



Why Currently Fashionable Approaches to Criminal Justice Reform May Not Help Families of Convicts

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There is widespread agreement that incarceration rates in the United States ought to be reduced but little evidence on how approaches to shrinking the nation's prison population might affect families. Many reform proposals are narrowly tailored to exclude anyone convicted of a violent offense and simply shift the conditions of confinement – for example, by moving inmates from state prisons to county jails. Current approaches also do little to improve post-incarceration services for former prisoners who return to their communities. The goal of most current reforms, it seems, is to reduce the incarceration of so-called “petty offenders.” This would still leave the United States with one of the highest incarceration rates in the world. What is more, our research suggests that minimalist reforms may not yield large benefits for the families and children of American prisoners.

Conviction Offense is Not a Good Proxy for Potential Family Harm

Using a nationally representative survey, we compared various ways of categorizing fathers who were later sent to jail or prison with respect to risk of harm to their children and partners. For example, we considered the social characteristics of fathers who were eventually incarcerated, and how involved they were with their children and partners. Our data also includes information on the offenses for which the fathers were convicted, and we found that conviction offenses are not systematically related to the risk of harm to families. This suggests that criminal justice reforms meant to apply only to those convicted of minimal offenses may not do much to reduce collateral harm to the families of convicts. Among our most important findings:

- The background and behavioral characteristics of fathers do not reliably predict the likelihood of incarceration, except in the case of fathers suffering both severe mental health and substance abuse problems. One third of the men who were later incarcerated were categorized as “low risk” to their families prior to incarceration – including low risk for engaging in family violence.
- Fathers at low risk for harming their families are not synonymous with the “nonviolent drug offenders” so regularly targeting by prison reformers. Of the 76 low-risk men in this study for whom conviction data are available, one-third were incarcerated for violent crimes. By the same token, self-reported addiction does not reliably predict incarceration for drug crimes; very few of these men were incarcerated for drug offenses (most were incarcerated for neither drug nor violent crimes).
- When we examine fathers at high risk for harming their families, we find that the incarceration of fathers with severe substance abuse problems may actually help families. Although most children are harmed when their fathers go to jail or prison, for the small subset of children of father with severe substance abuse problems, incarceration may provide stability.

Rethinking Criminal Justice Reform and Family Wellbeing

Prior research on the consequences of imprisonment for the families of those imprisoned suggests that incarceration of so-called petty offenders is most harmful for children and partners. Unfortunately, few studies provide a clear description of who is and is not a “petty offender” or explore in any detail how to make such distinctions. Low-level or petty offenders often refer to drug offenders. This is understandable, given that punitive sentencing for drug offenders played a role in driving up incarceration rates in America. Nevertheless, our research shows that equating “petty offenders” with drug abusers obscures a troubling reality: there are some parents who pose significant problems for their children, either because they suffer from serious mental health problems or because they struggle with addiction. When benefits to families are considered,

some serious drug abusers require intervention.

Differentiating between “harmful” and “helpful” fathers is difficult, and reform efforts that rely on criminal offense categories may not be the most effective way to pinpoint collateral benefits or harms to the families of prisoners. Put simply, there is little relationship between the seriousness of offenses for which men are convicted and their likelihood of harming their families. Some fathers convicted of violent offenses present little harm to their partners or children, while quite a few fathers with severe substance abuse or mental health problems present major risks for their families. Our results thus present a challenge to criminal justice reform efforts. Across-the-board reductions in incarceration targeted on supposedly minor or nonviolent offenders may improve wellbeing for some children. But many other children of convicts may also be harmed by such general approaches to reducing prison sentences, unless they are accompanied by beefed up community supports and treatment services.

Overall, criminal justice reform targeted at broad classes of criminal convictions such as drug offenses is unlikely to substantially improve wellbeing for children or families. The class of inmates convicted of drug offenses in the United States is simply too heterogeneous to proclaim that all are “minor” offenders at “low risk” to children and partners. And the same is true of the broad categories of people convicted of violent offenses. If some of them served much less time, their families might well benefit.

There is another good reason why restricting reform to nonviolent offenders makes little sense. More than half of all state prison inmates in the United States are incarcerated for violent crimes of one sort or another. So any determined effort to shrink prison populations over time will need to find ways to reduce violent offenders’ sentences and reintegrate them into family and community life. We conclude that policymakers should move away from reform efforts focused on specific sets of inmates classified by offenses and, instead, begin to fashion policies that tackle the constellation of problems – including violence, addiction, and mental illnesses – faced by inmates, their families, and the larger community. Sentences and supports need to be better tailored to actual risks, not just broadly labeled categories of offenses.

Read more in Sara Wakefield and Kathleen Powell, “Distinguishing Petty Offenders from Serious Criminals in the Estimation of Family Life Effects.” *The ANNALS of the American Academy of Political and Social Science* 665, no. 1 (2016): 195-212.