

# The D.A. agenda: reduce incarceration

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When Rod Underhill attached his name to new group aimed at putting fewer people behind bars, he made a symbolic statement more prudent district attorneys up for reelection might shy away from.

The group, Law Enforcement Leaders to Reduce Crime and Incarceration, announced its arrival on Oct. 21 at a press conference in Washington, D.C. Thus far members include more than 150 current and former police chiefs, sheriffs, prosecutors and attorneys general from all 50 states who say they're committed to advocating loudly for fundamental changes to America's justice system.

"As our nation's top police and prosecutors reflect back on their careers, we have come to understand that many of the so-called tough-on-crime principles to which many of us gave our lives are flat out wrong," said member Maj. Neill Franklin, a former police commander in Baltimore, Md.

Law Enforcement Leaders plans to advocate for alternatives to arrests, end mandatory minimums and reduce incarceration – while maintaining public safety. It's a project of the Brennan Center for Justice at New York University School of Law.

The bulk of prosecutors who signed on with the national advocacy group are also members of the Association of Prosecuting Attorneys – Underhill sits on its board of directors.

"It's a group of prosecutors from around the country who tend to think similarly," he said. "We can agree on a lot of things. But everybody has their certain point," he said – his being mandatory minimums, also known as determinate sentencing.

"I am a supporter of many of the determinate sentencing schemes we have here in Oregon," he said, noting when it comes to murder, "I prefer the post Ballot Measure 11 environment."

Underhill told Street Roots his motivation for joining Law Enforcement Leaders came from a shared philosophy he's already put into practice as one of the chief designers of Oregon House Bill 3194 – a piece of 2013 legislation that funded programs to reduce recidivism and the number of inmates counties were sending to state correctional facilities. It also relaxed sentencing guidelines for nonviolent drug and property crimes.

Locally, it created the Multnomah County Justice Reinvestment Program, where some individuals facing prison sentences are offered intensive probation instead.

Offenders convicted of property crimes, drug offenses and some Tier II Measure 11 offenses, such as second-degree kidnapping, robbery and assault, are assessed for eligibility. If an offender participates, he or



PHOTO BY JOE GLODE

Multnomah County  
District Attorney  
Rod Underhill

she stays in the community and is enrolled in wraparound services, such as drug and alcohol treatment, housing and mental health services. If participants violate probation or commit another crime, they are revoked from the program and sent to prison to serve out their sentence.

Underhill said if this 15-month-old program proves successful, he'd like to make it available to more offenders.

But at this point in the program, "we don't have the answer to a very, very important question," he said.

If his office recommends keeping someone in the community instead of prison, and then that person commits another crime, that's something he needs to be watching for, Underhill said.

"It's my job to be responsible," he said. "Have we kept the right people here on supervision and given them a chance for success? And how well are our programs doing in facilitating and assisting in that success?"

To date, 90 percent of offenders in the program have been successful, with 32 out of 324 individuals enrolled in the program having been revoked to prison.

Most revocations were due to technical violations, such as not going to treatment, using drugs and failing to report, according to Multnomah County spokesperson David Austin. He said these violations occur after the probationer is given several warnings.

Underhill said in addition to decreasing the number of inmates the county sends to prison, the number of county jail beds has dropped significantly – from 2,100 several

*Multnomah County's incarceration rate is less than half the national average, but disparities remain*

years ago to 1,310 today. And the length of stay at county jails is 12.7 days, much shorter than the national average, which is 23 days.

According to recent analysis by the John D. and Catherine T. MacArthur Foundation, the incarceration rate in Multnomah County is less than half the national average.

While incarceration rates are down and jail beds are fewer, Multnomah County has room for improvement in the disparate representation of minority groups and mentally ill people within its jails and courtrooms.

Underhill noted a MacArthur study found a disproportionate number of cases coming into his office for review involve the African American community – "4.3 to 1 ratio, black to white."

African Americans are 6.5 times and Native Americans are 3.2 times more likely than whites to be booked into Multnomah County jails, according to county numbers.

He noted, however, that this disparity is not exacerbated when his prosecution team reviews cases – deciding which ones to move forward on and which ones to drop – meaning percentage-wise, the number of cases his office prosecutes among different races is fairly flat. He said there are even "modest reductions" in some areas.

Mentally ill individuals are also taking up a disproportionate number of jail beds. Forty percent of people booked into Multnomah County jails suffer from mental illness, and they usually stay longer.

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