

LEAGUE OF WOMEN VOTERS ILLINOIS

CRIMINAL JUSTICE POSTION STUDY QUESTIONS 1-7

JANUARY 7, 2020, 7 PM

This packet will be the basis of our discussion at the consensus meeting. Please review this information before the meeting. It would be helpful to print this packet, so you can refer to it as we discuss each of the consensus questions.

LWVIL Criminal Justice Position Update – Consensus Questions #1-7

1. Investing in communities to reduce crime and violence

To reduce crime and violence, should there be investment in underserved and/or impoverished communities?

2. Bias in the criminal justice system

Should there be periodic training for individuals working in the criminal justice system to recognize implicit racial and ethnic bias in order to more adequately work toward the goal of equal treatment under the law?

3. Data collection and transparency

Are efficient data collection, data sharing, and transparency critical in an impartial and unbiased criminal justice system?

4. Gender-Responsive approach for all offenders

Should a gender-responsive approach be used for all offenders with the goal of equitable and appropriate treatment?

5. Criminal justice Coordinating Councils

- a. Should Criminal Justice Coordinating Councils (CJCCs) be created throughout the state?
- b. Should CJCCs include a wide representation from local justice systems agencies, other government bodies, service providers, and the community?
- c. Should incentives and support be provided for the establishment of local CJCCs to assist them as they develop strategic plans to address crime and corrections policy?
- d. Should there be cooperation and coordination between the State and CJCCs in order to share experience and data with the goal of improving plans to address crime and corrections policy both locally and statewide?

6. Policing

- a. Is building trust and nurturing legitimacy on both sides of the police/citizen divide foundational to positive relationships between law enforcement agencies and the communities they serve?
- b. Should law enforcement agencies collaborate with community members to develop policies and strategies to reduce crime?
- c. Should law enforcement adopt model policies and best practices for technology-based community engagement that increases community trust and access?
- d. Should community policing be the guiding philosophy for all stakeholders (law enforcement, schools, social services, churches, and businesses)?
- e. Should quality training and education begin with recruits and continue throughout an officer's career?
- f. Is the wellness (health) and safety of law enforcement officers critical not only for the officers, their colleagues, and their agencies but also to public safety?
- g. Is it desirable for police to use alternatives whenever possible to deflect offenders

from arrest?

7. Pre-Trial procedures

- a. Should we delete the existing position which supports a bail bond system and revise our position based on consensus regarding the following issues?
- b. Should cash bail be abolished?
- c. Should defendants be detained in jail only if they are a flight risk or a danger to society?
- d. Should risk assessments be transparent and designed to exclude weights that may be prejudicial against certain populations?
- e. Should electronic monitoring be used rarely for offenders prior to trial and/or sentencing?
- f. Must the Bond Court Judge review the Public Safety Assessment that is the basis of determination as to an individual's release?
- g. Should Pre-Trial Service providers remind defendants of court appearances?
- h. Should an attorney or a public defender be present for all defendants, at all hearings

Purpose of Consensus Meetings – Criminal Justice

The LWVE's task is to help develop a position statement on criminal justice, along with Leagues across the state, to provide the basis for future advocacy in Illinois. For example, as legislation is proposed to change criminal justice laws, we can advocate for reform using the position statement as a foundation. It gives us more credibility and allows us to speak with one voice.

Our task is not to be the decision-makers about policing or sentencing or other complex issues confronting the reform of our criminal justice system. We are not looking to suggest details of specific policies and their implementation.

For many of the proposed items, the cost of implementing change is introduced as a reason to oppose. Participants should remember that incarceration and recidivism also impose costs on society. More important, these proposed reforms are aspirational and long term, and LWVIL adoption of these positions will not impose an immediate mandate or financial burden on any locality. LWVIL, local leagues, and other organizations will lobby/work with legislatures and other bodies to responsibly move towards these positions with adequate financial resources.

These are complex issues, and a detailed discussion could be very interesting, but our goal is to articulate a response and try to reach consensus on the positions circulated by LWVIL.

1. Investing in Communities to reduce crime and violence

To reduce crime and violence, should there be investment in underserved and/or impoverished communities?

