

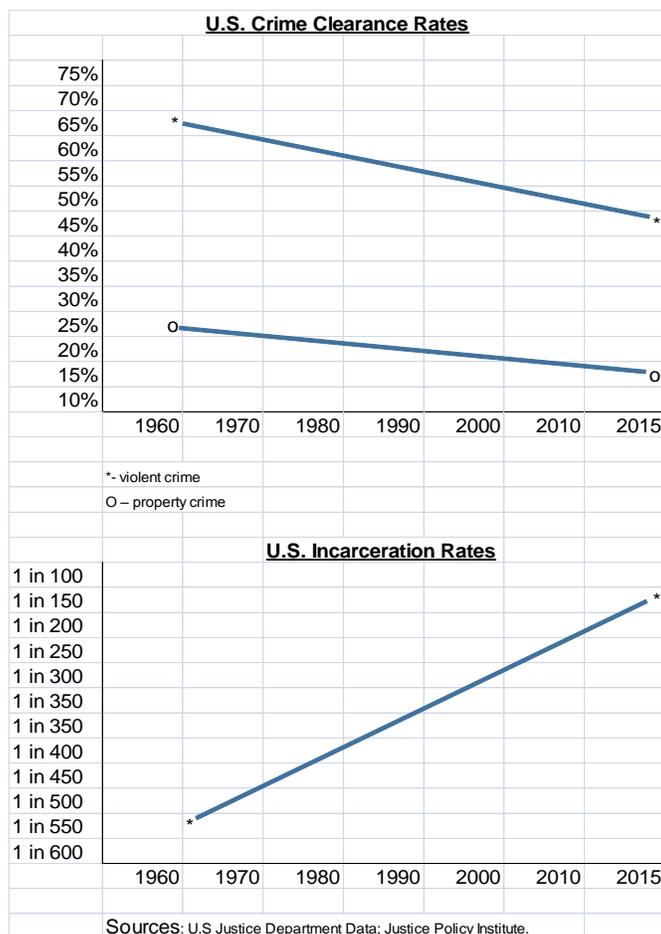
Cotton Pickin' Facts

Shad Neiss, Esq. (6-10-16)

Recently, Senator Tom Cotton (R, Ark.) attempted to blunt the fledgling movement to reform the criminal justice system by arguing that, because most crimes are not solved, America has an “under-incarceration” problem. This position is proffered to redirect listeners from drawing the somewhat obvious inference that, because Americans are by far the most incarcerated people in the world -- even though U.S. crime rates generally track with international norms -- that we are, actually, over-incarcerated.

Cotton is correct that most crimes in America today remain unsolved. In fact, according to FBI Crime Statistics only 47% of violent crimes (murder, rape, robbery, and aggravated assault) are solved and only 23% of property crimes are solved. These are facts. But, in isolation, they can be misleading.

To start, today's low crime clearance rates are historically unprecedented. Before the era of mass incarceration, most serious crimes *were* solved. In 1960 over 90% of murders were solved and over 70% of rapes were solved. (Today, only 64.5% of murders are solved and only 38.9% of rapes are solved.) In fact, a review of the trend lines reveal that as incarceration increased over the past two generations, crime clearance rates actually dropped, beginning an inverse correlation that has continued for decades:



As shown above, overall crime clearance rates for violent crimes dropped from 65% in 1960 to 47% in 2015 (a reduction of 18 percentage points, or -38.3%). Simultaneously, incarceration rates mushroomed from 332,945 inmates in 1960 to 2.3 million inmates in 2015 (equal to a per capita increase of 391% -- or a 680% overall increase -- and reflecting that 1 out of every 543 Americans was incarcerated in 1960, but this ratio increased dramatically to 1 out of every 139 Americans incarcerated in 2015). These diverging trend-lines show an inverse relationship reflecting a 22 percentage point *increase* in per capita incarceration (“I”) relative to every 1 percentage point *decrease* in violent crime clearance (“VCC”) (+22%I / -1%VCC). Clearance of property crimes (“PCC”) realized a more restrained decline during this period, falling from 23% in 1960 to 19% today (equal to 4 percentage points, or a -17.39% overall decrease). Here, there is also an inverse relationship reflecting a 98 percentage point *increase* in per capita incarceration relative to every 1 percentage point *decrease* in property crime clearance (+98%I / -1%PCC).

What explains the decreasing crime clearance rates when arrests have been increasing dramatically? The answer is so simple it is hiding in plain sight: In the era of mass-incarceration criminal justice resources became substantially allocated for prosecuting status and so-called morality crimes (around 40% of all U.S. inmates are non-predatory, non-violent offenders who generates necessary arrest data to maintain law enforcement budgets), and these law enforcement resources have become correspondingly unavailable to thoroughly investigate violent crime and property crime. The result is a backwards system of historically unprecedented incarceration, where the majority of serious crimes remain unsolved.

Senator Cotton, by citing one year of crime clearance data in isolation, ignores the context in which this data becomes meaningful. Americans have become the most jailed people in the world, though American crime rates are not atypical by world standards. Although Senator Cotton's argument was a calculated, rhetorical tool to obscure this point, the absurdity of his position is revealed in his suggestion that we should allow the government's social experiment with mass incarceration to continue because this experiment has failed to make us safe. It is a curious position, indeed, to insist that citizens continue to surrender their natural right to be left alone, and to permit the government to continue punishing us with a high-hand, because almost a half century of feckless policies have been ham-fisted as well.

The way society punishes reveals something vital about its character. Expensive punishment regimes that fail to make society safe reveal bureaucratic incompetence. Excessive, disproportionate, and/or cruel punishment regimes diminish not only the punished, but the punishers as well. The refusal to look honestly at the excessive, arbitrary, overly-harsh, and expensive nature of punishment in America today is a decision to collectively evade moral responsibility for indefensible conduct carried out against us, and in our name. If Americans want liberty for ourselves and our countrymen, we must forcefully reject Cotton picking facts to justify maintaining an overgrown and expensive punishment regime that is demonstrably ineffective at changing disfavored moral behaviors, and leaves the public less safe from more serious crime. Instead, the time has come for an intellectually honest discussion of criminal justice reform.