The policy lessons learned from the criminal justice system response to COVID-19

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1 | INTRODUCTION

The health crisis associated with COVID-19, its lockdowns, and reopenings came in the midst of America’s reckoning with racial and social justice amid the George Floyd murder. These two events spotlighted the racial and ethnic disparities contained in the criminal justice and health systems (Binswanger et al., 2012; Novisky et al., 2021; Nowotny et al., 2021), which served to inflame many social ills and conflicts (that have been there for quite some time) that hinder how we go about securing public health and public safety. In this regard, the country’s early inability to respond quickly and effectively to the public health (and simultaneously) racial and social justice crises originates from the same factors that have long prevented the country from dealing with public safety in a serious, fair, and transparent manner (e.g., racial and ethnic bias, class conflict, tribalism, materialism, etc.). Yet, the coupling of these two crises could also be a springboard for inspiring both a reimagining and a reshaping of the justice system to move toward being fairer and more just. In this regard, the novel coronavirus pandemic, its subsequent lockdowns and reopenings and the recent Delta-based resurgence have provided criminologists with a unique opportunity to study its effects on crime and policy responses.

Since the onset of the novel coronavirus, criminologists have researched how the virus and its policy responses have affected crime and criminal justice, with the most significant findings indicating: (1) a steady increase in specific forms of violence, including primarily homicides/community gun violence (Rosenfeld & Lopez, 2021) and domestic violence (Piquero et al., 2021); (2) reductions or stability in virtually all property crimes, but the acceleration of certain types of offending, such as fraud and cybercrime, due in large part to increased reliance on the internet and related platforms (Kennedy et al., 2021; Payne, 2020); (3) the emergence of new crime types, such as public health violations for breaking COVID-19 safety protocols (Leal et al., 2021); (4) a reduction in prison and jail populations—especially in the first 6–9 months of the pandemic;
(5) a rapid spread of viral infections in jails and prisons (Nowotny & Piquero, 2020); (6) a substantial increase in opioid use and fatalities (Hailey & Saitz, 2020); (6) the creation of gaps in the delivery of needed medical and mental health screening and treatment; and (7) an initial reduction in police stops, citations, and arrests—particularly in the first few months of the pandemic as many departments pulled back on patrol and limited contact with the public in large part due to viral spread, lockdowns—leading to fewer persons out in public, and a lack of protective equipment (cf. Lum et al., 2020a,b).

These research efforts have been important in documenting changes in crime and the criminal justice response and have provided important baseline information to compare against as criminologists continue to track changes in crime in the COVID-19 era. Yet, one of the glaring omissions from the research accumulated thus far—and not necessarily the fault of criminologists per se—has been the lack of policy-relevant discussion surrounding the effects of all-things-COVID on the criminal justice system. This essay takes a step in that direction.

In the sections that follow, I highlight what was the nonexistent policy playbook and initial response by the various actors of the criminal justice system and the subsequent policy decisions and lessons learned as the system navigated the viral outbreak in real time with little—or constantly changing guidance—from state and federal officials. Not only were communities ravaged by the virus—and the racial/ethnic health injustices brought to light, but so to were police, court, and correctional systems and personnel as many became infected, hospitalized, and died—all the while the wheels of the justice system continued at a slower pace (with respect to policing) and in some cases stalled or stopped altogether for a period of time (such as the court system). Following this section, I turn to some of the early experiences as to how policing, courts, and corrections made decisions to adapt to the spread of the virus. The essay closes with some lessons learned by criminal justice agencies, some policy considerations, and importantly how the COVID-19 pandemic in concert with calls for social and racial justice within the justice (and health) system(s) have hopefully moved the dial to reform and reimagine what criminal justice could look like and should like with respect to trust, legitimacy, accountability, and transparency.

1.1 “There’s no playbook here”: The lack of planning and a coordinated response

At the beginning of 2020, the United States was just starting to learn about the spread of the novel coronavirus, not just in Wuhan, China, but also as the virus came onshore. As cases started spreading, some say even toward the end of January 31, 2019, we saw then-President Trump declare a public health emergency. During February 2020, cases, hospitalizations, and deaths started to be reported in Santa Clara, California, New York City, and at a long-term care facility in Kirkland, Washington. And just a few weeks later, COVID-19 was accelerating throughout the United States with speed and fervor, the likes of which we had not seen in dozens of years. By the middle to the end of March 2020, just about every county and state was locked down, so to speak, in order to thwart the spread of the virus.

