Public Safety: Framing a Reform Agenda

A FRAMEWORKS RESEARCH REPORT
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About FrameWorks Institute:

The FrameWorks Institute is an independent nonprofit organization founded in 1999 to advance science-based communications research and practice. The Institute conducts original, multi-method research to identify the communications strategies that will advance public understanding of social problems and improve public support for remedial policies. The Institute’s work also includes teaching the nonprofit sector how to apply these science-based communications strategies in their work for social change. The Institute publishes its research and recommendations, as well as toolkits and other products for the nonprofit sector, at www.frameworksinstitute.org.

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INTRODUCTION

On October 13, 2010, the Charles Hamilton Houston Center at Harvard Law School convened a group of experts and advocates to discuss a series of challenges confronting the field of “public safety.” The underlying motivation for the meeting was the sense that advocates had not been particularly successful in moving forward their progressive policy agenda. Several advocates at the convening confirmed and emphasized this view:

“We’re fighting against each other to get one of our issues moving forward, circular firing squad instead of being able to be in a position to move our issues forward.”

“I don’t think we are doing a great job in advocacy groups focusing our messages and we are spreading ourselves too thin.”

The upshot of these comments was articulated by one of the conveners:

“How do we start to develop collective progressive reforms to our criminal juvenile justice [system] and laws and to change the way that we think and strategize?”

Part of the answer to this question is that the field of public safety and criminal justice reform needs a stronger grasp of strategic communications if it is to make headway on their goal of instituting a reformed criminal justice agenda. In particular, it needs an antidote to the dominant frame — “tough on crime.”

The FrameWorks Institute was tasked with providing a systematic model for understanding and responding to the communications opportunities and challenges confronting criminal justice reform advocates. This report details the first stage of the FrameWorks engagement on this issue. The initial section of the report is an analysis of the story of the field as told through their communications materials, policy briefings, legislative testimony and websites. The second section is based on a recalibration of this story that resulted from the October convening, during which meeting attendees were given a chance to review the story their materials are telling and react to a critique of this story by FrameWorks staff. The final section expresses several testable propositions that result from the preceding analysis. Future FrameWorks research will move to empirically test these and other communications hypotheses, with the goal of shaping better public understanding of the issues that face the criminal justice system and producing a more productive public dialogue. In this way, the primary goal of this report is to provide insights and hypotheses for the next round of FrameWorks research. Put differently, in the following report I begin to develop a story with
narrative integrity and practical malleability that advocates and experts can tell. In beginning to develop this story, I comment on the framing challenges that remain, as well as the lessons that this early research offers to subsequent research on how to create public understand of, and support for, a progressive criminal justice reform agenda.

**EXPERT MATERIALS REVIEW**

The first step in the expert materials review process was to review a wide body of criminal justice materials in order to recreate the best approximation of a “public safety” story. I recognize that this is not “the” story of the field; in fact, it may be one of several that could be identified. I also note that this is not an attempt to decide which messages, frames or models are the “best.” Rather, this is a “reasonable person” recreation of the messages and their presentation that emerges from a systematic review of advocate materials. It is important to note that by identifying such concepts and patterns of conveyance, I am not advocating the effectiveness of these elements as components of a communications strategy. Rather, I am merely seeking to document some of the current practices the field employs to communicate its messages.

Materials were gathered by advocate submissions, Internet searches and website and literature reviews. While our search was not exhaustive, it was extensive. The approach was to search as though a U.S. senator had assigned a senior staffer to prepare a memo on progressive criminal justice reforms. As seen in Figure 1, materials from more than 60 advocacy organizations were reviewed. Close to one-half were primarily not-for-profit organizations; about one-third listed academic institutions as their primary affiliation; and about one in five represented foundations.

![Figure 1: Organization Type](image)
The majority of organizations used in the materials review had either a national, or both a national and a local scope (Figure 2). Less than 10 percent reported serving primarily local interests.

![Figure 2: Scope](image)

As seen in Figure 3, about 40 percent of the organizations report having a “rights” oriented perspective as their major substantive issue. About another third cover issues labeled as “social welfare.” Interestingly, given all the talk about race, racism and bias during the October convening, fewer than 10 percent of the organizations consider their primary focus to be “race.”

![Figure 3: Focus](image)
Story Emerging from the Materials Review

The construction of the field’s story, as evident in the materials review, is built around a value proposition, a problem statement, a set of explanatory factors and a plethora of policy recommendations. I have ordered the story in this way for analytic purposes but must observe that, in reality, the story does not appear this orderly. I will have more to say about this later in the report.

