

## **Research on the Impact of Comparable Policy Change in Other States:**

### **Felony Theft Threshold**

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- Since 2000, at least 37 states have raised their felony theft thresholds. Lawmakers have made these changes to prioritize using costly prison space for more serious offenders and to ensure that value-based penalties take inflation into account. A felony theft threshold of \$1,000 established in 1985, for example, is equivalent to more than twice that much in 2015 dollars.
- Responding to critics' claims that higher cutoff points will embolden offenders and lead to more crime, The Pew Charitable Trusts examined crime trends in the 30 states that raised their felony theft thresholds between 2000 and 2012, conducting the analysis of each jurisdiction from three years before to three years after the policy change.
- The analysis resulted in three conclusions:
  1. Raising the felony theft threshold had no impact on overall property crime or larceny rates.
  2. States that increased their thresholds reported roughly the same average decrease in crime as the 20 states that did not change their theft laws.
  3. The amount of a state's felony theft threshold—whether it is \$500, \$1,000, \$2,000, or more—is not correlated with its property crime and larceny rates
    - Resource: [https://www.pewtrusts.org/~media/assets/2017/04/pspp\\_the\\_effects\\_of\\_changing\\_felony\\_theft\\_thresholds.pdf](https://www.pewtrusts.org/~media/assets/2017/04/pspp_the_effects_of_changing_felony_theft_thresholds.pdf)
- *South Carolina:*
  - In 2010, the South Carolina legislature raised the felony threshold to \$2,000 dollars as a result of recommendations from the South Carolina Sentencing Commission.
  - Evaluation of the law's impact concluded that it had no effect on the state's declining crime rate for "larceny, burglary, motor vehicle theft, robbery, and other 'index crimes,' i.e., those recorded by local police departments and reported to the FBI as part of the UCR reporting program," according to a 2018 brief by The Pew Charitable Trusts.
  - "In fact, within three years of the reform, larceny decreased 16 percent, burglary fell 10 percent, and motor vehicle theft dropped 26 percent; at the same time, property index crimes declined 15 percent overall."
  - "(T)he value of items stolen did not change, alleviating concerns that a higher threshold would lead not only to more theft but also to targeted theft of more expensive goods."
  - Resource: <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/04/south-carolina-reduced-theft-penalties-while-safely-cutting-prison-population>

### **Reclassifying Possession**

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- Since 2014 when Proposition 47 passed in California, five states have reclassified some level of drug possession from a felony to a misdemeanor. Following the California referendum, legislation in Utah (House Bill 348 in 2015), Connecticut (House Bill 7104 in 2015), and Alaska (Senate Bill 91 in 2016) passed with overwhelming bipartisan majorities, and Oklahoma voters in 2016 reclassified drug possession through a ballot initiative (State Question 780) with nearly 60 percent support.
- *Utah*

- In 2015, Utah reclassified the first two convictions of drug possession of a schedule I or II controlled substance to a class A misdemeanor (the most serious type of misdemeanor). Following this reclassification, drug possession charges filed under the revised statute increased at a smaller rate than they did prior to the reform (7% versus 12%). There has been an increase in the number of filings for misdemeanor B drug possession (the 1<sup>st</sup> or 2<sup>nd</sup> possession offense of a non-schedule I or II controlled substance) and this type of offense continues to constitute the bulk of possession offenses within the state.
- Arrest rates have decreased sharply for property crimes, down 18% from 2015, and slightly for violent crimes, with the rate down 3% since 2015.
- Resource: <https://justice.utah.gov/Documents/CCJJ/Justice%20Reinvestment%20Initiative/JRI%202017%20Annual%20Report.pdf>
- According to a 2018 report by the Urban Institute, “The Utah prison population has declined 9 percent since Governor Gary Herbert signed House Bill 348, fueled in part by a 74 percent decline in new court commitments for drug possession.”
- Resource: [https://www.urban.org/sites/default/files/publication/99077/reclassified\\_state\\_drug\\_law\\_reforms\\_to\\_reduce\\_felony\\_convictions\\_and\\_increase\\_second\\_chances.pdf](https://www.urban.org/sites/default/files/publication/99077/reclassified_state_drug_law_reforms_to_reduce_felony_convictions_and_increase_second_chances.pdf)
- *Connecticut*
  - In 2015, Connecticut passed a law that reclassified all first and second time drug possession offenses as misdemeanors. Third and subsequent offenses are charged as a category E felony.
  - “As of December 2017, the population in prison for drug possession had declined 74%,” a 2018 report by the Urban Institute concluded.
  - Since 2015 the property crime rate has decreased and the violent crime rate has remained stable.
  - Resource: [https://www.urban.org/sites/default/files/publication/99077/reclassified\\_state\\_drug\\_law\\_reforms\\_to\\_reduce\\_felony\\_convictions\\_and\\_increase\\_second\\_chances.pdf](https://www.urban.org/sites/default/files/publication/99077/reclassified_state_drug_law_reforms_to_reduce_felony_convictions_and_increase_second_chances.pdf)