Amid this 3-month period in early 2020, as testing was slowly being rolled out, all public agencies and private businesses were trying to figure out what to do, whether it was schools, supermarkets, airlines, government agencies, the cruise industry, and in particular the entirety of the criminal justice system. And as the criminal justice system, and policing in particular, is a public-facing occupation that involves extensive interaction, oftentimes in close proximity with
the public, it is not a surprise to learn that many police agencies were down 5–10% and in some cases 20% of their officers due to infections, quarantines, hospitalizations—and even death. All the while, police had to continue to respond to calls for service without enough adequate personal protective equipment (PPE) that was in very short supply (see Lum et al., 2020a, b).

The pandemic’s effect in closing businesses and government operations led to an initial police pullback in stops, traffic citations, and arrests while also leading the court system to hit “pause” leading to a backlog of cases, hearings, and trials. This resulted in a bottleneck of cases that had to be heard once court systems opened up, oftentimes via online platforms, which had their own fair share of problems. As an illustrative example, Figures 1–4 detail Miami-Dade County’s experience with respect to arrests (Figure 1), judicial caseload, with the latter depicting two different trends (1) weekly trends from January 2020–January 2021 in order to see the initial and residual effects of COVID-19 (Figure 2) and (2) monthly trends from September 2020 through September 2021 in order to get a sense of how things changed post-COVID-19 lockdowns (Figure 3) and the
average daily population within Miami-Dade County Detention from January 2020 through May 2021 (Figure 4).

As seen, weekly felony arrests dropped precipitously in early March 2020 through mid-April while judicial caseloads increased (as cases were put on “hold”) during the same time period and continued to do so weekly thereafter as buildings and court proceedings remained on hold or were in very short supply and cases accumulated into early 2021. Figure 3 shows what happens as the judicial process starts to catch up with pending cases through September 2021, while Figure 4 clearly demonstrates the dip in average daily detention population from March 2020 through much of that summer, some of which was due to fewer people coming in due to
police issuing citations in lieu of arrests and prosecutors not charging “low-level” offenses as well as some early-release valves designed to reduce the population (due to social distancing concerns and the ability of the virus to spread in close quarters where people are congregated in large numbers). In short, the initial stages of the pandemic had the effect of reducing the volume of people entering the justice system and to some extent the density of individuals within correctional institutions (for those jurisdictions that released individuals early).

It is the case that many criminal justice agencies and, in particular, police departments probably never had to think about responding to a worldwide pandemic—without protective gear and equipment—prior to the outbreak of COVID-19 in the first quarter of 2020 (cf. Jennings & Perez, 2020). In March of 2020, for example, the City of Miami became a hot spot for the virus, with all police agencies in Miami-Dade County experiencing infections from line officers to police chiefs. As Coral Gables Police Chief Ed Hudak told WSVN “There’s no playbook for this” (https://wsvn.com/news/local/miami-dade/south-florida-police-departments-feeling-effects-of-covid-19-as-officers-catch-virus/; accessed August 20, 2021). Former City of Miami Police Chief Jorge Colina went so far as to implement contingency plans for the scenario when 40% of his officers would be sidelined, with a “next officer up mentality” to keep police services in place. Chief Colina himself tested positive for the novel coronavirus.

In an excellent analysis of how the criminal justice system navigated the coronavirus pandemic, the Council on Criminal Justice (2020) observed the following five aspects of the criminal justice’s response (or lack thereof) to the pandemic (and its ensuing policy proscriptions). First, criminal justice agencies were not prepared for a large-scale public health crisis. Second, the large size and scope of the system, in concert with the absence of public health coordination, posed a significant obstacle to COVID-19 prevention and control, especially with respect to the public-facing police agencies and officers and the inadequate response of correctional facilities given the lack of public health protocols located within them (i.e., lack of PPE, impossibility of social distancing, etc.). Third, there were varied and inconsistent responses to the pandemic by criminal justice agencies, with some mandating testing and contact tracing but others not doing so. Fourth, agency responses were slowed because of the lack of relevant and comparable data, which altered responses to where the problems were currently and where they were headed going forward (including among criminal justice staff vis-à-vis COVID-19 infections and crime problems on the street). Fifth, the lack of communication (within agencies and across different public agencies) hampered the criminal justice response, which had the effect of people and agencies operating in isolation and silos and not sharing information and best practices.