PRO

- Underserved and/or impoverished communities provide limited opportunities to their residents to find employment, to create a business, to find suitable, affordable housing, to access needed health care and other social services. There is now sufficient evidence that public and private investment, not punishment, is key to reducing violence.

CON

- Private companies will not invest in poverty areas because there is no effective demand for their products and services and it is too dangerous to do so.

2. Bias in the Criminal Justice System

Should there be periodic training for individuals working in the criminal justice system to recognize implicit racial and ethnic bias in order to more adequately work toward the goal of equal treatment under the law?

PRO

- Even with good intentions, people are unwittingly biased and need ongoing training to recognize and work to correct their biases. The criminal justice system is predicated on the importance of equal treatment under the law; therefore, whether biases should be addressed is an important issue.
- The 5th recommendation of the Illinois State Commission on Criminal Justice and Sentencing Reform states: “Require periodic training on recognizing implicit racial and ethnic bias for individuals working in the criminal justice system, including but not limited to law enforcement officers, prosecutors, public defenders, probation officers, judges, and correctional staff.”

CON

- Broad-based training detracts from the work that employees are hired to do. This training is sometimes ineffective and therefore not worth the expense.

3. Gender responsive approach for all defenders

Should a gender-responsive approach be used for all offenders with the goal of equitable and appropriate treatment?

PRO

- The Illinois Commission on Criminal Justice and Sentencing Reform in its fourth recommendation called for a Gender-Responsive Approach for Female Offenders. However, we know that other populations such as transgender people have special needs and concerns related to gender. A gender-responsive approach is essential for equitable and appropriate treatment.

CON

- Some inmates would object to transgendered people being transferred to their prison. There is a safety issue and cost issue in accommodating transgendered people.

4. Data collection and transparency

Are efficient data collection, data sharing and transparency critical in an impartial and unbiased criminal justice system?

PRO

- This question was prompted by the realization that “best practice” and “research-based practices” cannot be developed without analysis of relevant data. Because of the many jurisdictions (state, county, local, community), accurate and comprehensive data are difficult to collect. When reliable data are shared, the results are mutually beneficial for both state and local jurisdictions. Data collection and transparency are critical if criminal justice system is to be impartial and unbiased.

CON

- Jurisdictions throughout Illinois operate on different computer platforms, operating systems, hardware, and software. To enable them to communicate with one another would be a major expenditure of time and money. This then could involve privacy and security, with data shared inappropriately.

5. Criminal Justice Coordinating Councils (CJCC's)

- a. Should Criminal Justice Coordinating Councils (CJCCs) be created throughout the state?
- b. Should CJCCs include a wide representation from local justice systems agencies, other government bodies, service providers, and the community?
- c. Should incentives and support be provided for the establishment of local CJCCs to assist them as they develop strategic plans to address crime and corrections policy?
- d. Should there be cooperation and coordination between the State and CJCCs in order to share experience and data with the goal of improving plans to address crime and corrections policy both locally and statewide?

PRO

- Criminal Justice Coordinating Councils are strategic planning bodies that bring together representatives from key justice service agencies, other government bodies, service providers and community members affected by the justice system. They create plans that deal with local crime problems, usually on the county level.
- If the CJCC members include wide representation from local agencies and if these members truly cooperate with each other, the CJCCs should help local communities re-align the costs and services used to maintain the safety of the community.
- Historically there has been insufficient coordination and cooperation between the State and local agencies when it comes to criminal justice planning. Funding originates from a variety of local entities. There has not been a coordinating mechanism that allowed the State to learn how this funding has fit in with overall local needs. As a result state spending on local needs is often misaligned. If CJCCs receive incentives and support from the body that mandates them, their members are more likely to work together to develop strategic plans that address crime and corrections policy.
- Cooperation and coordination between the State and CJCCs throughout the state can lead all parties to find more cost-effective and efficient ways to address local problems and can lead to savings in financial and human capital and improved outcomes regarding recidivism and behavior change.

CON

- Justice is administered locally. Local criminal justice professionals represent their communities. They do not want mandates from the state that are not funded.
- Local criminal justice professionals fear that working with additional organizations will dilute the mandate of their department to keep the community safe and punish those who threaten public safety.

