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Abstract

The Zero Tolerance Policy, which calls for the criminal prosecution of any person crossing the border illegally, has been rationalized to be a deterrent for future illegal immigration as well as a tool to combat future crime rates. The analysis of research relating to the conditions of the detention centers at the Mexican-American border and the effects of trauma on behavior however, proves that:

1. The life conditions from which the migrants are running and the harshness of the separation of families will prove deterrence to be an ineffective strategy
2. The trauma resulting from the conditions of the detention centers as well as the perceived injustice of the policy can correlate with potential future criminal behavior

Methodology

The following research is based on reports, newspaper articles, books, and studies from the criminology and psychology field. The articles and reports come from reputable sources, such as *The New York Times* and provide the reader with the necessary information about the government and politicians in charge of this policy. Additionally, the reports were taken directly from government agencies such as the Department of Homeland Security and Department of Education. The studies used for analysis are peer reviewed and deal with samples and results which can be generalized to the populations discussed in the thesis.

Zero Tolerance Policy

The Zero Tolerance Policy calls for criminal prosecution of any person who crosses the American border illegally. It was created with two goals in mind:

1. Deter future illegal immigration
2. Decrease future crime rates in the U.S.

Due to the Flores Settlement Agreement created in 1997, children below the age of 18 must be given more care and attention and hence, cannot remain in the same facility as the adults. The adults are detained in federal custody by the Department of Justice, while the children remain in detention centers run by the Office of Refugee Resettlement. As of May, 2019, more than 2,800 families have been separated at the border¹.

Conditions of the Detention Centers



Children are not provided with sleeping space and are forced to sleep on the floor under foil blankets.

The centers are so overcrowded that there is a lack of clean water, food and access to showers⁷.



The age of the detained children ranges from infancy to 17 years of age.



Trauma and Criminality

As observed above, the conditions of the centers and the poor treatment by the officers has the potential to traumatize the detained youth.

1. *Very young separated children are unable to form a healthy bond with parental figures².*
2. *The reluctance to improve conditions can lead the youth to believe America's indifference towards them and create a poor self-worth³.*
3. *Border Patrol Agents have been accused of calling the migrants derogatory names, not providing adequate care and sexually assaulting the children⁴.*

These traumatizing conditions have been found to correlate with criminal behavior:

1. *Being separated from family has been found to be associated with conduct problems⁵.*
2. *29% of adults who commit crime have been neglected as children⁶.*
3. *Poor emotional well-being has been found to be correlated with criminal behavior⁷.*

With such high potential for trauma it is more likely that once the children are released into American society, they will have trouble properly adapting.

Failure to Deter

Deterrence theory states:

People make rational choices that are based on minimizing pain and maximizing pleasure. Punishment will hence deter crime because it is a negative consequence⁸.

The separation of families was explained by the Trump administration to be a deterrent for future illegal immigration⁹. However, the application of the deterrence theory to the policy demonstrates that:

1. Most migrants come from poverty and crime stricken countries, and therefore do not have the option to weight the positive and negative consequences of crossing the border illegally¹⁰.
2. Deterrence theory calls for swift, certain and proportionate punishment. The separation is certain but:
 - It is not as swift because the arrest precedes it and is the associated punishment
 - It is so unproportionate and harsh that people have committed suicide over it¹¹.
3. Punishment fails to alter human behavior and provide alternative actions¹².

Perceived Unfairness

Procedural Justice states that:

People are more likely to follow the law and the criminal justice system, if they perceive its functions and officers to be fair. People perceive the system to be fair when they have some control over the decisions, are treated with respect, believe that biases are kept out of the decision making process and are provided with decisions which can be altered if needed¹³.

However, the detained youth is likely to see the American justice system as unfair due to:

1. Inconsistency in the way some Border Patrol Agents treat the youth.
2. The lack of control that the youth has in the trial proceedings of their family.
3. The derogatory names some Agents call the youth can imply the influence of bias in decision making.
4. Some decisions, such as deporting the parent, are irreversible and do not have the ability to be changed.

Conclusion

The Zero Tolerance Policy is unlikely to reach its goal of deterring future illegal immigration and decreasing crime rates. The poor circumstances from which the people are coming, will likely be the reason why illegal immigration will not be deterred by family separation. Additionally, separating families and keeping them in inhumane conditions fails to show a just criminal justice system by which people are willing to abide.



Implications

The potential failure of this policy is the implication that if the U.S. government wants cooperation, its immigration system must be changed.

1. The immigration process must be made easier, especially for those who need to migrate for safety reasons.
2. If detention centers exist, information sessions on how to properly enter the country should be provided.
3. Create a department whose sole purpose is to maintain the safety and conditions of the detention centers.

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