The primary values statement that emerges from the review is that the U.S. criminal justice system fails to deliver on its pledge of justice. As one advocacy group puts it:

“In the United States, the promise of ‘justice for all’ is for many citizens too often just a promise. At almost each point at which individuals enter the system — from the moment of initial arrest, to courtroom proceedings, and eventual re-entry, the criminal justice system badly needs reform.”

Thus, the call to action is a sense that the system fails to appropriately mete out justice in an equitable manner to all citizens. Moreover, the “tough on crime” approach simply means that the U.S. has inordinately high incarceration rates:

“In the last 20 years, our nation has witnessed an unprecedented growth in its prison population, making the country’s incarceration rates the highest in the world.”

Or as one advocate at the convening said, “We can’t arrest our way out of a problem.” This problem is exacerbated by the fact that the injustice is experienced disproportionately by members of certain groups, and combines factors of race and age:

“Saying the U.S. criminal system is racist may be politically controversial in some circles. But the facts are overwhelming. No real debate about that.”

“The U.S penal system has become ubiquitous in the lives of low-education African American men ... and is ... an important feature of a uniquely American system of social inequality.”

“Although the overall juvenile arrest rate has remained near a 25-year low, the disparities between white and black arrest rates in 2006 were at the highest point in a decade.”

“While the arrest rate for white youth decreased 9 percent from 2001 to 2006, the arrest rate for black youth increased by 7 percent during this same time period.”
So not only is the criminal justice system biased against African Americans and Latinos, it is most acutely biased against young men of color. The basic feature of the story at this point is that police, prosecutors, probation officers and other criminal justice officials consciously and/or unconsciously discriminate against minority group members.

According to the materials reviewed and analysis of transcripts from the convening, explanations for the growth in the U.S. prison population fall into two basic categories. The first is that there is a range of flawed criminal justice policies that have a non-trivial thread of racial bias. The second is that the underlying community-level determinants of crime have not been adequately identified and addressed by policymakers.

There is no doubt that the prison population has grown dramatically over the last 20 years. Reform advocates believe that it is the direct result of a series of flawed and misguided criminal justice policies:

“Over the past 30 years, policymakers have increasingly shifted toward incarceration as the primary strategy for addressing crime in America, despite the fiscal demands this places on limited public resources, and despite growing evidence that such massive incarceration has resulted in diminished public safety returns.”

One of the chief culprits of misguided policy efforts is government policies toward drugs — particularly street drugs. Furthermore, these policies target African American youth in noticeably disproportionate ways:

“Even though white youth are more likely to report using drugs and 30 percent more likely to report selling drugs, African American youth are twice as likely to be arrested, twice as likely to be detained, and significantly more likely to be prosecuted in the adult court for drug offenses.”

Other issues, like the disproportional punishment for crack versus powder cocaine, the emphasis on arresting street users and dealers instead of distributors and importers, and the lack of attention given to the types of drugs most prevalently used by whites — such as crystal meth and other amphetamines — all contribute to an expensive and discriminatory policy agenda that does little to make the public safer or decrease the demand for illegal drugs.

Another keystone of the field’s story is the issue of racial profiling. For years, law enforcement has dealt with charges of discriminately stopping and arresting black drivers —
hence the pop culture acronym “DWB” (driving while black) — and has faced lawsuits that maintain that profiling is a widely utilized law enforcement strategy. As one advocate maintains:

“The police stop blacks and Latinos at rates that are much higher than whites. In New York City, where people of color make up about half of the population, 80 percent of the NYPD stops were of blacks and Latinos. When whites were stopped, only 8 percent were frisked. When blacks and Latinos were stopped 85 percent were frisked, according to information provided by the NYPD.”

These are the two most notable of a list of policies that the field considers ineffective and costly. We will address this policy critique later in the report, but will foreshadow by saying that this part of the story may have potential to gain real traction.

The second category of explanatory factors that the field identifies and focuses on has to do with the social determinants of crime. Many reformers believe that not enough attention has been given to the ecological factors that contribute to higher crime rates. Three examples are often used for this part of the story: health, education and community factors. The first is that the lack of access to quality health care is related to a rise in rates of incarceration. For example:

“More than half of Hispanic adults report not having a regular doctor even when insured — a rate that is 2.5 times greater than the proportion of whites. Furthermore, compared to whites (77 percent), Hispanics and African Americans are less likely to receive care in a private doctor’s office (44 and 62 percent, respectively) and more likely to seek care in community health centers (CHCs) or emergency departments.”