As a result, The Council made a number of recommendations, with which I fully agree, including: (1) establishing a preparedness system that develops and implements an integrated crisis response plan; (2) rebalancing criminal justice and public health responses to limit contact, maximize distance, and reduce density in the justice system; (3) encouraging shared standards and best practices in preparing for and responding to future public health emergencies; (4) collecting and transparently reporting all sorts of criminal justice (and public health) data in transparent ways; and (5) improving communication and increasing transparency concerning public health emergencies by having clear lines of communication (p. 5).

The bottom line about the criminal justice system’s response (or lack thereof) to the pandemic was its incoherence and lack of central guidance or planning in attempting to handle the size, scope, and nature of the public health crisis all the while recognizing that the decisions made by one part of the system affect decisions and responses made by other parts of the system. This incoherent and uncoordinated response of criminal justice agencies (especially police) within states
was likely exacerbated by the lack of guidance and coordination by political divisions at the local, state, and federal level where elected leaders did not speak with one voice and oftentimes contradicted and/or hindered public safety efforts. Going forward, there needs to be a stronger, better federal response in responding to all aspects of the current pandemic—and the next one to come. The past 2 years has shown clearly that leaving it to 50 different states and many thousands of counties and localities was, continues to be (as seen with mask mandates in schools, vaccine requirements, etc.), and will continue to be a disaster. Yet, there were some lessons learned that can be implemented in the short-, medium-, and long-term that can build a more just, fair, and effective justice system. Next, I turn to some of those lessons.

2 LESSONS LEARNED ABOUT WHAT WORKED, WHAT DIDN’T WORK, AND A GLIMPSE OF THE FUTURE

It would not be an understatement to say that no single event has affected all three aspects of the criminal justice system in the manner in which COVID-19 has. The police profession is a public-facing occupation with much contact face to face, thereby increasing the potential for viral transmission. Courts were affected by COVID-19 outbreaks because they had to close due to government building closures, thus trials were put on hold (and then eventually resumed either through media channels or limited in-person sessions—even the U.S. Supreme Court held virtual arguments for the first time). Courts are also an incubator for viral transmission given the lack of social distancing among persons in the courtroom, for example, juror benches, witnesses and judges, counsel desks, courtroom visitors, transportation of defendants into and out of the courtroom by bailiffs, etc. And the correctional system was affected as the virus spread rapidly through jails and prisons that were not created with social distancing in mind; PPE was unavailable, in-person contact was paused (and some transitioned to video), which included closing of yards, classes, and other in-person meetings and activities (such as with lawyers, treatment programs, etc.), and medical treatment was delayed as well and moved to virtual visits. It is no surprise to learn, of course, that there were many cases of COVID-19 infections, hospitalizations, and deaths in carceral facilities. And while there is a lack of standardized data available for all jurisdictions regarding the year-to-date spread of the virus within carceral facilities, and no national-level data dashboard, researchers have resorted to “scraping” correctional website uploads or going directly to correctional agencies.

All this has yielded some important lessons learned across the three different facets of the criminal justice system and has forced agencies to think about and plan for “what do we do in the next pandemic?” In this regard, there have been some useful guides and toolkits developed that are available for agencies to consider moving forward.

