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CONGRESSIONAL TESTIMONY

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“Prisoner Reentry: A Limited Federal Government Role”

Introduction

My name is David Muhlhausen. I am Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Benjamin L. Cardin, Ranking Member Lindsey Graham, and the rest of the committee for the opportunity to testify today on prisoner reentry issues. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Congress’s desire to weigh in on the recidivism rates of former prisoners is easy to understand. In 2007 alone, over 725,000 prisoners were released back into society.¹ Further, the nation’s incarceration rate increased from 139 inmates per 100,000 residents in 1980 to 506 inmates per 100,000 residents—an increase of 264 percent.² While the U.S. Bureau of Justice Statistics reports that corrections expenditures (including expenditures for prisons, probation, and parole) from 1982 to 2006 increased by 660 percent, this figure is not adjusted for inflation.³ Corrected for inflation, the increase is actually 264 percent.⁴

Opponents of incarceration often argue that prisons are a burden on state budgets. Rarely do opponents ask how much prisons cost the states compared to other state expenditures. As a percentage of state total expenditures, corrections increased from 3.0 percent in fiscal year (FY) 1988 to 3.4 percent in FY 2007.⁵ Limiting expenditures to state general funds, which excludes federal contributions, corrections increased from 5.0 percent in FY

1988 to 6.7 percent in FY 2007.⁶ The amount of funds the states spend on corrections—a core function of state governments—is relatively little compared to other state government activities.

While the sheer number of prisoners returning to society is a cause for concern, policymakers should acknowledge the crucial role incarceration performed in the nation's drop in crime and the continued comparatively low crime rates.

The Prison Buildup Decreased Crime

Over the years, several studies have demonstrated a link between increased incarceration and decreases in crime rates. After controlling for socioeconomic factors that may influence crime rates, research based on trends in multiple jurisdictions (states and counties) over several years indicates that incarceration reduces crime significantly.⁷

Professor Joanna M. Shepherd of Emory University found that truth-in-sentencing laws that required violent felons to serve up to 85 percent of their sentence reduced violent crime rates.⁸ Professor Shepherd compared the crime rates of counties residing in states without truth-in-sentencing to the crime rates of counties located in truth-in-sentencing states. Truth-in-sentencing laws reduced murders by 16 percent, rapes by 12 percent, robberies by 24 percent, and aggravated assaults by 12 percent.⁹

Other studies demonstrate the crime-reducing effect of incarceration. Professor William Spelman of the University of Texas at Austin estimates that the national drop in crime during the 1990s would have been 27 to 34 percent smaller without the prison buildup.¹⁰ In another study, Professor Spelman analyzed the impact of incarceration in Texas counties from 1990 to 2000.¹¹ “Virtually all the reduction in violent crime, and about half of the reduction in property crime,” according to Professor Spelman, “can be attributed to an increase in jail and prison populations.”¹²

Professor Steven Levitt of the University of Chicago found that for each prisoner released from prison, there was an increase of almost 15 reported and unreported crimes per year.¹³

Two studies by Thomas B. Marvell of Justec Research in Williamsburg, Virginia, and Carlisle E. Moody of the College of William and Mary support these findings on the effects of incarceration. In a 1994 study of 49 states' incarceration rates from 1971 to 1989, Marvell and Moody found that about 17 crimes (mainly property crimes) were averted for each additional prisoner put behind bars.¹⁴ In a study using national data from 1930 to 1994, Marvell and Moody found that a 10 percent increase in the total prison population was associated with a 13 percent decrease in homicide, after controlling for socioeconomic factors.¹⁵

More Ex-Prisoners on the Street, More Crime

Just as putting criminals behind bars decreases crime, releasing criminals back into society increases crime. The Department of Justice estimates that over 725,000 prisoners were released from federal and state prison in 2007.¹⁶

Former prisoners have high arrest rates after returning to society. A Justice Department study of 272,111 state prisoners released in 1994 found that two-thirds of prisoners are rearrested within three years.¹⁷ After release, these offenders generate:

- Over 744,000 total arrests,
- 2,871 arrests for murder,
- 2,362 arrests for kidnapping,
- 2,444 arrests for rape,
- 3,151 arrests for other sexual assaults,
- 21,245 arrests for robbery, and
- 54,604 arrests for assault.¹⁸

The highest rearrest rates were for robbers (70.2 percent), burglars (74.0 percent), larcenists (74.6 percent), and motor vehicle thieves (78.8 percent).¹⁹ Prior to their re-imprisonment, these prisoners accounted for 4.1 million arrests, including 550,004 violent crime arrests.²⁰

The high cost that released prisoners impose on society has been empirically demonstrated by Professor Steven Raphael of the University of California, Berkeley and Professor Michael A. Stoll of the University of California, Los Angeles.²¹ Professors Raphael and Stoll analyzed the relationship between prisoner releases and state crime rates from 1977 to 1999. Increased prisoner releases were associated with increased murder, rape, robbery, burglary, and larceny rates.