“Four times as many mentally ill people are in prisons than in mental health hospitals. We are warehousing mentally ill in our prisons.”

Things such as mental illness, chronic stress, exposure to violence, drug and alcohol addiction, and exposure to toxins in the environment all contribute to a less healthy, thus less safe, community.

The second of the key social determinants identified has to do with the relationship between education and criminal activity. This plays out in several ways. For example:

“Dropouts are three-and-a-half times more likely than high school graduates to be arrested.”
“A more recent survey of dropouts concludes that they are more than eight times as likely to be in jail or prison.”

In this regard, the materials reviewed tell the following basic story: The more kids who stay in school, the safer the community will be. Likewise, the notion of using law enforcement to deal with educational and community problems has led reformers to think of educational failures as the “prison pipeline.” Or, as one advocate says:

“The combination of overly harsh school policies and an increased role of law enforcement in schools have created a ‘schoolhouse-to-jailhouse track,’ in which punitive measures such as suspensions, expulsions and school-based arrests are increasingly used to deal with student misbehavior, and huge numbers of youth are pushed out of school and into prisons and jails.”

Finally, advocates have identified community-level factors that account for high rates of incarceration. The basic idea here is that there are several variables that diminish the capacity of communities to develop the types of cultural norms that are generally believed to reduce crime. In fact, some posit the rising incarceration rates actually make communities less safe:

“We are finding that high rates of incarceration may also result in counterproductive effects on crime. This comes about due to the high mobility in certain neighborhoods caused by people cycling in and out of prison. As a result, there is a fraying of social bonds between families and neighbors, and the loss of informal controls that normally contribute to public safety.”

In all, there are several community factors that explain high levels of crime in some places. Lack of access to health care, poor educational opportunities and a corroded civil society are obvious examples. To this list I would add high rates of unemployment, a lack of green space, low levels of economic development and investment, and insufficient public transportation.

Taken together, these factors — failed and flawed policies, and broader contextual variables — explain why some communities have much higher rates of arrest and incarceration than others.

Despite these challenges, advocates take heart in the fact that there are several alternatives to mass incarceration that are more efficient and less costly. In this regard, the basic position of reformers is that:
“Smarter alternatives exist, that cost less money and are more effective at rehabilitating people... while saving money, promoting safety and building communities.”

Indeed, the reform community lists scores of policy and procedural reforms that would be less expensive and more effective at actually improving community safety. However, the sheer number of reforms that emerge from the field makes it difficult to single out a digestible reform agenda. The result is that it will be difficult for the public to understand reforms and determine which in the set of those proposed are worthy of support. Additionally, this sort of option-overload makes it difficult to ascertain which policy should take priority. Is there some inherent order that the reforms should follow? Which ones are easy to implement and which ones are harder to implement? What about cost? Are some innovative but expensive? Are others sensible but politically weak?

These questions lead us to the next section of the paper, about “reframing” the core story. But first, I offer a narratized version of the story that emerges from the materials review:

*Our prisons are overflowing and they are costing us a fortune, more so than any other industrialized country. They are disproportionately filled with black and brown men. And young men of color are more likely to go to prison than college. Why? Because the criminal justice system is broken — it is racially biased and has been dominated by failed “get tough” policymaking. Politicians and bureaucrats have neglected communities of color that are besieged by the highest rates of unemployment, the poorest-performing schools, and little access to quality health care. It is unfair and a fundamental violation of America’s commitment to justice for all.*

**Framing Challenges of the Materials Review**

There are four primary framing challenges that arise from the core story from the materials review:

1. An order problem
2. A swamp problem
3. A data problem
4. Confused policy agenda
The order problem is relatively straightforward. In reality, and contrary to the way I presented it above, the value proposition is stated late in the vast majority of materials I reviewed. Not only is the failure to place values higher up in the communications a problem, the jury is still out on whether the values that reformers espouse — justice and fairness between groups — drive up support for a progressive criminal justice agenda. Previous FrameWorks research demonstrates that fairness between groups is a tough sell. When presented with this value, people quickly become relativists and default to assessing the deservingness of the target group. As for justice, it is not clear that the public has a firm grasp on what this means as a practical matter.

