



Ten Lessons for Talking About Criminal Justice Issues

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Now, more than ever, our criminal justice system must keep all communities safe, foster prevention and rehabilitation, and ensure fair and equal justice. But in too many places, and in too many ways, our system is falling short of that mandate and with devastating consequences. The United States is saddled with an outdated, unfair, and bloated criminal justice system that drains resources and disrupts communities.

Below are ten tips for moving people to action on changing our criminal justice policies so that they focus on safety and fairness, and serve all communities well.

1. Consider Audience and Goals. In any communications strategy, it's important to start with who you're trying to reach and what you want them to do. In putting together messages, consider:

Who are you hoping to influence?	Narrowing down your target audience helps to refine your strategy.
What do you want them to do?	Determine the appropriate action for your strategy. Sometimes you may have direct access to decision makers and are working to change their minds. Other times you may have access to other people who influence the decision makers.
What do you know about their current thinking?	Look to public opinion research, social media scans, their own words, etc.
What do you want to change about that?	Consider the change in thinking that needs to happen to cause action.
Who do they listen to?	Identify the media they consume and the people who are likely to influence their thinking. This may be an opportunity to reach out to partners and allies to serve as spokespeople if they might carry more weight with certain audiences.

2. Lead with Values. Audiences connect with messages that reflect their values and articulate a better world. Research and experience shows that many strategic audiences connect with the following values when it comes to the goals of our criminal justice policies. We can introduce ideas about transforming the criminal justice system by talking about how policies do or don't live up to and reflect these values.

- ▶ **Basic Rights/Human Rights** – the guarantee of **dignity** and **fairness** we all deserve by virtue of our humanity. In our justice system, this means ensuring:
 - **Equal Justice** – the assurance that what you look like, the accent you have or how much money you make should not affect the treatment you receive in our justice system.
 - The provision of **Due Process** – a basic legal right that includes action based on evidence, a day in court, and a fair trial.
 - That we observe and protect our **Founding Principles/The Constitution** – the Bill of Rights outlines important rights and ideals that we should strive to uphold. While we have often fallen short of these ideals, they should still guide how we treat people.

Examples:

*The Eighth Amendment's protection of dignity reflects the Nation we have been, the Nation we are, and the Nation we aspire to be. This is to affirm that the Nation's constant, unyielding purpose must be to transmit the Constitution so that its precepts and guarantees retain their meaning and force.*¹ – Justice Kennedy, Majority Opinion, Hall v. Florida

These are men and women ... re- enunciating a powerful message of freedom and equality during this newest phase of the continuing struggle to bring the United States' practices into alignment with its core principles. – Formerly Incarcerated and Convicted People's Movement (FICPM)²

- ▶ **Community** – the notion that we share responsibility for each other, and that opportunity is not only about personal success but about our success as a people. We are better off when everyone can contribute and participate. In relation to our criminal justice policies, this means ensuring:
 - Real **safety and security** – the chance to live in communities where our family and property are safe, where individuals also feel safe from the police, and where police feel safe while doing their jobs.
 - **Prevention** – commonsense programs and supports like real access to jobs, education, and comprehensive healthcare, including for mental health and substance abuse issues.
 - **Voice** – that we should all have a say in the decisions that affect us and our communities.

- The opportunity for **redemption** and **starting over** so that individuals can contribute to and participate in our communities after making amends.

Example: *“New York is a state of opportunity, where individuals from all backgrounds and circumstances are given a fair chance to pursue their goals... The work of this Council increases the ability of our fellow citizens with criminal convictions to contribute positively to their families and communities, which creates a fairer and safer New York.”* Governor Cuomo³

- ▶ **Pragmatism** – taking a responsible approach to our criminal justice system to implement policies that are both effective and efficient. This means relying on:
 - **Solutions** – ideas we know will work, and will move us all forward.
 - **American Ingenuity** - the know-how to fix what’s wrong with our criminal justice system.
 - **Common Sense** –It’s time to take practical steps and stop wasting resources.