With respect to policing, Lum and colleagues’ (2020a,b) multiwave survey of over 900 police agencies served as an important “fact finding mission” at the outset of the pandemic. These authors found (1) a large decrease in overall calls for service in the first few months of the pandemic but an increase in certain types of calls, specifically domestic violence and mental distress; (2) that departments provided guidance as to how respond to calls while in person with a great many shifting responses to nonperson approaches (videoconference, phone calls, internet reporting); (3) use of arrest and jail intake maintained their reductions into the second wave of the survey (~April 2020); (4) departments mandated a reduction in the use of arrest for low-level offenses; (5) there was a substantial limiting of proactive and community engagement activities; (6) there was a limiting of self-initiated or proactive enforcement behaviors (traffic/pedestrian stops); and
(7) shifts occurred in the nature of policing and what actions they were to police (notably, some police started to be tasked with enforcing public health ordinances such as masks, social distancing, etc.). Moving forward, police need to (1) be prepared for certain types of calls to potentially increase in the event of another pandemic/lockdown; (2) have an adequate stock of PPE and other precautionary gear; (3) better leverage the change to online services and communications in ways that are more effective and inclusive; (4) work with local government officials to assess which agencies are better equipped to respond to and enforce public health violations or shift them to some other agency when attempting to gain a better understanding of what types of problems are likely to increase, where, and why as well as the services and strategies that will be necessary to attend to them as the pandemic continues and various restrictions are implemented and eased; and (6) consider how certain police functions can either be shifted or performed in conjunction with virtual trainings and meetings for a more effective use of time and resources that maximizes officer public health, safety, and well-being.

The State of Washington, and Kirkland, WA in particular, was the center of the COVID-19 outbreak, and the Kirkland Police Department was the first police department to have to respond to the COVID-19 crises in real-time without any prior nor peer experience. To their credit, the Department put together a lessons-learned document that could be shared with other agencies (https://permlinkclicks.net/assets/Kirkland%20PD%20COVID-19%20Response%20as%20of%20March%2014%202020.pdf; accessed August 20, 2021). Of course, this is not to say that other police departments of varying size, population served, and experience with the outbreak would be subject to similar issues or respond in similar ways, but it is likely the case that they would have to still deal with things like exposure, quarantining, testing, responding to calls for service, procuring personal protective equipment, sanitizing, and in some cases dealing with jail populations. Yet, what Chief of Police Cherie Harris put together is one such playbook of the bare essentials. Other toolkits and best practices exist as well, including a well-resourced website produced by CNA (https://www.cna.org/centers/ir/pri/21st-century-policing-during-covid-19; accessed August 24, 2021) that includes community engagement resources, victim-related resources, and general policing resources on health and well-being; materials produced by the Police Executive Research Forum (PERF) that has up-to-date resources for law enforcement officials about COVID-19 responses as well as more general guidance regarding COVID-19 from various sources and agencies (https://www.policeforum.org/coronavirus; accessed August 20, 2021); and The National Police Foundation’s guide to performing after action reviews which are aimed at improving future critical incidents through changes in policy and practice (https://cops.usdoj.gov/RJC/Publications/cops-w0878-pub.pdf; accessed September 5, 2021).

On the topic of courts, they had to come to a sudden stoppage in the March–April 2020 timeframe until conditions permitted a gradual return to work, first virtually and then slowly in person. Some lessons have emerged about the steps some agencies took to “get back to work” so to speak (see e.g., Baldwin et al., 2020). As an illustration, the Miami Dade County Prosecutor’s Office laid out the steps they took immediately (The Crime Report, 2021). At first, the Office went all virtual/remote and slowly returned to in-person operations that were proceeding along until the Delta variant started to infect staff members in July 2021. Additionally, at the early stages of the pandemic, the Office and its staff of prosecutors worked alongside the Miami-Dade Police Department and the Public Defender’s Office in two key ways. First, the State’s Attorney Office encouraged police agencies to issue civil citations or promises to appear instead of arrest for minor offenses. Second, they worked with various agencies in order to facilitate the release of persons who they believed could be monitored while in the community, having the effect of releasing a
number of inmates whose jail sentences were nearing completion, which burdened community correction agencies which themselves had to follow public health and safety guidelines (e.g., limiting in-person contacts, etc.). All of these decisions led to the County reducing the jail population by 20%, which came on the heels of a drop of almost 40% in the daily jail population between 2008 and 2019.

Aside from the Miami-Dade experience, The Centers for Health Security and Public Health and Human Rights at Johns Hopkins University issued a report, “COVID-19 and the US Criminal Justice System: Evidence for Public Health Measures to Reduce Risk,” in which they outlined a series of policy recommendations for the court system as it adapts to changes in functioning vis-à-vis the COVID-19 pandemic. The Centers issued three key recommendations that are likely to be transferrable across a range of agencies, including (1) the implementation of alternatives to in-person court appearances when possible; (2) the provision of adequate access to technology in carceral facilities for virtual court appearances; and (3) when in-person court proceedings must occur, they should be conducted in a way that ensures adequate physical distancing for staff, defendants, and juries. All parties, this work should be moved to larger facilities (e.g., gyms) where people can maintain adequate spacing.