The swamp problem manifests itself in two ways. The first is the “race swamp” problem. Again, as shown in previous FrameWorks research, when race — and particularly racism — is evoked, the dominant cultural models that Americans use to think about race are activated and become operative in how people make sense of a given message. Chief among these dominant models of race is the assumption that racism is a problem the society has solved and that racial disparities are the result of some groups not living up to the norms associated with self-makingness. Policies that are designed to help groups believed to be the victims of discrimination, therefore, are cognitively adjudicated on the basis of whether or not the group in question “deserves” the aid. Racial minorities, such as African Americans, are not typically considered to fall in the “deserving” category.

The second way the “swamp” comes into play is with regards to the role of government in criminal justice reforms. Discussions of government as part of the solution run counter to the dominant American models in which government is connected powerfully to notions of ineffectiveness, waste and corruption. The activation of the deep American understanding of government creates a powerful paradox: If government is the problem, how can “other government programs” be the solution? Put differently, how can government keep us safe if it is out of control, inefficient and — like Frankenstein — has turned against us, its creators? Therefore, invocations of government in communications about criminal justice reform must walk a very fine line.

Turning to the data problem, there are at least two challenges. The first is in the common problem statement that identifies the U.S. as the world’s largest jailer. Reformers typically go on to note that other countries — in Europe and elsewhere — jail fewer people and have lower crime rates. The issue here may well be that American exceptionalism trumps data. Much as with health care, the jingoistic response is that, if other countries are so much better, why don’t you move there? This is not a productive debate for a reform agenda.
Alternatively, data that tell a story which conflicts with deep cultural belief that “America is the best country in the world” may be easily disregarded and put out of mind.

The second part of the data problem, as many participants pointed out at the convening, is that there is a lack of systematic data to use in evaluating the flaws in the system. The cruel irony is that the lack of good data is one of the problems with the system but the data is so sketchy that it is difficult to prove that a lack of data is the problem. In any event, it is unlikely that the truth, via more or more powerful data, will set the public free.

Finally, there is the policy overload issue mentioned above — the sheer magnitude of policy proposals confuses the public about a reform agenda. Moreover, it splits the reform constituency and oftentimes pits reformers against each other. This problem compounds itself in the policy process with lawmakers having to choose between equally valid progressive reforms. It doesn’t allow for easy comprehension, prioritization, cost-benefit analysis or public articulation.

**REFRAMING THE STORY**

FrameWorks presented the story from the materials review to attendees of the October 13 meeting for review and reaction. After a fairly extensive discussion, participants were divided into five groups — juvenile justice, community factors, post-conviction and death penalty, police and prosecutorial misconduct, and fairness in the courtroom. These groups were treated as quasi-expert interviews, with each group assigned responsibility for answering a set of questions designed to refine, revise and redefine the field’s story. The questions were:

- Is there a set of key, central, consistent empirically supported statements we can make about this issue area?

- What core pieces of evidence are absolutely fundamental to understanding how criminal justice issues work?

- What does the public need to know that would help them support progressive policies on this issue?

- What are the four policies that you would prioritize?

Each group spent about 90 minutes preparing a collective answer to the questions, with some members assigned to take notes and to report out to the convening of the whole. A
FrameWorks staff member was assigned to each group to facilitate discussion and also take notes. Each session was recorded and transcribed, resulting in more than 500 pages of text.

This section of the report is an analysis of those notes and transcripts, which formed the “data” for a reformulation of the story. Again, I imposed a certain analytic order to the story that is more in accordance with the standard FrameWorks design as opposed to how the story emerged from the experts.

The Revised Story and Emerging Communications Hypotheses

The primary values that arose from the discussions at the meeting were around responsible management and ingenuity. Participants widely agreed that the criminal justice system is poorly managed, costly and actually makes citizens less safe. Moreover, they agreed that it fails to acknowledge several viable alternatives to the current system. Put differently, the system needs to be effectively (responsibly) managed in a way that takes into account a number of innovative measures implemented at the national, state and local levels.

“We do a really bad job of distinguishing between the people we’re scared of and the people we’re mad at. That the people we’re scared of may well belong in prison. The people we’re mad at, we need to figure out a better way of dealing with them. That right now we just put them in prison.”

“Incarceration is the most expensive and least effective means of insuring public safety.”

“We need evidence-based, research-driven policies to really create safe communities, not policies driven on the politics of fear.”

“We are innovative, we are really smart, we’re doing amazing things in our communities. We need to start honoring them and giving them the resources and — research and development resources that they need, and not wasting our money on the stuff that we don’t need, which is prisons.”

