

LIMUN

LICEO'S MODEL UNITED NATIONS



US Senate

*Topic A: "Mass Incarceration and Recidivism
in the Criminal Justice System"*

Written by: Lucia Macedo Orozco

I. COMMITTEE BACKGROUND

The U.S. Senate

The United States Senate is the legislative branch of the US government, composed of both senators and representatives from each state. Its primary function is to create and approve laws, which undergo the legislative process which is taken at the end by vote. Within its responsibilities lies the approving of federal justices and judges, as well as passing the national budget and even the declaration of war. Each state has the power of having 2 senators, and the number of representatives is dependent on the population of each state. The Vice President as the President of the Senate, and has in his hands the decisive vote in case of a tie. In order to pass legislation, both the House and the Senate must pass the same bill through a majority of vote. Additionally, the Senate plays the essential role of handling impeachment cases.

II. HISTORY OF THE TOPIC

A. Introduction

Since 1891, when the Prison System was first established in the United States, incarceration has been the solution to control unlawful behavior against the law. Its structure has been modified over the years, aiming for public safety and respect for law. In the last decades, however, the United States became the leader of the prisoner population rate, housing more inmates than any country in the world. The U.S. releases more than 600,000 prisoners annually, but more than 50% are incarcerated again, having today 2 million prisoners. By being the leading nation worldwide concerning incarceration, it has brought to the country's attention the lack of efficiency and constant threats that the Criminal Justice System faces. When looking at statistics, more than 50% of convicted men or women are incarcerated again, creating the cycle known as recidivism: the tendency of a criminal to reoffend, or fall into the same patterns in past behavior.

Without discussing the causes and effects of said tendencies, it is clear that the solution is found during the process inmates go through during their stay in prison. Depending on the gravity of their crime, the government aims to release criminals into society with a better conscience and renewed morals. Said morals will eventually be the result of the treatment and rehabilitation they receive during prison. Through the years, the Criminal Justice System and its methods have changed in order to educate in the best possible way those individuals that could in the future, help society instead of putting it in danger.

It is important to consider that the country's prisons are separated by two: federal and state prisons. Federal law and the Constitution evidently prevail over state law, being directed towards the entire nation. However, state prisons respond to different crimes than federal law.

B. Development

Mass incarceration began to take hold in the 1970s, during the Nixon administration. As a result of modern problems at the time, incarceration became the evident solution and pathway to public safety. Several decisions made by the government inevitably led to today's ever growing problem. Along with the rise of incarceration, came the decline of prestige of the *Medical Model*, theory of corrections used until then, which took a medical perspective to solve crime. It was then in 1971 that the *Balanced Model* rose to become the official method, that still remains today, to treat the convicted; consisting of four faces which are presented in order: punishment, deterrence, incapacitation and rehabilitation.

Concerning the latter, there seems to be a lack of focus on it when looking at recidivism rates. 2 out of 3 released prisoners usually end up rearrested. Part of the rehabilitation process is taken up by vocational training and wellness programs, as well as treatment to all those who suffer mental illnesses or addictions. For those eligible, parole is available and usually a better option. Helping prisoners introduce themselves back to normality, parole serves as an early but supervised release of convicts. It officially began in 1907, and gained popularity until the 1940s, when it reached its peak when almost 72% of state and federal prisoners were released early by this mechanism.

This steady increase reached its present decline when in 1984 the Sentencing Reform Act removed parole from federal prisons, responding to the insecurity of the method. The latter was observed and identified when most of the paroled criminals committed high-profile crimes, gaining attention and a prompt correction. A new strategy was adopted, similar to China's, where instead of parole, good behavior was awarded by reductions in their sentences, as well as a release with supervised attention. Known as post-release supervision, monitoring is placed on prisoners, achieving a more definite sentence than paroled ones. The

effectiveness of this method varies through states, with no visible trend. Giving a special mention to California, where its parole system seems to do little to reduce recidivism, with statistics that show that 28% of parolees were returned, compared to the average 17% of other states.

Government acts aimed to facilitate the entering and exiting of the system through acts and reforms that modified past law. Despite constant changes, exiting the system became even more difficult due to problems that came along with it. Economically, getting a job became a struggle to those released, which impeded the signing of the Prisoner Rehabilitation Act in 1974, which implied that by a certain time passed the offense, the offender would not have to present his criminal record when applying to a job. Alongside economic struggles, mental illnesses prove to be common in inmates, and yet about 60% of state prisoners and 42% of federal prisoners who met the threshold reported having received treatment, a survey made by the Bureau of Justice Statistics in 2016.

Besides the difficulty of employment after incarceration, a visible pattern has been presented by reoffenders, by having an uneducated and poor past, even before prison. "The Three State Recidivism Study", made in 1997, and which results were released in 2001, confirms that if a prisoner had prior education, he or she is 29% less likely to reoffend. Education plays an essential role as well in the process of employment of ex-offenders, who aim desistance, the state a person achieves by permanently non-offending.

C. Relevant Events

War on Drugs

The "War on Drugs" movement was declared by President Nixon, and rose to affect even more the probability of ending up in prison. The so-called fight to illegal drug use was then supported by "tough on crime" laws that demanded mandatory minimum sentences. This created a whole

generation of inmates which remain victims to the time's laws. Consequences are seen today by the growing geriatric prisoners who still remain in prison to date. According to the Federal Bureau of Prisons, almost 50% of inmates today are convicted because of drug offenses.

Another president whose presence enforced Nixon's laws was President Ronald Reagan, who signed the Anti-Drug Abuse Act in 1986, where he enforced and demanded even harsher penalties by funding more than \$1 billion to state and federal law enforcement agencies, increasing the money spent before sevenfold. Reagan, then spent a tripled amount by changing it to \$6.6 billion by 1989. Since then, great funding has been given to the system, enabling it to expand its capacity of inmates, and law enforcement.