Finally, with respect to corrections, nowhere did the pandemic’s adverse effect take hold the most and the fastest, at least with respect to the available data. The virus circulated quickly within carceral facilities not meant for social distancing, thereby infecting staff, inmates, and visitors, and with inadequate testing—a priority for these facilities going forward—it was nearly impossible to know how much spread there was inside—and outside—jail and prison walls. Yet, the decarceration experience and decisions made to incarcerate fewer people and release others—in large part as a COVID-19 mitigation strategy (National Academies of Sciences, 2020) —provided the field with some initial glimpse into the extent to which these decisions would compromise public safety, the early results of which tend to suggest little adverse effects with respect to increasing the crime rate generally and the criminal activity of those persons in particular. The State of New Jersey also passed a public health emergency bill that provides credits for time served during a public health emergency arising because of an infectious or communicable disease. Their actions were designed to reduce the population by about 20%, which is sizable enough to warrant a short- and long-term recidivism study much like the analyses undertaken by the U.S. Sentencing Commission of the federal offenders who received retroactive sentence reductions as a result of the 2011 Fair Sentencing Act Guideline Amendment (Hunt et al., 2018).

This, of course, returns to the fore a larger discussion about whom should be incarcerated and for how long. Or as Mark Levin, Chief Policy Council of the Council on Criminal Justice and Senior Advisor for Right on Crime, put it in a 2014 interview: “Prison is good for people that we’re scared of, but not people that we’re mad at.” The evidence has long been clear that long-term, mandatory minimum style sentences are needed for a very few select offenders (Blumstein & Piquero, 2007), especially since the offending rate of individuals drops precipitously over the life course (Laub & Sampson, 2003; Piquero et al., 2003). And while the research examining the recidivism patterns of both sets of populations—those individuals who did not enter carceral facilities but would have as well as those individuals who were early-released—is ongoing, I anticipate that some evidence will suggest that the net of incarceration could be shortened—and not widened—with little adverse impact on public safety. This is quite important because it points to a change that was long overdue but accelerated in large part to COVID-19, that could be more long lasting, especially if the research shows no public safety risk. In short, COVID-19 may have accelerated some changes that were being slowly made in parts of the system aimed at drawing fewer people into it than is necessary.
The Centers for Health Security and Public Health and Human Rights at Johns Hopkins University report referenced above also outlined a series of very useful policy recommendations for carceral facilities: (1) reduce population density of carceral facilities; (2) reexamine the relationship between health and incarceration in decisions of bail, sentencing, and release; (3) make COVID-19 testing results and prevention strategies public; (4) conduct widespread and continuous testing (see also Schnepel et al., 2021); (5) implement quarantine and isolation strategies in responding to active cases; (6) modify facility practices and procedures to prevent viral spread; (7) standardize health-care services to ensure incarcerated persons have access to standard care for COVID-19; and (8) prioritize vaccination (see Watson et al., 2020). Importantly, the Office of Juvenile Justice and Delinquency Prevention (2021) outlined many of the same recommendations for juvenile justice facilities during the COVID-19 pandemic.

With these lessons learned, there certainly await a myriad of research questions for the field to consider, all things crime and COVID-19. I echo the suggestion made by Miller and Blumstein (2020) for a national COVID-19 research agenda for criminal justice agencies. I also believe that this is something that the National Academies of Sciences could do but that the National Institute of Justice (NIJ) must do. NIJ is the principle funding arm for criminologists and researchers outside of criminology who are interested in crime and as such is uniquely positioned to undertake such a large scale effort, much like the one underlying their commission of Criminal Justice 2000, which presented a comprehensive examination of the current status of criminal justice. In short, the theoretical, empirical, and policy issues as related to crime and COVID-19 must be a priority not just for our field, but also for the Institute. Some of these questions include: (1) long-term trends in criminal activity, by type and location, across and within cities, as well as internationally; (2) short- and long-term impacts on children who were exposed to violence in the home; (3) recidivism patterns among those inmates released during decarceration efforts; (4) virus spread throughout carceral facilities and mitigation strategies; (5) staffing shortages within policing and throughout the correctional system; (6) whether justice reform decisions were associated with any changes in crime patterns, including homicides and shootings; (7) a larger assessment about the extent to which COVID-19 accelerated some of the long-discussed and much needed changes in our response to crime and our prevention efforts; and (8) a deeper understanding of why most other countries around the world did not experience a pronounced spike in community gun violence the way that the United States has. Blaming the pandemic cannot be the sole explanation. But the prevalence of guns and their ease-of-use to solve disputes more easily and effectively than other weapons surely has to be a prime candidate.