6. Policing

- a. Is building trust and nurturing legitimacy on both sides of the police/citizen divide foundational to positive relationships between law enforcement agencies and the communities they serve?
- b. Should law enforcement agencies collaborate with community members to develop policies and strategies to reduce crime?
- c. Should law enforcement adopt model policies and best practices for technology-based community engagement that increases community trust and access?
- d. Should community policing be the guiding philosophy for all stakeholders (law enforcement, schools, social services, churches, and businesses)?
- e. Should quality training and education begin with recruits and continue throughout an officer's career?
- f. Is the wellness (health) and safety of law enforcement officers critical not only for the officers, their colleagues, and their agencies but also to public safety?
- g. Is it desirable for police to use alternatives whenever possible to deflect offenders from arrest?

The LWVIL has not previously had a position on policing. The proposed position is based primarily on the recommendations of 2 reports:

- Gatekeepers: The Role of Police in Ending Mass Incarceration, The Vera Institute for Justice (August 2019)
- The Final Report of the President's Task Force on 21st Century Policing, Task force created by President Obama and published in December 2014

According to LWVIL, the consensus questions on policing are interrelated, each is dependent on the others. Foundational is changing the culture of policing. The questions posed in this section largely focus on community policing and pros and cons will be discussed in the following section.

Introduction

Unlike traditional policing, which aims to stop crime primarily through punishment, community policing models are framed as a set of crime prevention techniques that promote building relationships between police officers and the communities they serve, to *prevent* crime and lead to better long-term outcomes.

PRO

Police are called upon to respond to a number of issues that would be better handled by the public health system or social services. Too often police officers rely on intrusive measures that leave residents feeling overpoliced and underprotected. Police may allow fear, distrust, and rancor to germinate between them and the communities they serve. A new model is needed: one that rebuilds trust, maintains public safety, and reserves arrest as a last resort. To meet this goal, it is essential that law enforcement culture should embrace a guardian mindset in which the purpose of law enforcement is to protect and serve rather than a warrior mindset in which police officers are trained and equipped like soldiers.

Communities must be respected and valued in order for there to be positive response from and collaboration with the community. The community's input and insight is essential if law enforcement is to respond properly and effectively. Both the community and police departments are responsible for developing ways of ongoing collaboration with the community that will lead to more deflection from arrest by using community resources and responding in a creative, less punitive manner.

Some technology, such as body cameras, adds protection for both the police and community, but there is a risk that overemphasis on weapons and tactics can alter the minimal force ethos that should be at the core of democratic policing. For example, SWAT teams and armored personnel carriers should be used judiciously and are more appropriate for the military than for police.

Transparency, accountability, accuracy, and privacy are chief concerns. Community policing emphasizes working with neighborhood residents to coproduce public safety. Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all— especially the most vulnerable, such as children and youth most at risk for crime or violence. Law enforcement agencies should avoid using law enforcement tactics that unnecessarily stigmatize youth and marginalize their participation in schools (where law enforcement officers should have limited involvement in discipline) and communities.

According to the President's Task Force report, police officers should be trained to use alternative tools in lieu of use of force when possible, and use of force training should include de-escalation techniques. The Task Force reported that better and ongoing training in each of the following areas will lessen bad outcomes and increase better ones, as officers feel better prepared and more confident: policing in a democratic society, community policing and problem solving principles, implicit bias and cultural responsiveness, social interaction skills and tactical skills, crisis intervention teams (mental health, addiction, spectrum disorders), how to work with LGBTQ and gender nonconforming populations, languages and cultural responsiveness.

Good physical health and good mental health are essential for a police officer to be effective and safe in their work. The Task Force found that officer suicide is a problem: a

national study using data of the National Occupational Mortality Surveillance found that police died from suicide 2.4 times as often as from homicides. A key recommendation from the President's Task Force includes mandatory annual mental health checks for police officers.

CON

- A significant number of organizations share the goals of structural reform, but argue it cannot be achieved within the given institutional structure and composition of law enforcement agencies and the power and influence of police unions who resist police accountability and the move from a warrior to a guardian mindset. For the system of equitable and just policing described here to be achieved, they argue for the abolition of the police and the prison system.
- The cost of such extensive and ongoing training for all officers is prohibitive.
- It should be the responsibility of individual officers to seek the mental and physical health support and treatment that they need.
- Many officers do not see themselves as social workers, nor do they want to be seen that way.

