



Sen. Mike Lee and Orrin Hatch: Botching criminal justice reform comest at a steep cost

By Senator Mike Lee and Orrin G. Hatch | Wednesday, May 20, 2021

The past year – full of challenges, division and isolation – exposed many of the fault lines in our society. Events across the country brought renewed attention to enduring racial divisions, and highlighted a number of challenges related to law enforcement and policing. But if there is one issue that ought to help provide healing and unity for our communities, it is commonsense criminal justice reform.

Indeed, the past year highlighted not only why having effective, properly trained law enforcement officials is so important, but also why it's equally important that we get criminal justice policy right. Because just as essential as reducing crime is ensuring that we have a system that truly serves the public and protects individual rights. That's why Thursday, the Hatch Center will be hosting a [webinar](#) to highlight the importance of bringing greater balance to America's legal system.

When our criminal justice system doesn't properly balance these differing interests, the consequences can be devastating. Sadly, some aspects of our system too often treat offenders as statistical cases, rather than as human beings with dignity and a capacity for redemption – at a steep cost.

For instance, when the public sees judges impose excessive or patently unfair sentences – often because they're required to do so by law – it undermines trust in the entire justice system. And without respect and trust in the law, police officers' jobs become that much harder.

Incarceration also inflicts significant harm on families and communities – the building blocks of American civil society. Incarceration is tough on any marriage. Many marriages do not survive the financial strain and loss of affection that happens when a spouse is behind bars. Children whose parents are incarcerated suffer from behavioral and psychological problems, and are more likely to engage in criminal activity themselves.

Criminal penalties – though vital to protecting the public – can also exact a heavy toll on incarcerated individuals well beyond their time in prison. Oftentimes, individuals released from prison face serious obstacles as they seek to reenter society, get a job, and obtain medical care and stable housing. Instead of reintegrating, they can become trapped in cycles of poverty and

unemployment that increase the likelihood they will return to prison – causing further harm to themselves, their families and, ultimately, the rest of society.

Thankfully, we have made important progress in the past few years.

The passage of the First Step Act in 2018 showed us that commonsense, bipartisan criminal justice reforms are possible. It affirmed that we can enact meaningful change to more properly calibrate penalties for low-level drug offenses without compromising public safety. And it showed that we can incentivize individuals in prison to engage with programs designed to reduce recidivism rates, especially when communities are involved through nonprofit, faith-based, and educational programs.

Another positive step at the end of last year was Congress's restoration of Pell Grant eligibility for incarcerated students. Allowing individuals to use these grants to pay for postsecondary education and training while in prison provides them with a significant opportunity to rehabilitate and successfully reenter society when they complete their sentence. In fact, studies show that individuals who complete educational programs in prison are 43% less likely to return to prison following release.

As a designated "Second Chance Pell institution," Utah's Salt Lake Community College has been part of this meaningful initiative. Eleven students who received instruction while incarcerated graduated with SLCC's Class of 2020.

But as far as we've come, much work remains to be done.

We should take additional steps to allow judges to more properly calibrate punishments on a case-by-case basis. Such steps could include, for example, giving judges greater discretion to impose reduced sentences for low-level drug offenses; and the latitude to decide who is, and who is not, a danger to society. And we ought to continue working to make sure that our sentencing laws are fair, so that the punishment fits both the crime and the criminal.

We also must continue working to protect individual rights from government overreach. We need to pass mens rea reform to ensure that overzealous bureaucrats do not punish people for unwittingly violating technical regulations based on conduct those individuals had no reason to believe was wrong.

Among the many challenges of the past year were the strains placed on our police officers, which harmed their ability to successfully do their jobs. As we go forward, we must also remember that criminal justice reform and supporting law enforcement are not in conflict with one another, but go hand in hand.

The heart of criminal justice reform is helping our communities stay as safe and secure as possible, while simultaneously protecting the God-given equal rights of all Americans to life, liberty, and the pursuit of happiness.

By continuing to move forward in reforming our criminal justice system, we can improve trust in law enforcement, strengthen our families and communities, and better uphold liberty and justice for all.



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