While incarceration is instrumental to public safety, rehabilitative and reentry services should also serve important roles. However, rehabilitation alone is not an effective substitute for the incarceration of serious and violent offenders. Rehabilitative programs can complement incarceration, but they cannot replace incarceration.

Federalism Concerns

To address the issue of offender recidivism, the national government should limit itself to handling tasks that fall under its constitutional powers and that state and local governments cannot perform by themselves. First, the federal government should operate “evidence-based” reentry programs for offenders formally incarcerated in the federal correctional system. By “evidence-based” programs, I mean programs that have undergone rigorous scientific evaluations and found to be effective.²² Second, the federal government should not assume responsibility for funding the routine operations of state and local reentry programs.

The tendency to search for a solution at the national level is misguided and problematic. Offender recidivism is a problem common to all states, but the crimes committed by offenders in the state corrections systems are almost entirely and inherently local in nature and regulated by state criminal law, law enforcement, and courts.

Increasing the national government’s involvement in combating the recidivism of state

and local prisoners is detrimental to quintessential federal responsibilities. Using federal agencies and grant programs to provide basic reentry services for state and local prisoners that the states themselves could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government.

A problem that is common to all the states, like offender recidivism, creates an avenue for federal action through the sharing of information and research, including the rigorous analysis of information coming from state and local agencies. Whether it is sharing successful policies and effective innovations or analyzing data, the federal government is well situated to perform this function. The promotion of rigorous research assessing the effectiveness of crime prevention programs is a worthy cause.

Offender Reentry

Policymakers on the national, state, and local levels need to understand the complicated nature of the reentry process. The reentry process begins in correctional facilities as inmates prepare for release and continues with their release back to society.

In addition to reentry public policies, other factors that influence successful transition of offenders from prison to community are individual characteristics, family and peer relationships, and community circumstances.²³ Establishing a law-abiding lifestyle after prison involves locating living quarters (often in high crime neighborhoods), obtaining official identification, reconnecting with family, and finding legitimate employment.²⁴

The individual characteristics that influence recidivism include demographic characteristics, prison experience, employment history, education level, criminal record, and substance abuse dependence.²⁵ For example, one long-term longitudinal study of offenders found that attachment to work is associated with reduced recidivism.²⁶ Unemployed former prisoners and those without high school diplomas are more likely to drop out of reentry programs than those who are employed and have high school diplomas.²⁷ Also, recidivists tend to have begun their criminal careers at an earlier age and had more serious criminal histories than those who do not recidivate.²⁸

Family and peer support is also important to the reentry process. The previously mentioned long-term longitudinal study also found that marriage was associated with reduced recidivism.²⁹ Also, former prisoners living with their families are less likely to drop out of reentry programs compared to their counterparts who do not live with their families.³⁰ However, family conflict can also harm the reentry process, especially juvenile offenders returning to poor family environments.³¹ Just like the family, the influence of peers can influence the reentry process. Association with criminal peers can disrupt positive influences of the family.³²

Like the family and peer relationships of released offenders, the communities where they settle can provide positive and negative reinforcement. Many prisoners return to neighborhoods characterized by high degrees of social disorganization and crime.³³ Socially disorganized, economically depressed neighborhoods tend to be associated with

higher crime rates.³⁴ Socially disorganized communities regularly lack socialization processes needed to encourage positive behaviors and dissuade negative behaviors.

Importance of Rigorous, Scientific Evaluations

The principal reason for the existence of reentry programs, obviously, is to prevent recidivism. Scientifically rigorous impact evaluations are necessary to determine whether these programs actually produce their intended effects. Clearly, there is little merit in the continuation of programs that fail to ameliorate their targeted social problems. For this reason, governments at all levels need to adopt “evidence-based” programs. However, the adoption of a program previously found to be effective in other settings is no guarantee that successful results will be replicated. Thus, “evidence-based” programs implemented in new jurisdictions still need to undergo rigorous impact evaluations.

Estimating the impact of programs cannot be made with 100 percent certainty, but with varying degrees of confidence. Thus, all such impact evaluations face formidable control problems that make successful impact estimates difficult. As a general rule, the more rigorous the research methodology, the more confident we can be of the validity of the evaluation’s findings.

Determining the impact of social programs requires comparing the conditions of those who had received assistance with the conditions of an equivalent group that did not experience the intervention. However, evaluations differ by the quality of their methodology to separate out the net impact of programs from other factors that may provide the real explanation for differences in outcomes for comparison and intervention groups.