## **Expanding Alternatives to Incarceration**

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- *Mississippi:*
  - In 2014, Mississippi enacted legislation as part of JRI to allow judges to order probation and the Intensive Supervision Program for offenders with previous felony convictions, and to order non-adjudicated probation for all drug offenders except traffickers.
  - In the three years following the reforms, Mississippi experienced a decrease in crime rates, incarcerated fewer nonviolent offenders (nearly 2,000 less), and fewer individuals failed supervision for committing new crimes.
  - Resource: <https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2014/01/14/public-safety-in-mississippi>
- *Utah*
  - As part of its reforms in 2015, Utah required the use of a risk and needs assessment by jails, prisons, and community supervision providers to identify individuals with a behavioral health problem who need treatment and services. As a result, the state has experienced a significant increase in the number of individuals being treated for mental illness and substance abuse.

- “Admission to substance use treatment for justice involved clients jumped” by more than 21 percent from FY 2016 to FY 2017, according to a report from the Utah Commission on Criminal and Juvenile Justice. Residential treatment clients increased by 29% and justice involved detox clients increased 68% from FY 2015 to FY 2017.
- Resource: <https://justice.utah.gov/Documents/CCJJ/Justice%20Reinvestment%20Initiative/JRI%202017%20Annual%20Report.pdf>
- *Louisiana*
  - As part of its JRI effort in 2016, Louisiana expanded probation eligibility to offenders with multiple prior felony convictions and removed barriers to eligibility for Drug Courts.
  - Since the reforms have been passed, the number of individuals admitted for possession of a controlled substance decreased by 42% and “the number of individuals admitted to prison with no prior felony convictions decreased by 18%,” according to Louisiana’s Justice Reinvestment Reforms First Annual Performance Report, published in 2018.
  - Resource: [http://gov.louisiana.gov/assets/docs/JRI/LA\\_JRI\\_Annual\\_Report\\_FINAL.PDF](http://gov.louisiana.gov/assets/docs/JRI/LA_JRI_Annual_Report_FINAL.PDF)

### **The Research on Effective Drug Policy**

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- Psychological research has shown that many drug-involved individuals are not responsive to policies framed around deterrence because of either the seriousness of their addiction and/or their attitudes about the morality of the conduct.
  - Deterrence scholars have found: “A potential offender must be willing to alter his or her choices regarding offending in the light of the perceived change in certainty or severity of punishment.” Meaning, “[i]f the crime is sufficiently important to the offender because of the resources or life-style it provides or the needs it fulfills, then enhanced certainty or severity of punishment will not make him desist.”
  - “Potential offenders are less likely to respond to changes in the severity or certainty of sanctions if they do not share the community’s value system—i.e., they don’t believe the conduct is morally wrong.”
  - Resource: Fentiman, Linda C. (2011) Rethinking Addiction: Drugs, Deterrence, & the Neuroscience Revolution, 14 U. Pa. J.L. & Soc. Change 233, <https://scholarship.law.upenn.edu/jlasc/vol14/iss2/2/>. Citing Andrew Von Hirsh et al, Criminal Deterrence and Sentence Severity: An Analysis of Recent Research (1999) and citing Daniel S. Nagin et al., Imprisonment and Reoffending, 38 CRIME & JUST. 115, 166 (2009)
- **Little impact on recidivism:** Despite the increase in penalties and prison time served for drug offenders, approximately 75 percent of drug offenders released from prison return within three years. Multiple studies show that on average longer time served in prison for drug offenders has no impact on recidivism.
  - Resources: Durose, Cooper, & Snyder (BJS), Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010, April 2014, <https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>; The United State Sentencing Commission. Recidivism Among Offenders Receiving Retroactive Sentence Reductions: The 2007 Crack Cocaine Amendment: <http://www.ussc.gov/sites/default/files/pdf/research-and->

[publications/research-projects-and-surveys/miscellaneous/20140527\\_Recidivism\\_2007\\_Crack\\_Cocaine\\_Amendment.pdf](#)

