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Thoughts on “Cost Effective Strategies for Reducing Recidivism”

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In its draft report, *Stemming the Tide: Strategies to Reduce the Growth and Cut the Cost of the Federal Prison System*, the Urban Institute observes that “The federal prison population has escalated from under 25,000 inmates in 1980 to over 219,000 today. This growth has come at great expense to taxpayers and other important fiscal priorities.”¹ I couldn’t agree more with this report on the problems of fiscal austerity confronting public safety budgets; however, I believe this statement oversimplifies the tradeoffs in public safety that we need to consider in order to make good decisions and, as a result, may offer cost-shifting instead of true cost-savings.

A more comprehensive view of the problem would cast the issue somewhat differently: we need to reduce not the costs of incarceration (or, indeed, the criminal justice system) but rather the total *social costs of crime* including not only expenditures on public safety, but also the costs of victimization, tangible and intangible, to the public. As we seek to do this, the allocation of funds among components of the criminal justice system should be guided by their *demonstrated effectiveness* in reducing crime not their absolute or relative size compared to other components of the criminal justice system.

It is all too tempting to look first to the correctional system, both state and federal, as a source of savings in a period of austerity. Early last year, CBS aired a segment on its weekly news program, *Sunday Morning*, entitled, *The Cost of a Nation of Incarceration* (April 22, 2012). The unmistakable implication was that the United States incarcerates too many at too high a cost. But just how large and costly is the prison population? According to the U.S. Bureau of Justice Statistics

¹ *Stemming the Tide: Strategies to Reduce the Growth and Cut the Cost of the Federal Prison System*, (Washington, DC: The Urban Institute, 2013), p.1.

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(BJS), 1,598,780 adults were incarcerated in U.S. federal and state prisons and county jails at year-end 2011 — a 0.9% decrease over 2010 and the second consecutive annual decrease.² (Indeed, the imprisonment rate has declined consistently since 2007 when there were 506 persons imprisoned per 100,000 U.S. residents. The rate in 2011 was comparable to the rate last observed in 2005 (492 per 100,000).³) A recent report of the Vera Institute calculated the average per inmate cost of incarceration for a sample of forty States: \$31,286.⁴ Hence, one could estimate the total cost of incarceration nationwide in 2011 as \$50.2 billion. This is surely a significant sum, but is it either disproportionate in relative terms or too large in absolute terms?

Another way to look at correctional spending in context is to examine per capita state and local government expenditures on criminal justice. Examining figures from 2007 (the most recent figures in the 2012 *Statistical Abstract of the United States*), total per capita state and local government expenditures on criminal justice were \$633 per resident of the United States. Of that total, \$279 per resident was spent on police protection, \$129 on courts, prosecution and public defenders, and \$225 on corrections (including prisons, jails, probation and parole).⁵ Whether \$633 per resident is too great a public expenditure, and whether \$225 per resident for corrections is a disproportionate share of the total, cannot be determined from these numbers alone. Rather, we would need to know *the benefit* of these expenditures both in sum and relative to one another. Fortunately, we have recent experience to illuminate this question.

According to the FBI's Uniform Crime Report, between 1960 and 1992, the number of violent crimes in the United States increased nearly sevenfold, from approximately 288,000 to more than 1.9 million, and the violent crime rate increased nearly fivefold from 160.9 to 757.7 per 100,000 population. But then crime trends abruptly reversed and began a decade-long decline. Again according to FBI *Uniform Crime Report* data, the rate of all seven index offenses (homicide, rape, robbery, aggravated assault, burglary, larceny and auto theft) declined significantly over the 1990s, with the aggregate declines ranging from 23% to 44%.

If we look at *National Crime Victimization Survey* (NCVS) data for the same period, the crime declines estimated from the household survey are equal to or greater than the FBI/police statistics in all six crime categories (the NCVS does not measure homicide), with the survey showing much larger declines in larceny, assault and rape. The victim survey not only

² Department of Justice, *Prisoners in 2011*. (Washington, DC: Bureau of Justice Statistics, 2012), Appendix Table 2.

³ *Ibid.*, p 6.

⁴ Christian Henrichson and Ruth Delaney, *The Price of Prisons: What Incarceration Costs Taxpayers*. (New York: Vera Institute of Justice, 2012), 9.

⁵ Department of Commerce, *Statistical Abstract of the United States, 2012*. (Washington, DC: Census Bureau, 2012), p. 216.

confirms the trends found in the police data, but also moves the larceny and assault declines much closer to the average declines for the other index crimes than do the police statistics. The violent victimization rate in the United States has fallen 67% since its peak in 1994 and in 2010 equaled the lowest rate measured in the thirty-six year history of the NCVS.

The distinguished criminologist Franklin Zimring has characterized this sustained and broadly based crime decrease during the 1990s as the most important sociological and socioeconomic development of the second half of the twentieth century. This a remarkable statement about a time period that included three assassinations, the Civil Rights revolution, the Great Society, the Vietnam War and the anti-war movement, the feminist movement and the end of the Cold War to mention just a few. Equally important is who benefitted from what has been called, “The Great American Crime Decline.”