Example: *[We work] with Californians from all walks of life to replace prison and justice system waste with common sense solutions that create safe neighborhoods and save public dollars. [We are] bringing together business and community leaders, policymakers, law enforcement, health professionals, educators and crime-prevention experts to replace costly, old ways of doing business with new justice priorities that improve public safety without draining resources from our schools, hospitals and other community needs. – Californians for Safety and Justice.*⁴

3. Share your vision. Outline a transformative vision of what the criminal justice system should be and what our policies should achieve: **Invest in safe communities, ensure equal treatment that upholds the Constitution, reduce the effect of social harms, hold people accountable, and also give them a chance to start over.**

- ▶ When critiquing the current system, it’s important to include a big picture of what a transformative system means to communities, safety, and justice. Removing what’s wrong isn’t enough and may leave audiences wondering how we should enforce laws and hold people accountable. Without an alternative vision to turn to, some audiences may feel too comfortable sticking with the status quo.
- ▶ Whether you are talking about small changes or a vast overhaul, it’s equally important to share your big picture thinking so that audiences understand the steps that are needed to end up at a system that ensures both justice and safety.

Examples:

[We] envision a just society in which the use and regulation of drugs are grounded in science, compassion, health and human rights, in which people are no longer punished for what they put into their own bodies but only for crimes

committed against others, and in which the fears, prejudices and punitive prohibitions of today are no more. – The Drug Policy Alliance⁵

We offer an alternative moral vision of a justice system that operates in ... accord with our values This vision includes the presumption of innocence, fair judicial proceedings, the merciful restoration of those who have broken the law, the renunciation of torture and other abusive practices, and a fundamental commitment to the dignity and humane treatment of everyone in our society.... – Unitarian Universalist Association⁶

4. Redefine the idea of safety. Everyone wants to be safe in their homes and in their communities. If people don't feel safe, they feel fear, a sentiment that has been exploited for decades by "tough on crime" advocates. Yet we know that many of the policies enacted during this time do not actually lead to real safety. We need to tell a full story of the factors and policies that create truly safe communities.

- ▶ Start by reminding audiences what communities really need, beyond the enforcement of laws, to be safe. There are a number of important factors necessary to meeting this goal, ranging from community cohesiveness and economic stability to laws that protect people's rights and property. The criminal justice system is part of the equation, but its role is currently overemphasized at the expense of other equally or more important factors.
- ▶ Emphasize themes like prevention, supporting practical programs like expanding access to mental health treatment and alternatives to imprisonment, collaborative approaches to policing, and restorative justice that keep *all* communities safe and uphold our values of equal justice and accountability.
- ▶ Show how our current system is outdated, unfair and bloated; it drains resources and disrupts communities, none of which keeps us safe.

Examples:

Criminal justice is strong medicine: it can help, but applied too heavily or in the wrong way, it can hurt. It's now clear that too much incarceration, aggressive, disrespectful policing, and other missteps can damage individuals, families, and communities and undermine relationships between neighborhoods and law enforcement. Law enforcement should do its work in ways that do not cause that harm. –National Network for Safe Communities⁷

We hope that the nation will adopt the strategy that emphasizes opportunity rather than punishment as the guiding theme of our vision for public safety. –The Sentencing Project⁸

5. Emphasize priorities and pragmatism. Research indicates the importance of emphasizing societal priorities: the idea that we make choices about how we invest our resources, and those decisions should reflect our values and needs.

- ▶ Talk about a “responsible approach” to making the country safer, and about how we should best allocate resources. For instance, prioritizing prevention and rehabilitation is a common sense and responsible approach while needlessly incarcerating millions because of inflexible sentencing policies is not.⁹
- ▶ Give examples of what works. Put forward achievable shorter-term goals and solutions, then show how they support the larger vision.
- ▶ Note that this is slightly different than a “cost effectiveness” argument that revolves around money only. A pragmatic argument about priorities emphasizes the overarching approach including, but not limited to, economic considerations.

Example: *Incarceration is costly. It can be done better. What we have to always ask, as Americans and as leaders, is what can we do better? How can we look at the issue and figure out how we can change it? We don't need to incarcerate everyone. There are some individuals we do need to incarcerate, but there may be another way, and we know what it is. And we see those best practices in places like Texas and Kansas and other places that have used the Justice Reinvestment Initiative to work.* - Sen. Lena Taylor (D-Milwaukee) on “Tell Me More,” NPR News

6. Highlight Alternatives and Solutions. We know that one size solution doesn't fit all when it comes to holding people accountable, but too often we rely solely on imprisonment as a solution. We need alternatives.