There were at least two broad areas participants saw as targets for management reform. One has to do with data collection. The other has to do with ensuring balance in the adversarial system. Further, there were two substantive issue domains where these flaws become magnified — juvenile justice and immigration. And, as always, there was an underlying sense that all of this is connected to the disproportionately high number of black and brown men in prisons and jails.
There was widespread agreement among the group that serious reform was needed in how data are collected (or not collected) and managed (or mismanaged). For instance:

“Is the prosecutor just banging a file in and out? Are the forensics people backed up so they can’t provide the forensic evidence that might be helpful early on? So I mean, I think really kind of the overwhelming caseloads of different aspects of the system might be another thing worth charting out there.”

“You have to go all over the place to try and find it. I mean, certainly, you start with the public defender office or system, but more often than not, you can’t end there. You have to go someplace else, and you have to go to the courts. Even sometimes we get data from the prosecutor that’s better than what’s in the public defender system. But across systems generally, data is absolutely an issue.”

“The movement from criminal justice to the immigration detention system is also not tracked, so you go to Riker’s in New York to look for your client, and he’s been moved to Texas to an immigration detention facility, and there is no data until now.”

The lack of reliable data was also seen as detrimental to accountability. This is important because responsible management depends on the ability to hold people accountable to a set of identifiable metrics. Meeting participants, however, frequently observed that the lack of data oftentimes made it difficult, if not impossible, to make credible judgments about the efficacy of certain policies and programs:

“The lack of transparency and accountability not only … it’s hard from the outside to tell what’s going on.”

“We can’t say you should be spending less money, and putting people into drug courts, until we can say there’s a lower recidivism rate when they go through drug court than when they go through the criminal justice system, the prison system. And right now, the data that we have on that is really, really small.”

“It’s not being collected. If it is collected it’s not being disclosed.”
FUTURE DIRECTIONS IN REFRAMING RESEARCH

The field’s story presented and refined here constitutes a starting point for strategic communications research. Moving forward, this research will focus on developing effective tools to translate and communicate the messages that emerged from the materials analysis. In addition, the results of the October meeting will be used to develop a set of framing hypotheses — for example, regarding the effectiveness of justice as a value and the use of data to communicate the system’s problems — that can be empirically tested via quantitative framing experiments and explored in greater detail through additional qualitative methods. These hypotheses will be tested against other reframing strategies in order to arrive at a set of tools that can be effectively employed by advocates to create greater public understand of issues of public safety and increased support for a progressive criminal justice reform agenda.
ENDNOTES

1 See FrameWorks’ research on race for more on the problems associated with a fairness between groups frame and how fairness between places is a more effective alternative. This research is publicly available at: http://www.frameworksinstitute.org/race.html

2 FrameWorks talks about “the swamp of public opinion” as the set of implicit understandings, propositions and assumptions that Americans bring to bear in making sense of a given issue.

3 See: http://www.frameworksinstitute.org/race.html

4 As part of the Strategic Frame Analysis™ method, FrameWorks Interviews experts and advocates in order to establish a starting point in FrameWorks’ approach to strategic communications and knowledge translation. Delineating and distilling a clear set of messages from experts and advocates serves several key functions. First and foremost, as the goal of any knowledge translation effort is the successful communications of something, such efforts must begin by clarifying what the “it” is that is to be translated. Second, establishing the expert story is important in clarifying the desired outcomes of a successful communications effort. Empirical translational work requires a set of dependent variables against which the success of recommendations can be judged and held accountable. Expert interviews typically consist of a series of probing questions designed to capture expert and advocate understandings—their core ideas, definitions, principles and findings, as well as the perceived policy and programmatic implications of their work on the target issue. The interviewer guides experts, in one-on-one interviews, through a series of prompts and hypothetical scenarios designed to challenge expert informants to explain their research, experience and perspectives, and to break down complicated relationships and simplify concepts and findings. In addition to preset questions, the interviewer probes for additional information throughout the interview. In this way, expert interviews are semi-structured collaborative discussions with frequent requests from the interviewer for further clarification, elaboration and explanation.

5 A distilled version of the content (as separated from the field’s hypotheses regarding how best to present this content) is presented in another report in which FrameWorks map the gaps between expert knowledge and public understanding. See: Bunten, A.C., Kendall-Taylor, N., & Lindland, E. (2011). Caning, Context and Class: Mapping the Gaps Between Expert and Public Understandings of Public Safety. Washington, DC: FrameWorks Institute.