If we examine the trends in homicide, we find that the benefits of lower crime rates have been spread widely across the social and demographic categories of the American nation. With the exception of children under the age of 14, the homicide rate decline was remarkably similar for all age groups, ranging between 36 and 44%. In terms of gender, the homicide decrease for men was 42%, one-third more than for women. Among races, the homicide decrease for nonwhites was 46%, again one-third more than for whites. These data suggest that the benefits of the crime decline of the 1990s were concentrated in those groups with the highest exposure to crime – urban minority males. Indeed, Zimring eloquently notes that “[t]he crime decline was the only public benefit of the 1990s whereby the poor and disadvantaged received more direct benefits than those with wealth. Because violent crime is a tax of which the poor pay much more, general crime declines also benefit the poor, as likely victims, most intensely.”⁶

But what explains the decline? Broadly speaking, the most commonly researched variables affecting crime rates are the economy, demography and criminal justice policies. Among the last, the most obvious candidate for explaining the crime decline in the 1990s is incarceration; this is because no other change in the operation and output of the American criminal justice system in the generation after 1970 begins to approach the scale of the expansion of incarceration. After small and trendless variation for several decades, the rate of imprisonment in the United States expanded after 1973 more than threefold. However, estimates of how much of the crime decline of the 1990s can be attributed to increased incarceration vary widely, from 10%⁷ to 27%⁸ of the overall decline.

⁶ Zimring, p. vi.

⁷ William Spelman, “The Limited Importance of Prison Expansion,” in *The Crime Drop in America*, ed. Alfred Blumstein and Joel Wallman (New York: Cambridge University Press, 2000), pp. 97-129.

⁸ John J. Donohue III and Peter Siegelman, “Allocating Resources Among Prisons and Social Programs in the Battle Against Crime,” *Journal of Legal Studies* 27 (January 1998): 1-43.

Before dismissing this contribution as insignificant, we should heed one of Zimring’s lessons from the 1990s: “The crime decline of the 1990s was a classic example of multiple causation, with none of the contributing causes playing a dominant role.”⁹ Such a conclusion is eminently sensible when we consider that the economy and demography also play significant roles in explaining crime rates. But what if we consider just alternative criminal justice policies such as prevention and intervention programs?

Zimring explicitly dismisses correctional or crime prevention programs from having played any plausible role: “Nor were there any indications that correctional or crime prevention programs had national level impact on crime.”¹⁰ In a telling portion of his book, Zimring discusses Robert Martinson’s 1974 *Public Interest* article entitled, “What Works? Questions and Answers about Prison Reform.” Martinson had concluded that “with few isolated exceptions, the rehabilitative effects that have been reported so far have had no appreciable effect on recidivism.”¹¹ Zimring then quotes Francis Allen’s reflection on Martinson’s conclusion: “there was, in fact, little new about the skepticism expressed in the Martinson study of the rehabilitative capabilities of correctional programs or the existence of validated knowledge relevant to the avoidance of criminal recidivism. At least since World War II expressions of such skepticism have abounded in penological literature, as have criticisms of correctional entrepreneurs whose claims of significant reformatory achievements were unsupported by scientific demonstration.”¹²

To summarize the lessons from the crime decline of the 1990s (which has continued, though at a much slower rate, up until 2010), one would fairly say that, among the criminal justice policies proffered as causes, the case for effectiveness is stronger for incarceration than for crime prevention or intervention programs. And yet there are those who still earnestly advocate a redistribution of criminal justice funds from incarceration to its alternatives.

But there are risks to such an agenda that should be carefully weighed before acting. Consider the following well-known statistics: according to U.S. Department of Justice surveys and studies, over 60% of prison inmates had been incarcerated previously¹³; and a 2002 Department of Justice study of 272,111 inmates released from prison in 1994 found that they had accumulated 4.1 million arrest charges *before* their most recent imprisonment and another 744,000 charges

⁹ Zimring, p. 197.

¹⁰ *Ibid.*, p. 69.

¹¹ Robert Martinson, “What Works? Questions and Answers About Prison Reform,” *The Public Interest* (Spring 1974), p. 25.

¹² Francis Allen, *The Decline of the Rehabilitative Ideal*. (New Haven: Yale University Press, 1981) p.57.

¹³ Department of Justice, *Survey of State Prison Inmates, 1991*. (Washington, DC: Bureau of Justice Statistics, 1993) 11.

within 3 years of release.¹⁴ This is an average of 17.9 charges each. The same study found that 67.5% of inmates released were rearrested for a new offense, almost exclusively a felony or serious misdemeanor, within three years of their release. These data suggest that the criminal justice system is hardly incarcerating trivial or non-serious offenders and that the threat of recidivism is quite real. And since most crime in the United States is intra-communal, it should also be pointed out that declining to incarcerate or prematurely releasing individuals with a demonstrated propensity to commit crimes unless incapacitated imposes costs on already distressed inner city, minority communities, thereby adding to their disadvantage.

