

“Oversight of the Bureau of Prisons & Cost-Effective Strategies for Reducing Recidivism”

Senator Grassley’s Questions for Prof. DeLisi

1. Does any scientifically rigorous evidence support the conclusion that prison overcrowding and budgetary constraints can be alleviated, without causing any harmful effect on public safety, through reducing sentences, placing inmates in successful anti-recidivism programs, and ordering the early release of inmates?

No scientifically rigorous study can demonstrate zero harmful effects on public safety. Although some programs show modestly significant effects for reducing recidivism, the release of prisoners *always* results in new criminal offending and thus reduced public safety compared to if those offenders remained in confinement. Consider the following studies. For example:

- A careful quantitative study using state prisoner and UCR data from 1978-1990 and 1991-2004 found that each additional prisoner prevents approximately 30 Part I felony offenses for the former period, and prevents 8 Part I felony offenses for the latter period.¹ Prior studies from my written testimony indicate that between 15-17 Part I felony offenses are averted for each additional prisoner. Taken together, these estimates indicate substantial increases in crime resulting from prisoner releases.
- In their influential study using nationally representative data, Langan and Levin tracked 272,111 former inmates released from prisons in 15 states in 1994. Within three years:
 - 67.5% were rearrested for a new felony or serious misdemeanor
 - 46.9% were reconvicted in state or federal court
 - 25.4% were resentenced to state or federal prison
 - Another 26.4% were back in prison for violations of parole
 - Offenders who would appear to have *lower risk* (based on conviction for a non-violent felony) have *higher* likelihood of re-arrest.
 - 66.7% of drug offenders are rearrested within three years.²

None of these data provide confidence that released prisoners are prone to desist from crime.

- Observed crime trends are also revealing. A careful, large-scale quantitative study indicated that released prisoners are significantly responsible for all forms of crime measured by the FBI, and that former prisoners are particularly responsible for the crimes of murder and robbery.³
- When the federal courts mandated prisoner releases in Philadelphia, the result was a large-scale increase in crime by the released prisoners. According to Justice Alito:

¹ Johnson, R., & Raphael, S. (2012). How Much Crime Reduction Does the Marginal Prisoner Buy? *Journal of Law and Economics*, 55(2), 275-310.

² Langan, P. A., & Levin, D. J. (2002). Recidivism of prisoners released in 1994. *Federal Sentencing Reporter*, 15, 58-65.

³ Raphael, S., Stoll, M. A., Duggan, M., & Piehl, A. M. (2004). The Effect of Prison Releases on Regional Crime Rates [with Comments]. *Brookings-Wharton Papers on Urban Affairs*, 207-255, p. 241.

During an 18-month period, the Philadelphia police rearrested thousands of these prisoners for committing 9,732 new crimes. Those defendants were charged with 79 murders, 90 rapes, 1,113 assaults, 959 robberies, 701 burglaries, and 2,748 thefts, not to mention thousands of drug offenses.⁴

- A recent article in the Wall Street Journal by legal scholar Heather Mac Donald indicated that California has experienced sharp increases in property crime overall, burglary, and auto theft as part of a federal injunction to release 40,000 prisoners within two years as a result of *Brown v. Plata* (2011).⁵
- It is likely that the current crime increases (2012-2013) are in part caused by reductions in the state prisoner population over the last three years—although this conclusion awaits definite study.

2. The Judiciary Committee is set to consider three prison reform bills: S. 619, the Justice Safety Valve Act of 2013, S. 1410, the Smarter Sentencing Act of 2013, and S. 1675, the Recidivism Reduction and Public Safety Act of 2013.

In your opinion, will the proposals in these pieces of legislation alleviate overcrowding in federal prisons without causing harm to or affecting public safety?

No, the proposed legislation would alleviate overcrowding in federal prisons, but it would also result in more crime and reduced public safety. A main reason is that the offenders who appear to be lowest risk based on their conviction offense have the greatest offending frequencies. Raphael recently estimated the following crime rates per 100,000 by offense type:

Murder	5.63
Rape	33.11
Robbery	146.12
Assault	309.54
Burglary	747.22
Larceny	2450.72
Auto Theft	432.91
Other Property	725.46
Drugs	469.68

Thus the very federal offenders most likely to receive early release have the greatest offending velocity.⁶ And the more violent offenders, such as those convicted of murder, rape, armed robbery are also most likely to continue engaging in predatory offending.

⁴ *Brown v. Plata*, 563 U.S. ___ (2011), p. 14 Alito dissent.

⁵ See, <http://online.wsj.com/news/articles/SB10001424052702304799404579153812943219656>; *Brown v. Plata*, 563 U.S. ___ (2011).

⁶ Raphael, S. (2011). Incarceration and prisoner reentry in the United States. *The ANNALS of the American Academy of Political and Social Science*, 635(1), 192-215.