- ▶ Talk about how our current justice system doesn't take into account so many of the realities of today's complex world. Our criminal justice system should focus on reducing the harms of addiction, mental illness, and poverty, rather than exacerbating them.
- ▶ Outline alternatives to harsh sentences, particularly those related to young people, people with mental health issues, and those who have been convicted of less serious crimes. (Do this to show that there are many options available, *not* to create unnecessary divides or to abandon groups who are most difficult to talk about, such as those who have been convicted of violent crimes.)
- ▶ Underscore that the criminal justice system is not, and should not be considered, the solution for many of the problems facing our communities. We have the know-how to address the real issues without funneling people needlessly into a system that is not living up to our values.
- ▶ Avoid unnecessary divisions. Audiences tend to be most supportive of alternatives to incarceration for young people, people suffering from mental illness, and people whose offenses did not involve violence. There is also rising support for decriminalization and legalization of some drugs. But in arguing for these reforms, we should avoid undermining support for less popular reforms and populations. For example, don't emphasize reform for “non-violent offenses” when it's unnecessary to make that distinction.

Examples:

Each person who commits a crime is unique, and prison or jail time may not always be the most effective response. If courts have options other than incarceration, they can better tailor a cost-effective sentence that fits the person and the crime, protects the public, and provides rehabilitation. – Families Against Mandatory Minimums¹⁰

What you have to do is look at who's going to the prison system in the first place, and about 70 percent of the people who go into prisons have a substance abuse problem. So instead of sending those people with substance abuse problems into the prison system, if we instead did a better job of providing substance abuse treatment to them in the communities, fewer of them would end [up] interfacing with the criminal justice system in the first place. – Jeffrey Beard, California Secretary of Corrections on "Weekend Edition," NPR

7. Discuss the importance of racial equity and equal justice. Experience shows that most criminal justice problems cannot be truly fixed without addressing questions of race. In this era of social movements, moreover, effectively discussing racial justice can help mobilize an active base of supporters.

- ▶ Understand that negative racial stereotypes and implicit bias are often an unspoken reality in conversations about crime and punishment. Properly raising them through an appeal to move positive conscious values is often the only way to overcome their effect.
- ▶ Instead of leading with evidence of unequal outcomes alone—which can sometimes reinforce stereotypes and blame—we recommend documenting *how* people of color frequently face harsh and unequal treatment by the criminal justice system. Provide concrete examples of these barriers.
- ▶ Know that some audiences are skeptical about whether racial bias still exists in America, and believe (or want to believe) that the criminal justice system treats everyone fairly. We therefore need to be specific about the mechanisms that lead to unequal treatment, gather comprehensive and reliable data, and prepare a stable of examples to make a convincing and compelling argument.

Example: *Black youth are arrested for drug crimes at a rate ten times higher than that of whites. But new research shows that young African Americans are actually less likely to use drugs and less likely to develop substance use disorders, compared to whites, Native Americans, Hispanics and people of mixed race. – Time Magazine¹¹*

8. Lift up and respect the voices and perspectives of people more directly affected by the system. People who have been caught up in the criminal justice system, who have been convicted of crimes, and who are emerging from prison or jail have an important perspective on the ways the system needs to change. They are key leaders and communicators on these issues. It's important to not talk of "making room at the table" or "including voices," but sincerely understanding the role they play in the criminal

justice reform movement and to ensure their voices are a central part of the narrative we put into the world.

- ▶ If your campaign or coalition hasn't already, partner with an organization that focuses on building leadership among people who have been in prison or jail. Understand how messages work or don't for them and find ways to expand spokesperson opportunities so that audiences also understand the importance of their voices.
- ▶ Point out that those affected are key, and often missing, spokespeople for the movement.

Example: *We believe what has been missing from the discussion is an ingredient that is included in every civil rights movement within the United States, every movement, which is leadership from people it impacts, the voices of people who have been most impacted by the system being elevated and being allowed to speak out about how the system has affected them. Seventy million people have a criminal record on file, but where are those voices? Where are those leaders?* – Glenn E. Martin, Executive Director, Just Leadership USA¹²

9. Use the right metaphors. Frameworks Institute suggests using explanatory metaphors they term “justice gears” and mazes to help to explain the complexities of the current criminal justice system and move audiences to fix it. In their report *Mazes and Gears: Using Explanatory Metaphors to Increase Public Understanding of the Criminal Justice System and its Reform*, the organization’s Nathaniel Kendall-Taylor explains that these metaphors help audiences understand systemic problems and solutions and emphasize that a one-size-fits-all approach is not workable or efficient when it comes to criminal justice issues.

Examples:

Right now our justice system is stuck using only one gear – the prison gear. Think about how a bicycle needs to use different gears for different situations to work effectively and efficiently. The criminal justice system is trying to deal with a wide variety of situations using only the prison gear. We need to have other justice gears for people who come into the system, like mental health or juvenile justice services. We need to change the criminal justice system to make sure it has different gears for different purposes and that it can use the right gear in the right situation. If we do use more justice gears, we can improve outcomes and all get where we need to go.