What is the magnitude of those costs? Estimates vary widely because of the difficulty of placing a value on intangibles such as victims' lost quality of life, general fear, lost use of community spaces, and psychological effects. Added to these are more easily measured tangible victim costs such as lost property, lost productivity and medical treatment. A 1996 research preview from the National Institute of Justice used data from 1987 to 1990 and estimated the tangible costs of crime to victims at \$105 billion annually and the annual intangible costs to victims at another \$345 billion for a total cost of \$450 billion annually.¹⁵ The approximately 40% reduction in crime rates achieved during the decade of the 1990s was thus worth about \$180 billion annually in saved victim costs, tangible and intangible; and this is a significant underestimate since it does not capture the increased quality of life, reduced fear, greater use of community spaces, and reduced psychological effects on non-victims.

All of this is meant to suggest not that nothing can be done to deal with the current fiscal problems afflicting the criminal justice system broadly and the federal prison system in particular, but rather to counsel caution when dealing with sweeping claims of cheap, readily available, and highly effective alternatives to federal incarceration. First, we need to understand the unique characteristics of the federal prison population. Second, we need to critically evaluate the effectiveness of interventions meant to reduce recidivism. Third, we need to make use of the voluminous literature on predicting criminality. And finally, we need to hold tenaciously to the commitment by our actions to reduce the total social costs of crime and eschew the practice of merely getting those costs off our books by shifting them to others.

On the first point, it is noteworthy that while total prison populations in the United States have declined for two straight years, the number of sentenced prisoners under the jurisdiction of the Federal Bureau of Prisons in 2011 increased by

¹⁴ Department of Justice, *Recidivism of Prisoners Released in 1994*. (Washington, DC: Bureau of Justice Statistics, 2002) 1.

¹⁵ Department of Justice, *The Extent and Costs of Crime Victimization: A New Look*. (Washington, DC: National Institute of Justice, 1996), p. 2.

6,651 inmates (up 3.1%) from 2010 and the average annual increase between 2000 and 2011 is 3.3%.¹⁶ Not only is the federal prison population growing while the state prison and local jail populations are declining, but the mix of offenders in these respective populations is quite different.

Among sentenced state prisoners, an estimated 53% were sentenced for violent offenses in 2010, the year for which the most recent data on offense are available.¹⁷ Eighteen percent of state prisoners were serving sentences for property offenses, and 17% were serving sentences for drug crimes. Among sentenced federal prisoners, 48% were held for drug crimes, while only 8% were held for violent offenses.¹⁸ Fewer inmates served time in federal prison for violent and drug crimes in 2011 than in 2010, while 35% of sentenced prisoners were imprisoned for public-order offenses. An estimated 11% of inmates in federal prison were sentenced for immigration offenses, which represented one of the fastest growing segments of the federal prison population. Between 2010 and 2011, the number of inmates sentenced to more than a year in federal prison for immigration crimes increased 9.4%. These figures caution against estimating recidivism effects for early release federal prisoners based on comparisons to state and local prisoners. They also suggest that more attention be paid to the incentives that induce federal law enforcement officials to arrest, convict and incarcerate a very different population than do their state and local colleagues.

On the matter of the effectiveness of rehabilitation/intervention programs, there has been considerable skepticism of such programs in the research community for the last forty years. Even among scholars most committed to rehabilitation and treatment programs, there is widespread recognition that the range of possible improvement in recidivism rates is on the order of 10% and that most of the currently utilized programs in this country are ineffective.¹⁹ But while evidence for effective treatment and rehabilitation is modest, there is a much larger literature on career criminals and criminal careers that underpins efforts to classify offenders and predict which are most likely to recidivate. Again this literature, while voluminous, is fraught with difficulties including the prevalence of false positives. Yet, it at least explicitly addresses the problem of shifting incarceration costs onto the general community and individual victims.

In conclusion, we have had demonstrable success in reducing crime rates significantly in the United States. Based on that experience, we have evidence to judge what contributed to that success and how much. And we know who the

¹⁶ Department of Justice, *Prisoners in 2011*. (Washington, DC: Bureau of Justice Statistics, 2012), Table 1.

¹⁷ *Ibid.*, Table 9.

¹⁸ *Ibid.*, Table 11.

¹⁹ Francis T. Cullen and Cheryl Lero Johnson, "Rehabilitation and Treatment Programs," in *Crime and Public Policy*, ed. James Q. Wilson and Joan Petersilia (New York: Oxford University Press, 2011), pp. 293-344.

primary beneficiaries of that success were. As we face the present challenges of fiscal austerity, we ought not ignore those hard-learned lessons. The aggregate size of the criminal justice budget, and its allocation among the component parts of the criminal justice system, should be constantly monitored and reassessed. But that assessment should be done wisely and judiciously by the lamp of experience.

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