

# **Conversation with Inimai M. Chettiar and Jennifer Weiss-Wolf on August 22, 2013**

## **Participants**

- Inimai M. Chettiar – Director, Justice Program, Brennan Center for Justice
- Jennifer Weiss-Wolf – Deputy Director, Development, Brennan Center for Justice
- Alexander Berger – Senior Research Analyst, GiveWell
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**Note:** This set of notes was compiled by GiveWell and gives an overview of the major points made by Inimai M. Chettiar and Jennifer Weiss-Wolf.

## **Summary**

GiveWell spoke with Inimai M. Chettiar and Jennifer Weiss-Wolf as part of its medium-depth investigation of efforts to reform the United States criminal justice system. Ms. Chettiar is the Director of the Brennan Center's Justice Program and Ms. Weiss-Wolf is the Brennan Center's Deputy Director for Development. We spoke about the Justice Program's strategy for reducing mass incarceration and about the field of criminal justice reform (CJR) in general. At this point, the Brennan Center was in the developmental stages of their initiative.

## **About the Brennan Center's Justice Program**

### **History of the Justice Program**

The Brennan Center focuses on improving how democracy and the justice system function in the U.S.

The Brennan Center's Justice Program has worked to combat sources of unfairness in the justice system, including:

- Fines and fees for criminal defendants that create a system of debtors' prisons and hamper reentry
- Access to effective public defense for the poor
- Access to the courts (e.g. language access)
- Politicized selection of judges.

In July 2012, Inimai Chettiar joined the Justice Program from the ACLU in order to lead the Justice Program's new focus on reducing mass incarceration. The Program also has a new staff.

### **The Justice Program's staff**

The Justice Program currently has eight staff members, most of whom are lawyers and economics researchers.

The Brennan Center also has a Washington, D.C. office with staff that spends some time on Justice Program projects. The D.C. counsel and a policy associate dedicate about half their time to the Justice Program and the D.C. Director work on Justice Program priorities. Brennan also devotes 50 % of a communications coordinator, as well as editors and communications leadership. Senior leadership also spends time working on Justice Program issues.

## **Current environment for criminal justice reform**

### **The political moment**

*GiveWell asked whether this is a unique moment for CJR.*

There has never before been much political traction on this issue. Unlikely allies who have come into the fray because of the fiscal crisis are much broader than what could be organized under the traditional arguments for CJR of rehabilitation and mercy.

### **Framing criminal justice reform**

Leaders of the CJR movement have been debating how to leverage this moment. The Brennan Center's response has been to work to make reform into a national issue and to frame it in terms of an economic issue (meaning it affects the larger economy, not just fiscal costs). If the issue is framed entirely in terms of fiscal savings, the opportunity for reform could disappear in a couple of years when the fiscal situation improves.

There's a perception that overincarceration is bad because it wastes government money, but the reasons to combat overincarceration are broader than this. Overincarceration does little to protect public safety and it has a broader toll ("cost"): it removes people from the labor force, affects families, and disrupts individuals' lives.

### **Barriers to reform**

1. Mass incarceration is a hidden problem. A lot of people don't know that the U.S. is the largest incarcerator in the world. We need more public education.
2. There is a perception that most people who are in prison are dangerous criminals who need to be in prison. In reality, a high proportion of prisoners are not dangers to society.
3. Most Americans think that mass incarceration is not their problem because it affects a group of people they are not a part of. This is one reason why the fiscal argument has become important. People who don't have family, friends, or neighbors in prison still care about their tax dollars being wasted.
4. People need practical, easy to understand solutions.

## **The Justice Reinvestment Initiative**

The Justice Reinvestment Initiative (JRI) is one of the main ways in which reforms currently disseminate among the states. JRI is a partnership between the U.S. Bureau of Justice Analysis, states, and private organizations. Through JRI, organizations including Pew and the Council of State Governments provide technical assistance to states interested in CJR. JRI has done some great work to level prison populations in the states.