Broadly speaking, there are three types of research designs: experimental designs, quasi-experimental designs, and non-experimental designs.³⁵ Experimental evaluations that use the random assignment of individuals to the intervention and control groups represent the “gold standard” of evaluation designs. Random assignment helps ensure that the control group is equivalent to the intervention group. Equivalence means that the intervention and control groups have the same composition, predispositions, and experiences.³⁶ Experimental evaluations are considered to be superior to quasi-experimental and non-experimental evaluations.

Randomized evaluations ensure that pre-program differences between the intervention and control groups do not confound or obscure the true impact of the programs being evaluated. Random assignment allows the evaluator to test for differences between the experimental and control groups that are due to the intervention and not to pre-intervention discrepancies between the groups. By drawing members of the intervention and comparison groups from the same source of eligible participants, these experimental evaluations are superior to other evaluations using weaker designs.³⁷

Under quasi-experimental designs, the intervention and comparison groups are formed by a procedure other than random assignment. Quasi-experiments frequently employ methodological and statistical techniques to minimize the differences between

intervention and comparison groups that influence the outcomes being measured. This design frequently matches intervention and comparison group members together based on factors thought to influence program impacts.

Similar to quasi-experiments, non-experimental designs use statistical methods to isolate the effects of the intervention by attempting to make the intervention and comparison groups as equivalent as possible. Non-experimental designs often employ multiple regression analysis to isolate the effect of the intervention.

In both quasi-experimental and non-experimental designs, failure to remove the influence of differences that affect program outcomes may mean that the net impact of the intervention may not be actually due to the program, but caused by the underlying differences between the groups. While quasi-experimental and non-experimental designs use sophisticated techniques, experimental evaluations are still considered to produce more reliable estimates of program effects.

Overstating Effectiveness. After conducting a meta-analysis of 308 criminal justice program evaluations, Professor David Weisburd of George Mason University and his colleagues found that weaker evaluation designs are more likely to find favorable intervention effects and less likely to find harmful intervention effects.³⁸ Professor Weisburd and his colleagues caution that quasi-experimental and non-experimental designs, no matter how well designed, may be incapable of controlling for the factors that make individuals considered agreeable and allocated to the intervention group. Given that experimental evaluations produce the most reliable results, governments at all levels should use experimental evaluations to assess the effectiveness of their programs.

Not Enough Evaluation. To date, the federal government has not placed enough emphasis on the rigorous evaluation of federally funded reentry programs. A recent Congressional Research Service report acknowledged the lack of empirical evidence for the effectiveness of federally funded reentry programs.³⁹ Given the importance of criminal justice policy, Professor Weisburd argues that there is a moral imperative upon researchers to conduct randomized experiments.⁴⁰ The moral imperative is derived from the “obligation to provide valid answers to questions about the effectiveness of treatments, practices, and programs.”⁴¹ In my view, this moral imperative also applies to Congress, which spends billions of dollars to subsidize state and local government criminal justice programs. Congress has frequently failed to require or support the experimental evaluation of the grant programs it funds.

Focusing on Important Outcomes. When assessing the impact of reentry programs, the most important outcome measure is recidivism. Some have questioned the emphasis on recidivism as a measure of effectiveness compared to other measures that assess adjustment or reintegration of former prisoners back into society.⁴² While intermediate measures, such as employment and attitudinal shifts of offenders, are important, these outcomes are not the primary focus of reentry programs. If former prisoners continue to commit crime after going through reentry programs, then the successful effects for intermediate outcomes will still matter little to judging whether the programs are

effective. Impact evaluations relying solely on intermediate outcomes tell us little about the effectiveness of reentry programs in promoting public safety.

Reentry Evaluations

There is considerable debate over the effectiveness of corrections programs. Some have concluded that several types of programs are effective,⁴³ while others have cast doubt on the ability of these programs to reduce recidivism.⁴⁴ Most reentry programs have not undergone scientifically rigorous evaluations. Despite the need for more rigorous evaluations, two recently published evaluations shed some light on the potential of reentry programs.

*CEO Prisoner Reentry Program.*⁴⁵ The Center for Employment Opportunities (CEO) Prisoner Reentry Program is an employment-based program that places recently released prisoners immediately in transitional jobs, usually in nonprofit or government agencies. While working their transitional jobs, participants receive assistance in finding permanent, unsubsidized employment.