3 | CONCLUDING REMARKS

This essay has been an initial attempt at outlining some of the policy issues that the criminal justice system has faced amidst the COVID-19 pandemic, how some agencies responded, and what lessons have been learned as a result. I wish to leave readers with two critically important thoughts.

First, many persons may be done with COVID-19, but COVID-19 is not done with us. July 2021 brought with it a promise that we were turning the corner. The promise of widespread vaccine availability—at least in the United States and some other countries such as Great Britain and Israel—brought a renewed sense of hope. Yet, the race between vaccines and variants was one that supports the adage, sadly enough, that where you are at on the Indy 500 track at the end of the first lap matters little if you are not in the lead in the last lap as you cross the brickyard finish
line. Little did we know that the Delta variant would spread as widely and as fast as it has. As of this writing (August 26, 2021), the United States now has more people hospitalized than was the case in January 2021 when vaccines were just starting to emerge (CNN, 2021). And booster shots are on the horizon. Not surprisingly, the criminal justice system has once again been adversely touched by this deadly virus.

A recent report in The Miami Herald notes that five South Florida officers have died in the first few weeks of August 2021, and seven statewide thus far due to complications associated with COVID-19. Additionally, well over one hundred Miami-Dade correctional employees are at home quarantining, and almost 200 inmates in the jail system are COVID-19 positive. This, coupled with the fact that almost 200 employees of the Miami-Dade Police Department are under some form of isolation or quarantine due to COVID-19 infection or exposure, shows departments that they need to plan for the worst (https://www.miamiherald.com/article253680153.html; accessed August 24, 2021). Also, there are serious frictions within police departments as well as among police city mayors, and city managers about requiring vaccine mandates. For example, City of Miami Police Chief Art Acevedo wants to require vaccines of his police officers, but the Mayor is not in support. This comes at the time that the Pfizer vaccine has been FDA-approved, setting the stage for a showdown on vaccine mandates in the workplace vis-à-vis government rules. Every criminal justice agency must realize that while there is a light at the end of the tunnel, the tunnel seems to be getting longer and thus just as true of nurses and doctors, criminal justice personnel are stressed, tired, and scared. Attending to their physical and mental health needs to be a key priority for agency leaders.17

Second, and perhaps most importantly, this essay cannot close without recognizing the fact that the effect of the pandemic on the criminal justice system and the policy lessons learned as a result that have made the system (and its agents) look inward at what they could do better and how they could do it better cannot and should not be considered and explored apart from the political context of the United States, the murder of George Floyd, and the racial and social justice reckonings that ensued. After all, these issues are hard to disentangle from one another, not only because they were occurring simultaneously and highlight the interconnectedness of the three facets of the criminal justice system (policing, courts, corrections), but more specifically because the coronavirus pandemic spotlighted the racial and health inequities that were there but not really there for many to see.

To be sure, the outcry for criminal justice reform certainly existed well before Floyd’s murder and the pandemic, but the calls for reform continued, expanded, and became louder—even while police were tasked with enforcing public health directives (Jackson et al., 2021, p. 4). The lessons learned from these events have hopefully forced the criminal justice system to look inwardly at what they should be doing and how they should be doing it. Various decisions made throughout the criminal justice system in response to the pandemic, especially at its outset, such as decarceration, scaled-back policing, and fewer arrests for low-level crimes—leading to fewer persons jailed—have long been identified as strategies to counter the overrepresentation of persons of color in the justice system. Yet, these same justice-related reform efforts are inextricably linked to broader calls for health reform, so much so that it is impossible to not recognize how interconnected the justice and health systems are (see e.g., Rich et al., 2014; Taxman & Ressler, 2009). This is especially true as the disproportionate (mass) incarceration of Black communities has negative impacts on the health of families and communities (Wildeman & Wang, 2017) thereby reproducing inequalities that exist within the justice system further outside the system.18

