

01.24.2017

COMMENTARY

What We Can Learn from the Amazing Drop in Juvenile Incarceration

Lesson One: Don't make policies when emotions are running high.

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The Bureau of Justice Statistics announced in a year-end report a 2 percent reduction in the number of prisoners nationally, continuing a modest decline of recent years. Overlooked by most observers, though, was the fact that the number of juveniles held in adult prisons declined to fewer than 1,000, an 82 percent drop from the peak year in 1997.

Although America's penchant for incarceration has been widely recognized in recent years as counterproductive, the actual decline in prison populations has been very modest. In contrast, the reduced number of young people in adult prisons, along with a 50 percent decline in their confinement to youth facilities, suggests that population reductions on a significant scale are possible as well as politically feasible. A look at how the juvenile experience has changed can provide lessons in how to accelerate the reduction of adult incarceration.

Teenagers under 18 have long been subjected to adult court jurisdiction in certain circumstances, and policies designed to expand those numbers were widely adopted in the "tough on crime" era of the 1980s and 1990s. With two decades of experience we now have evidence of the counterproductive outcomes of those policies. Research documents both the greater vulnerability to abuse and the greater incidence of recidivism when young people are confined in adult prisons.

Changing public sentiment regarding the wisdom of sending young people to adult prisons has led policymakers in many states to revise misguided policies that applied excessive punishment with little evidence to support them. As a result, many juveniles who would otherwise be languishing in

adult prisons are now either in juvenile confinement facilities that are better designed for their needs, or have been diverted from confinement altogether.

What changed the public mood was groundbreaking research and sustained advocacy, initially focused on campaigns to rule out the death penalty for juveniles. A key argument in these efforts has been the concept that “kids are different” in levels of maturity and impulsivity, suggesting reduced criminal culpability. These findings were a key element in the Supreme Court’s decision to strike down the juvenile death penalty in 2005 and to later scale back the scope of life imprisonment for juveniles.

Awareness of the violence, including rape, inflicted on juveniles in facilities designed for adults, combined with brain science research showing that full levels of maturity are not reached until the mid-20s, has helped create greater empathy for children who commit crime. Most people understand that teenagers make poor choices but deserve second chances.

There are important lessons we can learn from this experience. The first is that adopting major policy shifts in an emotional political climate is never a wise course of action. Policymakers who promoted increased transfer of children to adult courts in the early 1990s did so at a time when juvenile (and adult) violence had risen precipitously. In retrospect we know that the spike in violence was largely due to the emergence of crack cocaine drug markets, and was relatively short-lived.

The second lesson is that revising how we think about people who commit crime changes how we respond to their actions. In the juvenile arena, it has become clear that young people are not yet functioning at full capacity, and therefore we need to avoid punishments that will diminish their life prospects. Instead, interventions should seek to expand their opportunities for success.

As crime rates remain relatively low, this is a good moment to reflect on this experience and to pursue more constructive alternatives to jail time. We would start by restoring an individualized and rehabilitative approach to working with young adults. Knowing that most young people “age out” of crime by their mid- to late-20s, it is counterproductive to subject them to an often-brutal prison environment. Yes, there need to be consequences for criminal behavior, but these should involve finding the appropriate balance between public safety and helping offenders address the factors that contributed to their crimes.

And if such an approach makes sense for juveniles it also can be adapted for adults. The life history of individuals in prison shows that, more often than not, they committed their crimes after major setbacks — addiction, loss of jobs or housing — for which they received little support. There are few individuals in the prison system so dangerous that they can never be released back into the community. If we truly want to end mass incarceration we need to change the mindset about crime to one that emphasizes prevention and restoration over punishment.

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