### **Underfunded areas**

- *Front-end reform:* The criminal justice system can be divided into the “front-end” (the point at which people *enter* the criminal justice system) and the “back-end” (points after an individual is already in the system). Currently, there has been a heavy focus on the back-end. The Justice Program focuses, instead, on front-end solutions to reduce the number of individuals pulled into the pipeline to prison.
- *National-level reform:* There is a general sense in the field that there is has been too much of a focus on short-term, quick fix, and jurisdiction-specific solutions. Although justice systems vary in the minutia of their details, the general trends and drivers of incarcerated populations across the country are similar. To really end mass incarceration, we need to garner national will to act. Recognizing that mass incarceration is a national issue (as opposed to something state or city-specific) is necessary to do this. A national discourse is necessary to generate big-ticket ideas and create the political will for systematic reforms.
- *Interdisciplinary Research:* There is a need for more public and political education, which requires better data on the harms of overincarceration and how states have reformed their policies without harming public safety. We could use more research that blends economics and law to tackle these problems.

### **Other criminal justice reform organizations**

#### *Research Organizations*

- The Urban Institute.
- Pew.
- The Applied Research Center.
- Vera Institute of Justice.
- The Sentencing Project does research and advocacy.
- The Department of Justice also does their own research.

#### *Advocacy Organizations*

- The Sentencing Project.
- The Pretrial Justice Institute.
- The Prison Fellowship.
- Families Against Mandatory Minimums.
- The Drug Policy Alliance.

- National Association of Criminal Defense Lawyers.
- ACLU.
- Right on Crime.

Traditional civil rights organizations are increasingly getting involved in the fight to end mass incarceration. The NAACP and Center for Constitutional Rights are two examples. Some of these groups have not focused on mass incarceration because of their stronger focus on litigation, which is not as available on this issue.

Grassroots organizations are also involved. The Citizens Alliance on Prisons and Public Spending in Michigan and the Pennsylvania Prison Society are examples of local groups involved in CJR. Communities of color organized by leaders like Michelle Alexander are also key to the larger movement.

## **The Justice Program's strategy for reducing mass incarceration**

State and federal level reforms have tended to be relatively incremental, not systemic.

Brennan works to complement these state reforms with data-driven research and public education aimed at creating a national conversation about CJR. A broader national dialogue is needed to get big picture reform. In particular, the Justice Program aims to demonstrate why mass incarceration is ineffective and design innovative new proposals for reducing the number of prisoners in the US.

The Justice Program is focused on reforming the criminal justice system's front-end. Front-end reforms include:

- Removing incentives for law enforcement to make large numbers of arrests for minor offenses.
- Decriminalizing activities that should not be crimes.
- Avoiding punishments that are harsher than necessary for activities that should be crimes.

## **Specific components of the Justice Program's strategy**

The Justice Program's current strategy includes five broad categories:

1. **New solutions. Using government dollars to change policies. Federal grants** – The Justice Program is researching and writing a report recommending the reform of major federal grant programs, called Success-Oriented Funding. The report's focus is on Byrne JAG, the largest federal criminal justice grant that travels to all states and thousands of cities. These grants can incentivize overuse of the criminal justice system by, for example, encouraging law enforcement officers to focus on increasing the number of arrests instead of reducing crime. After this report is released, Brennan will initiate an advocacy campaign around this issue, which will involve federal and state components.

2. **Showing mass incarceration has low “benefits.” Mass incarceration and crime rates** – The Justice Program is researching and writing a report demonstrating that overincarceration was not a primary driver of the drop in crime in recent years. Existing studies of the effect of mass incarceration on public safety conflate correlation with causation. There is evidence, however, that some states have reduced incarceration rates without increasing crime rates.
3. **Showing the larger social and economic toll of mass incarceration.** The Justice Program is researching and writing a report examining the employment effects of mass incarceration and how that affects the larger economic growth. The report will focus on showing that mass incarceration not only affects communities but also affects the country as a whole.
4. **Media and public education.** The Justice Program will engage in a media and public education campaign to move public dialogue away from mass incarceration policies.

## Successful programs

*GiveWell asked about successful state-level programs, and about the HOPE program, specifically.*

*Pre-trial reform:* Kentucky is a leader in pre-trial reform. Jail should not be a default before a defendant goes to trial. People should only be incarcerated before trial if they are a public safety threat.

*HOPE Program:* HOPE is a great program. However, it is a back-end fix. We would like to see more evidence-based programs like this that focus on the front-end.

*All GiveWell conversations are available at <http://www.givewell.org/conversations>*