main St., tomorrow. The event runs from 7:30 to 9:30 p.m.