Race Issue

At the end of the 19th century and the start of the 20th, the Jim Crow Laws were established, and encouraged segregation throughout the US. These laws were mainly from the South, and as a result of this separation between African American and Whites, came the Great Migration from 1916 to 1970, when more than 6 million African Americans relocated to the North, Midwest and West. Today, during and after the War on Drugs declaration, black people were targeted even more, creating a 5:1 ratio of incarceration compared to white people.

1994 Crime Bill

The Violent Crime Control and Law Enforcement Act of 1994, signed by President Bill Clinton, skyrocketed incarceration once again, and has been identified as the primary driver of mass incarceration today. Politicians like Sen. Bernie Sanders and today's President Joe Biden have been attacked in the past for supporting and being part of its creation, but are now making decisions to reverse all negative effects of said act. At the time, after the incentive funding and enforcement of laws, many states

followed suit. Today, the Reverse Mass Incarceration Act provides funding to reduce mass incarceration to 88% of the population in states all over the country, supported by Biden.

III. CURRENT ISSUES

A. Points of view

Even though both of the US's parties aim to end mass incarceration and reduce recidivism, the approach they take to solve the problem may be different in several areas.

Democrats

Democrats acknowledge the importance and place the US has compared to the rest of the world's countries, and aim to reform the criminal justice system. By doing so, research and evidence are prioritized over slogans and media as the core that guides the justice system. Alongside this preference, funding is believed to be better spent in education programs and jobs rather than the jails themselves, in order to eliminate the school-to-prison pipeline. Direct assessment is addressed when concerning visible race injustices, and mandatory minimum sentences need to be reformed, as well as the closing of private prisons.

Republicans

On the other hand, republicans approach the problem and focus on the children of those incarcerated. Schools should take special concerns for them, as well as social services and religious institutions. Mandatory minimum sentencing is modified, especially towards those whose offending is non-violent (drug, alcohol, or health mental issues). Republicans urge Congress to decrease the number of criminal offenses in the U.S. code, which encourages over-criminalization and over-federalization.

General Public

According to a survey made by the Open Society Foundations, 54% of adults believe the nation's system is on the wrong track. The War on

Drugs is mainly seen as a failure rather than a success, and two thirds of Americans believe that rehabilitation and treatment are the answer to reducing crime. As well as job training, they believe that prisoners should be handed tools that enable them to survive and be independent in today's society.

B. External Actions

UNODC

By searching that human rights are respected during a convict's time in prison, the UN has developed the Nelson Mandela Rules, also known as the United Nations Standard Minimum Rules for the Treatment of Prisoners. These rules aim to establish the essentials of prisoner management and treatment.

IV. CONCLUSION

In the end, recidivism and mass incarceration are inevitably intertwined, and complement each other negatively. If this vicious cycle of crime is to be solved, both parties should question and reflect upon the system, in order to identify and agree upon the best solution for prisoners, public safety, and society as a whole.

V. IMPORTANT QUESTIONS

- Are the main goals of the prison system enough to avoid mass incarceration or recidivism? Are changes really necessary?
- Is funding necessary for law enforcement? Should it be moderated in order to avoid mass incarceration?
- Should punishment be given to non-violent offenders?
- How can race disparities be avoided during the sentencing process?
- Is recidivism a consequence of a broken justice system or a broken moral?

- How can the government ensure that prisons are providing the necessary attention to each stage and goal of the Criminal Justice System?

VI. SOURCES

The White House. (2021, January 15). The Legislative Branch.

<https://www.whitehouse.gov/about-the-white-house/our-government/the-legislative-branch/>

History.com Editors. (2019, December 17). War on Drugs. HISTORY.

<https://www.history.com/topics/crime/the-war-on-drugs>

History.com Editors. (2021, June 28). The Great Migration. HISTORY.

<https://www.history.com/topics/black-history/great-migration>

Chapell, D. (2020, October 1). New Study Shows “Tough on Crime” Generation Spent More Time in Prison Despite Falling Crime Rate | Prison Legal News. Prison Legal News. Retrieved June 24, 2022, from

<https://www.prisonlegalnews.org/news/2020/oct/1/new-study-shows-tough-crime-generation-spent-more-time-prison-despite-falling-crime-rate/>

Chammah, M. (2016, July 19). Two Parties, Two Platforms on Criminal Justice. The Marshall Project. Retrieved June 24, 2022, from

<https://www.themarshallproject.org/2016/07/18/two-parties-two-platforms-on-criminal-justice>

BOP: Timeline. (n.d.). Federal Bureau of Prisons. Retrieved June 24, 2022, from

<https://www.bop.gov/about/history/timeline.jsp>

Punitive Excess. (2021, April 13). Brennan Center for Justice.

<https://www.brennancenter.org/series/punitive-excess>

Majority of Americans Think U.S. Criminal Justice System is Broken, Ineffective; See Need for Change. (2002). Open Society Foundations. Retrieved June 24, 2022, from

<https://www.opensocietyfoundations.org/newsroom/majority-americans-think-us-criminal-justice-system-broken-ineffective-see-need>

Fellowship, P. (2022, April 8). How can Parole and Credit Policies Reduce Recidivism? Prison Fellowship.

<https://www.prisonfellowship.org/2020/12/parole-and-credit-policies-reduce-recidivism/>

Nelson Mandela Rules. (n.d.). United Nations : Office on Drugs and Crime.

Retrieved June 24, 2022, from

<https://www.unodc.org/unodc/en/justice-and-prison-reform/NMRules.html#:~:text=The%20practical%20application%20of%20the, and%20humane%20custody%20of%20prisoners>