An experimental evaluation found that CEO Prisoner Reentry Program participants did not have statistically different arrest rates two years after release from prison.⁴⁶ After two years, the intervention group had an arrest rate of 37.7 percent, compared to the 41.8 percent arrest rate for the control group—a statistically indistinguishable difference of 4.1 percent.⁴⁷ A statistically indistinguishable difference means that the difference between the intervention and control groups cannot be attributed to the program. However, the intervention group did have a statistically significant lower conviction rate. After two years, the intervention group had a conviction rate of 30.5 percent, compared to the 38.3 percent conviction rate for the control group—a statistically significant difference of 7.7 percent.⁴⁸ This difference in convictions is explained by the fact that the intervention group was less likely to be convicted of misdemeanors and not felonies.

After two years, the intervention group was less likely to be incarcerated in jail or prison. The intervention group had a reincarceration rate of 49.5 percent, compared to the 55.4 percent reincarceration rate for the control group—a statistically significant difference of 5.9 percent.⁴⁹

The program also appears to be ineffective at moving participants into unsubsidized employment. During the course of the two-year evaluation, 59.6 percent of intervention participants found unsubsidized employment, compared to 62.8 percent for the control group—a statistically indistinguishable difference of 2.7 percent.⁵⁰ While the CEO Prisoner Reentry Program produced underwhelming results, the Boston Reentry Initiative may have more potential at reducing recidivism.

*Boston Reentry Initiative.*⁵¹ The Boston Reentry Initiative is an interagency initiative designed to help move violent adult offenders released from jail back to their neighborhoods. Through multiple agencies, BRI uses mentoring, social service assistance, vocational training, and education to help offenders reintegrate into society.

Rather than selecting participants most amenable to rehabilitation, BRI officials selected what they considered to be the “highest risk offenders” for treatment.⁵²

While the evaluation of BRI did not use an experimental design, the propensity score analysis used in this quasi-experimental evaluation makes this evaluation more scientifically rigorous than most other quasi-experimental designs.⁵³ Further, BRI’s focus on targeting high-risk offenders may bias the results of the evaluation to understate the program’s ability to reduce recidivism. Compared to the comparison group, BRI participants experienced statistically significant reductions of 30 percent in overall and violent arrest rates.⁵⁴

The Problem of Replication

While BRI evaluation found positive results, this program and others found to be effective, need to be replicated and rigorously evaluated in other settings before policymakers and academics can conclude that these interventions are effective. In particular, BRI should undergo an experimental evaluation. The criminal justice programs that have been deemed “effective” and serve as “model” programs have often been those implemented under optimal conditions. These programs have been comprised of highly trained professionals operating under ideal conditions. In addition, the conditions under which these programs operate are carefully monitored to make certain that the participants receive the intended level of treatment. In the real world, program conditions are almost always less than optimal.

The success of replicating “evidence-based” programs often depends on implementation fidelity—the degree to which programs follow the theory underpinning the program and how successfully program components are correctly put into practice. A lack of implementation fidelity is often the reason why previously “successful” or “model” programs fail to be effective when put into action in other jurisdictions.

A good example of a “successful” program that has not been found to be effective when replicated in the real world is Reconnecting Youth, a school-based substance abuse program. Reconnecting Youth was designated as a “model program” by the Substance Abuse and Mental Health Services Agency (SAMSHA)⁵⁵ and as a “research-based” program by the National Institute on Drug Abuse.⁵⁶

However, Reconnecting Youth was later evaluated under real-world conditions.⁵⁷ In a random experiment, 1,370 high-risk youths in nine high schools in two large urban school districts were assigned to intervention and control groups. Overall, Reconnecting Youth had no effect on such measures as academic performance, truancy, and substance abuse. On the contrary, the outcome measures for Reconnecting Youth participants showed statistically significant decreases in conventional peer bonding and pro-social weekend activities (for example, doing homework, club or church activities, and family activities) and a statistically significant increase in high-risk peer bonding.⁵⁸ In short, programs found to be effective in a single location “do not provide adequate evidence for widespread dissemination or designation as ‘model’ programs.”⁵⁹

Conclusion

Policymakers on the national, state, and local levels need to be concerned about prisoner reentry. Nevertheless, policymakers should acknowledge the crucial role that incarceration has played in the nation's drop in crime and the continued comparatively low crime rates.

To address the issue of offender recidivism, the federal government should operate reentry programs for offenders formally incarcerated in the federal correctional system. Further, the federal government should not assume responsibility for funding the routine operations of state and local reentry programs. Evidence-based reentry programs should be implemented by the appropriate level of government.

Reentry programs need to be rigorously evaluated to determine their effectiveness at reducing recidivism. Congress needs to do more to ensure that the reentry programs it funds are rigorously evaluated.

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¹⁰Spelman, “The Limited Importance of Prison Expansion,” pp. 123 and 125 (footnote 8).

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¹⁴Marvell and Moody, “Prison Population Growth and Crime Reduction.”

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