As the criminal justice system continues its reform efforts, it must be based on more than brainstorming ideas onto a big pad of paper at a 3-hour retreat. It has to be a full-360 evaluation that
leads to incremental and sustained changes that result in a fairer and just way to build the legitimacy that is needed between the community and the justice system. Starting with transparency is the first step both sides have to take. That begins with data, research, collaboration, and not just a seat at the table, but a voice at the table for everyone including researchers, community members, and criminal justice system staff. If we learned nothing else since the first part of 2020, it is that voices need to be heard and these voices are part of the decision making.

In short, the main lessons of the pandemic for public safety and public health are the same as the lessons for education, housing, food security, access to health care, and so forth. By placing the shared collective—we are all in this together—above individual and tribal self-interest, we become capable of responding to the various types of threats—from crime and public safety to public health and climate change. This, in turn, could help to contribute to lessening disparities more generally in the criminal justice and health systems that would appeal widely across society and potentially foster more agreement. Reinforcing this “shared space” among people, their communities, and the nation more generally is a promise that is within reach. If 100,000 fans from all walks of life, be they conservative or liberal, Black or White, male or female, can all root for the same team to score the game-winning field goal or to sing in unison to their favorite song at a concert, then I remain hopeful that we can do the same for public health and public safety. We can. We must.

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CONFLICT OF INTEREST
The author confirms that they have no conflict of interest to declare.

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ENDNOTES
1 The issue of mental health has been raised a number of times within the context of the COVID-19 pandemic, with recent research documenting an increase in calls involving persons with a perceived mental illness during the pandemic than would have been expected had the coronavirus pandemic had not occurred (Kozlowski, 2021, p. 1).
2 To be sure, the criminal justice system generally and first-responders more specifically are certainly experienced with responding to and managing isolated and large-scale catastrophic events. Yet, at the outset of the pandemic, when information was limited, confusing, contradictory, and constantly changing in many states and certainly at the federal level, there was no “playbook” to speak, for what play to run on 1st and 10, 2nd and 20, and 3rd and 30 (to use a football analogy) with time literally running out as the virus spread, people became infected, hospitalized, and succumbed to the virus and its deadly consequences.
3 Of course, it is hard to talk about the COVID-19 crisis and its differential impact on communities of color without also referencing the murder of George Floyd and the calls for racial and social justice and police reform that followed—all amid the pandemic. Coupled together, these two events shined the biggest spotlight possible on how criminal and health justice were not equally applied/enforced yet should be given their inextricable link. The calls from the public and some policy makers about the need for reform that looked bigger than a band-aid could not have been clearer nor louder. I return to this at the conclusion of the essay.
4 Sadly, according to the latest numbers from the FOP (https://fopcovid19.org/news/covid-19-line-of-duty-deaths/, accessed September 6, 2021), there have been over 600 COVID-19 line of

There has been some interest among researchers regarding plea-bargaining and pretrial detention during the COVID-19 pandemic, especially at the outset (Cannon, 2020; Daftary-Kapur et al., 2021; Wilford et al., 2021).

Readers will notice changes in the estimates across the figures that coincide with state-level policies. For example, while county mayors started making recommendations and restrictions regarding movement throughout March 2020, it was not until March 30, 2020 that Florida Governor DeSantis issued a stay-at-home order for South Florida counties, including Miami-Dade County. This order remained in effect until May 18, 2020, at which point the County moved into a phased-in reopening.

In an important early analysis of jail populations and COVID-19 in the 366 counties in which jails are located, Harvey and Taylor (2020) found that in March of 2020, jail populations dropped from about 85,000 to about 60,000 in May, but then started to increase in the middle of May throughout the remainder of the year, even while COVID-19 cases were rapidly increasing as measured by a rolling 7-day average. Even more disconcerting, they found some evidence to suggest that White inmates were more likely to be released during the time period than were Black inmates.

One police chief in Texas told me that the greatest lesson that they learned at the outset of the pandemic was to be decisive and to act quickly, especially with respect to procuring the necessary PPE, no matter the cost. This came at a point in the pandemic when police had to simultaneously juggle the need to maintain public trust while enforcing public health rules as well as dealing with the mental and physical tolls that were being taken on officers.

