**Mass Incarceration Didn’t Lower Crime, But Can Congress Be Convinced?**

**By Tierney Sneed**

As lawmakers renew their push for criminal justice reform, a question surely to be debated is the of role mass incarceration in the drastic drop in crime in the U.S. over the last two decades. A new report seeks to examine just that, and its conclusion: very little.

“Incarceration is not effective at crime control – so we need to be doing something else,” says Inimai Chettiar,​ director of the Brennan Center’s Justice Program​, which released its report [“What Caused the Crime Decline?”](https://www.brennancenter.org/publication/what-caused-crime-decline)​ on Thursday.

“All of these policies were enacted because people believed that they were going to bring down crime,” she says, referring to policies that have contributed to the U.S.’s ballooning prison population, such as mandatory minimums in sentencing and certain drug laws. “But they didn’t actually bring down crime.”

According to the report, while ​incarceration played a small role – approximately 5 percent (though maybe somewhere between 0-10 percent) ​ – in the drop of crime between 1990-1999, it had nearly no effect (0-1 percent) on crime between 2000-2013. Since 1991, violence crime has been cut by more than half, and property crime shrunk by 43 percent, while imprisonment increased by 61 percent.

Unlike other studies looking at the relationship between incarceration and crime, the Brennan Center – a public policy and law institute at New York University – used more recent data to examine the consequences of diminishing returns on incarceration, finding that the more incarceration is used the less effective it is.

“We are not locking away the people who are habitual violent offenders anymore, we are locking up everyone. So locking up a petty criminal isn't going to bring down the crime rate,” Chettiar says.

It also took a far more comprehensive approach than past research to studying what led to the reduction of crime, looking not at just the incarceration rate, but 13 other theories commonly touted in media and research that could have caused crime rates to drop. While it found some factors, such as economic growth, decreased alcohol consumption and certain policing trends, contributed to crime reduction, the effect of other developments, like legalized abortion and drug use, is still unknown.

The study comes just as congressional ​lawmakers ramp back up their initiatives to curb mass incarceration in the new session. Wednesday marked the return of the prison reform bill known as the CORRECTIONS Act, sponsored by Sen. John Cornyn, R-Texas, and Sen. Sheldon Whitehouse, D-R.I., which would allow certain inmates to apply for anti-recidivism programs to shorten their sentences. On Thursday, a bipartisan coalition of senators led by Sen. Richard Durbin, D-Ill., and Sen. Mike Lee, R-Utah, announced the re-introduction of the Smarter Sentencing Act, which would gives nonviolent drug offenders currently incarcerated under mandatory minimums the ability to apply for reductions to their sentences. Meanwhile, expected next month is the roll out of the latest version of a bill introduced in 2014 by Sen. Rand Paul, R-Ky, and Sen. Corey Booker, D-N.J., that would promote changes to how juveniles are processed through the ​system while allowing certain nonviolent offenders to seal their criminal records.

All three efforts attracted bipartisan support in the past and criminal justice reform is considered one of the few initiatives on which Congress – historically gridlocked in recent years – could come together. The issue also has the backing of President Barack Obama’s administration, having been a priority of outgoing Attorney General Eric Holder.

While criminal justice reform has long has the support of the left and of civil rights advocates, it has also in recent years attracted the attention of budget hawks on the right, particularly in the [legislatures of red states](http://www.usnews.com/news/articles/2014/11/19/texas-georgia-mississippi-set-conservative-example-for-criminal-justice-reform) that have embarked on measures to curb their prison populations.

Thursday’s report looked at state data, finding that in places like New Jersey, Texas, New York and California, crime has continued to fall as prison populations decreased.

“It’s not just, 'incarceration did not cause the crime decline,' it’s that incarceration can go down and crime can still go down too,” Chettiar says.

The federal prison population, at about 216,000​​ [according to the Prison Policy Initiative](http://www.prisonpolicy.org/reports/pie.html), is smaller than the combined state prison system, which currently holds some 1,362,000 inmates. But efforts by national lawmakers to curb mass incarceration have the bonus effect of encouraging more states to take on reforms, Chettiar says.

The otherwise positive momentum toward reducing incarceration levels may be facing one new obstacle, as last year's election that turned the Senate red also elevated some so-called “tough on crime” Republicans, [particularly new Judiciary Committee Chairman Chuck Grassley](http://www.slate.com/blogs/the_slatest/2014/11/13/chuck_grassley_might_be_the_one_thing_standing_in_the_way_of_mandatory_minimum.html), R-Iowa, who have opposed mandatory minimums reductions and other reform measures in the past. (He only has supported past mandatory minimum reductions bills once new mandatory sentences for other crimes were added to the legislation.)

Grassley and others have used the parallel decline in crime and rise in incarceration as reason not to overhaul the current system, an argument this latest report calls into question. It’s also an assumption plenty of other conservatives have questioned, according to Grover Norquist, president of the pro-small government group Americans for Tax Reform, who has been critical of mass incarceration.

“It’s conservatives asking, ‘Is it helping fight crime to have the length of sentences, the number of crimes, and the resulting heavy numbers of people in prison – is that helping? Are there things that we can do that cost less money, disrupt​ lives less?'​” Norquist says. Any new evidence will help their case​,​ but Norquist points out other traditionally conservative coalitions like evangelicals and law enforcement are also rallying behind the cause.

"In my mind it doesn't seem like a left-right split as much as a generation split," says Vikrant Reddy, of the conservative pro-reform group Right on Crime, citing older Democrats like Sens. Dianne Feinstein, Calif., who have been resistant to certain measures​. (Feinstein voted against an anti-recidivism bill in committee last year). "It's a different world and the younger senators see that different world and they are trying to craft policies that address it."

Since assuming the Judiciary chairmanship, [Grassley has signaled](http://www.nationaljournal.com/congress/this-is-how-justice-reform-can-actually-happen-this-year-20150202) he would be open to work on certain measures. While the Smarter Sentencing Act would have a greater impact on prison populations, some argue the more modest efforts that focus on back-end reforms – changes that would allow inmates to leave prison early on good behavior and better adjust once they’re out – have a better chance of passage.

“This is perhaps the best place to start," Cornyn said Tuesday when announcing his bill, considered a back-end proposal, "because this does have such broad bipartisan support in the Judiciary Committee" – referring to Grassley’s willingness to help see it to the Senate floor.

But that won’t stop others for pushing for more ambitious efforts.

“It’s enough just to give people good time credit in prison or increase reentry programs or to focus on reducing recidivism,” says Chettiar of the Brennan Center. “We have to address the problem. We need to be able to address who is entering prisons and for how long they're staying there.”

She adds, “It’s great that all of these are being introduced and there is all this momentum. And the choice is, 'Which is it going to be?' as opposed to, 'Is it going to be?'”