Even in the most difficult mazes, there’s a way to get in and out. But the criminal justice system is designed without enough paths that come out of the maze. A lot of people, no matter where they come into the criminal justice system, get on a path that goes straight to prison and has no way out. We know that other routes, such as those to mental health services, addiction services or juvenile justice services, must be made available. These must be two-way paths so that people can get to where they need to

go. We need to redesign the justice maze with clear multiple routes so that people can get where they need to go in the most effective and efficient way possible.¹³

For a full explanation and examples of the use of these metaphors, go to http://www.frameworksinstitute.org/assets/files/pscj_metaphors.pdf.

10. Use Individual Stories Carefully and Strategically. When telling stories about people who have been involved in the criminal justice system, or when telling your own story, it's critical to remember a few points about balance. While these stories are crucial to building public support, and important to tell, we must do this carefully to avoid some common pitfalls of telling stories about individual experiences.

- ▶ When including people's stories, be aware of audiences' tendencies to over-focus on individual success and failure. Examine each story to ensure that it can transcend that focus and bring audiences to systemic and policy solutions that we all are responsible to enact. Make sure all the stories you include connect to support the larger vision.
- ▶ Talk about people, not labels, when sharing individual stories. For example, instead of "juvenile offender" or "inmate," talk about "young person in detention," someone who has "committed crimes in the past," "emerging from prison" or, in context, "a returning citizen."
- ▶ Emphasize growth and redemption -- the idea that people grow and change over time, and that we all deserve a chance to start over after missteps or misfortune.
- ▶ Make sure that spokespeople understand and are fully prepared, are offered appropriate support for the potential emotional and legal consequences of sharing their personal stories, and have access to legal and other resources.

Examples:

I don't want my country to tell any child that he or she is irredeemable. It sounds so obvious to say that you aren't the same person you were when you were a kid, but I saw people in prison who were punished forever as if they'd never be more than the worst thing they had done as a kid -- as if, no matter what, they'd never change or be worthy of the chance to prove they might deserve release. – Jason Baldwin, one of the West Memphis 3¹⁴

Mr. Owino, 37-years-old, has been in immigration detention since 2005 with no bond, nearly a decade after he completed his sentence for his crime. ... Mr. Owino's detention is emblematic of how arbitrary mandatory detention is in our broken immigration system. Mandatory detention violates the international human rights law prohibition against arbitrary and indefinite detention. It imposes an additional punishment on individuals who have already paid their debt to society, one which is often harsher because -- unlike criminal incarceration -- there is no definite release date. – Families for Freedom¹⁵

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- ¹ <https://supreme.justia.com/cases/federal/us/572/12-10882/opinion3.html>
- ² <http://www.kkfi.org/program-episodes/formerly-incarcerated-and-convicted-peoples-movement>
- ³ <https://www.governor.ny.gov/news/governor-cuomo-announces-executive-actions-reduce-barriers-new-yorkers-criminal-convictions>
- ⁴ <http://www.safeandjust.org/About-Us>
- ⁵ <http://www.drugpolicy.org/mission-and-vision>
- ⁶ <http://www.uua.org/liberty/criminaljustice/124024.shtml>
- ⁷ <https://nnscommunities.org/who-we-are/mission>
- ⁸ <http://sentencingproject.org/wp-content/uploads/2016/01/To-Build-a-Better-Criminal-Justice-System.pdf>
- ⁹ Simon, A. F., & Gilliam, F. D. (2013). *Framing and Facts: Necessary Synergies in Communicating About Public Safety and Criminal Justice*. Frameworks Institute.
- ¹⁰ <http://famm.org/wp-content/uploads/2013/08/FS-Alternatives-in-a-Nutshell-7.8.pdf>
- ¹¹ <http://healthland.time.com/2011/11/07/study-whites-more-likely-to-abuse-drugs-than-blacks>
- ¹² <http://www.theatlantic.com/politics/archive/2016/04/will-rikers-island-be-closed/479790/>
- ¹³ Kendall-Taylor, N. (2013). *Mazes and Gears: Using Explanatory Metaphors to Increase Public Understanding of the Criminal Justice System and its Reform*. Frameworks Institute.
- ¹⁴ http://www.huffingtonpost.com/jason-baldwin/supreme-court-juvenile-sentences-life-without-parole_b_1653920.html
- ¹⁵ <http://familiesforfreedom.org/news/releases/immediate-release-detained-nearly-decade-kenyan-torture-survivor-still-awaiting-relief>

www.opportunityagenda.org