7. Pre-Trial Procedures

a. Should we delete the existing position which supports a bail bond system and revise our position based on consensus regarding the following issues?

We are asked to delete the existing bail bond position and discuss support for questions b through h.

b. Should cash bail be abolished?

PRO

- When courts use cash bail, it means that access to money becomes the deciding factor in determining whether someone remains in jail before the outcome of their case. Wealth, not safety, determines who remains in jail.
- The majority of prisoners in Illinois are pretrial detainees, meaning they are imprisoned for crimes when they haven't been convicted. A lack of pretrial fairness results in people staying locked up because they are poor and results in high costs for our criminal justice system.

CON

- There should be a presumption of detention for violent crimes.
- Cash bail makes the defendant more likely to remember to show up for court appearances.
- Victims of crimes could be endangered.

c. Should defendants be detained in jail only if they are a flight risk or a danger to society?

PRO

- A research-based Public Safety Assessment (PSA) is used to measure someone's risk of missing future court hearings or committing a new crime if released. and it predicts which detainees are at a high risk of committing violent crimes if released.

- In 2017, a Cook County judicial order required judges to impose “the least restrictive conditions” needed to ensure defendants appear in court and don’t pose a threat to safety. The order also required judges to avoid cash bail whenever possible and use the PSA to assess risk of flight or danger to society.
- Recent research findings reported that 15 months after the Cook County judicial order, the jail’s population fell by 16% as more people were released pretrial without having to pay bail. The study found that there was no statistically significant change in the amount of crime in Chicago in the year after the reform. However, the order doesn’t have legislative power and lacks a robust enforcement mechanism. The Illinois state law still allows judges to set unaffordable cash bail.
- The overuse of pretrial incarceration comes at a tremendous personal cost to impacted individuals and entire communities. Pretrial detention leads to lost jobs, lost housing, and even lost custody.

CON

Police would be discouraged from making arrests if they see someone whom they arrested on the street the next day.

d. Should risk assessments be transparent and designed to exclude weights that may be prejudicial against certain populations?

PRO

- Bail money disproportionately affects Black communities.
- In the consensus question #2 we agreed that we need to recognize implicit racial and ethnic bias and toward the goal of equal treatment under the law? Risk assessment must be valid, reliable, and without bias.

CON

Risk assessments may consider those from disadvantaged communities to be a higher risk of flight or danger to society and fairness may be compromised.

e. Should electronic monitoring be used rarely for offenders prior to trial and/or sentencing?

PRO

- Electronic monitoring puts the defendant, who has not been found guilty, in a restrictive situation, not allowing them to care for their children, go to the doctor or grocery store or perform other essential tasks even within their home. Continuing to work may not be possible, given the restrictions.
- Some jurisdictions charge for electronic monitoring, which unduly burdens the defendant.

CON

- Electronic monitoring isn’t as restrictive as jail and provides the community with a sense of security.

f. Must the Bond Court Judge review the Public Safety Assessment that is the basis of determination as to an individual’s release?

PRO

Results of the PSA is an important factor for the Bond Court Judge to consider to determine the defendant's flight risk and danger to society and adds information the judge uses in the exercise of adjudicatory duties.

CON

The judge is able to judge flight risk and risk to society without the PSA considering the 37 factors that they must consider in making this decision.

g. Should Pre-Trial Service providers remind defendants of court appearances?**PRO**

Reminding defendants of upcoming court dates helps to ensure that they won't forget to come to court. This is not burdensome and avoids unintentional mistakes.

CON

It is the defendant's own responsibility to remember court dates.

h. Should an attorney or a public defender be present for all defendants, at all hearings?**PRO**

- Because of the complexity of the criminal justice system, individuals need an attorney immediately to ensure maximum protection of their rights.
- According to the National Association of Criminal Defense Lawyers, every accused person must be guaranteed counsel at the first appearance before a judge when a criminal charge is entered and when liberty is at stake.

CON

By law, attorneys are provided to defendants who can't afford to hire one. But to require the attorney to be present at all hearings represents an undue burden on courts especially in rural areas.