As recent as July 2021, it was hoped that the United States, at least, had turned the corner as vaccines were widely available. Yet, the Delta variant has led yet another wave of viral spread, with an even greater viral load and transmission likelihood that is severely affecting those who are unvaccinated as well as those who had been vaccinated for many months. Not surprisingly, the virus is once again infiltrating police departments. For example, in Miami-Dade County, 180 employees (or about 4% of the department) were “out due to COVID” (https://www.miamiherald.com/news/local/community/miami-dade/article253585764.html, accessed August 20, 2021). At the same time, there currently is no vaccine mandate and it remains unclear just how many officers are in fact vaccinated. As well, Miami Dade County had to pause in-person hearings and jury trials for 2 weeks due to continued COVID-19 spread (https://www.miamiherald.com/news/local/crime/article253948013.html, accessed September 6, 2021).

We always tend to think of the criminal justice system as involving police, courts, and corrections but increasingly we need to think about them also involving a large range of community programs, who were also overburdened during the outset of the pandemic.

As of August 13, 2021, the COVID-19 Prison Project reports over 400,000 cases and almost 3000 deaths within the correctional population in prisons, as well as over 100,000 cases and over 170 deaths among staff. With limited vaccination—especially among incarcerated persons (see e.g., https://covidprisonproject.com; https://www.prisonpolicy.org/blog/2021/06/23/june2021_population; and https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons (accessed August 13, 2021)—it is likely that the virus and its variants will continue to spread throughout carceral facilities. Data from jails is even harder to come by. However, U.S. Immigration and Customs Enforcement (ICE) reports cumulative cases, such that by August 13, 2021, there had been 24,000 total COVID-19 confirmed cases and 9 reported deaths among ICE detainees since testing began in February 2020 (see https://www.ice.gov/coronavirus#citations, accessed August 14, 2021). Yet, despite what is known about mitigation efforts, the Prison Policy Initiative recently lamented: “A year after we first graded state responses to COVID-19 in prisons, most state departments of corrections and the Federal Bureau of Prisons are still failing on even the simplest measures of mitigation” (https://www.prisonpolicy.org/reports/states_of_emergency.html, accessed September 5, 2021).

There is, of course, an important trade-off that needs to be rebalanced with respect to the immediate shift to virtual platforms as they have both advantages (e.g., keep people away from one another) and disadvantages (e.g., the digital divide and poor or unavailable connectivity).

In a recent analysis, Reinhart and Chen (2021, p. 1) found that “anticontagion policies, including jail decarceration to minimize carceral outbreaks and their spillover to surrounding communities, appear to be necessary for epidemic control, public health, and mitigation of racial health disparities.”

Quite a few other states also made similar early-release decisions (for a review see, Prison Policy Initiative, 2021).
Some of this would also include the use of virtual platforms for meetings that incarcerated persons have with counsel and/or family members. For example, technology opens up avenues for the potential of more frequent “visits” in correctional facilities as public safety guidelines eliminate in-person visits. Still, the negative aspects include the loss of human contact as well as showcasing the digital divide that exists for economically distressed households who cannot afford internet and related technologies as well as in places where broadband service is not very strong (or existent).

As noted earlier, the criminal justice system experienced two major shocks at the same time, the COVID-19 pandemic and the George Floyd murder and its aftermath. This greatly complicates an already difficult effort to identify, without fail, the causal factors influencing both crime and the system.

It is well known that policing is a hazardous profession and that police are subject to not just their own life-related individual stressors but also unique organizational stressors, both of which have been found to be related to negative emotions, which could lead to antisocial and deviant behaviors and adaptations (see Bishop, 2018). When the stress associated with COVID-19 is added to the mix, it adds another layer of stress that could affect officers, especially those with family members in the home (see also Stogner et al., 2020).

More generally, the health, familial, and economic toll of the pandemic has been disproportionately brunt by communities of color, first with viral spread, hospitalization, and death, followed by the shattering of families as a result, and the loss of many jobs that do not come with health insurance, leave time, nor the ability to work from home. The adverse effects of the COVID-19 crisis on minority communities will be borne for quite some time.

REFERENCES