- **Prevention strategies:** Research indicates that a strong and steady stream of drug use prevention and early intervention efforts, targeted to children in early adolescence, are a necessary component to an effective drug policy strategy focused on curbing the onset of drug use.
  - Resource: Jonathan P. Caulkins, “The Need for Dynamic Drug Policy,” *Addiction* 102 (2007): 4-7.
- **Incarceration does not reduce state drug problems:** Drug use and overdose rates vary widely across states, as do drug imprisonment rates. Studies have shown that there is no statistically significant relationship between drug imprisonment and drug use, arrests, or overdose deaths.
  - Tennessee imprisons drug offenders at more than three times the rate of New Jersey, yet the states’ rates of self-reported drug use are virtually the same.
  - Conversely, Indiana and Iowa have nearly identical rates of drug imprisonment, but Indiana ranks 27<sup>th</sup> among states in self-reported drug use and 18<sup>th</sup> in overdose deaths, while Iowa ranks 44<sup>th</sup> and 47<sup>th</sup>, respectively.
  - Resource: [https://www.pewtrusts.org/-/media/assets/2018/03/pspp\\_more\\_imprisonment\\_does\\_not\\_reduce\\_state\\_drug\\_problems.pdf](https://www.pewtrusts.org/-/media/assets/2018/03/pspp_more_imprisonment_does_not_reduce_state_drug_problems.pdf)

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### **Proposition 47’s Impact on Crime and Recidivism in California**

In June 2018, a team of researchers from the non-partisan Public Policy Institute of California published a comprehensive analysis of the impacts of Prop 47 on crime, arrests, recidivism, and incarceration.

#### ***What offenses did Proposition 47 apply to?***

- Check forgery, drug possession, receiving stolen property, shoplifting, theft, and writing bad checks. The theft-related offenses were reclassified as misdemeanors if the property value was under \$950 dollars.

#### ***Did Prop 47 Impact Crime Rates?***

- **Methodology:** To tackle this question, researchers identified a collection of states that experienced comparable crime trends prior to the passage of Prop 47, using the period from 2000 to 2010 to predate other criminal justice reforms in California. Next, researchers used the experience of this cohort of states between 2000 and 2016 to develop a counterfactual of how California’s crime rates would have looked prior to and following the passage of Prop 47. Researchers then compared the results of this counterfactual path with the observed crime rates in California for a two-year period before and after Prop 47 was passed, to identify any diverging trends. The authors then conducted additional tests using monthly crime data as well as a preliminary county-level analysis to corroborate their initial results.
- **Findings:** As a result of their analysis, researchers concluded that they found “no convincing evidence” that the passage of Prop 47 had an impact on violent crime rates, and only limited evidence of an impact on property crime rates, noting that the impact on overall property crime rates was “not statistically significant.” In taking a closer look at specific property offenses, researchers found no link between Prop 47 and the state’s observed sharp decline in the

burglary rate or increase in auto theft rate, with similar trends observed in the cohort of comparison states. Researchers did identify a 9% rise in the larceny theft rate, which the study describes as “marginally statistically significant,” though that effect appears to have leveled off, with rates “returning to roughly pre-reform levels in 2016.” California’s larceny rate remains below than the national average.

### ***Did Prop 47 Impact Recidivism Rates?***

- **Methodology:** To evaluate the effect of Prop 47 on recidivism, researchers identified two groups of low-level drug and property offenders eligible for reduced penalties under Prop 47. The first group was released from custody between 2011 and 2012, allowing a two-year window for recidivism prior to Prop 47’s passage, while the second group was released between 2014 and 2015, after Prop 47 took effect. Researchers then matched individuals in the pre-reform group to those in the post-reform group based on a wide variety of characteristics, including demographics and criminal records, and then compared the two-year rearrest and reconviction rates between the two groups, controlling for demographic and criminal history characteristics.
- **Findings:** Researchers found that recidivism rates declined after Prop 47’s passage. Two-year rearrest rates declined slightly, which authors attribute to a decrease in arrests for drug offenses reclassified as misdemeanors by Prop 47. Reconviction rates declined more dramatically. The post-reform group had overall reconviction rates 3 percentage points lower than the pre-reform group, while the two-year reconviction rate for new Prop 47 property or drug offenses dropped by over 11 percentage points. Following further analysis, the authors note that lower rearrest rates alone did not explain these declines in the reconviction rates, “suggesting Prop 47 induced changes in criminal justice processes at both the law enforcement and prosecutorial levels.”
- Resource: Mia Bird, Magnus Lofstrom, Brandon Martin, Steven Raphael, and Viet Nguyen, “The Impact of Proposition 47 on Crime and Recidivism,” Public Policy Institute of California (2018). <https://www.ppic.org/publication/the-impact-of-proposition-47-on-crime-and-recidivism/>