

THE WALL STREET JOURNAL.

Task Force Aims to Lighten Criminal Code

Bipartisan Congressional Initiative Targets Bloated Federal Provisions Cited by Critics for Driving Up Incarceration Rates

By: Gary Fields and Neil King Jr. – May 6, 2013

Congress plans this week to create a new, bipartisan task force to pare the federal criminal code, a body of law under attack from both parties recently for its bloat.

The panel, which will be known as the House Committee on the Judiciary Over-Criminalization Task Force of 2013, will comprise five Republicans and five Democrats. It marks the most expansive re-examination of federal law since the early 1980s, when the Justice Department attempted to count the offenses in the criminal code as part of an overhaul effort by Congress.

Rep. Bobby Scott (D., Va.) said he expected the committee to work through consensus. "We've been warned it's going to be a working task force and it means we'll have to essentially go through the entire code," he said.

Rep. F. James Sensenbrenner (R., Wis.) a longtime champion of overhauling the code, will lead the task force. He is expected to reintroduce a bill he has tried to get through several congresses that would cut the size of the criminal code by a third. "Overcriminalization is a threat to personal liberty and an expensive and inefficient way to deal with a lot of problems," he said.

In a city with deep political divisions, the expansion of federal criminal law has created a coalition of allies from opposite sides of the aisle, including the conservative Heritage Foundation, the libertarian Cato Institute, the National Association of Criminal Defense Lawyers, the American Civil Liberties Union and the American Bar Association. Legal experts estimate there are 4,500 criminal statutes and tens of thousands of regulations that carry criminal penalties, including prison. The Administrative Office of the U.S.

Courts figures some 80,000 defendants are sentenced in federal court each year. In recent years, states have reversed years of steady increases by reducing their prison populations while the number of people held at the federal level has continued to climb. Federal lawmakers and legal experts attribute part of the continuing increase to the rise in criminal offenses and regulations that carry prison time and the creation of laws that don't require knowledge of wrongdoing.

Democrats have long opposed the growth of parts of the system, blaming mandatory minimums for the increase in the federal prison population, especially the rise in African-American inmates.

For Republicans, the encroachment of federal law into areas that could be handled by the states is a top concern.

Unifying both sides is the number of defendants who can receive criminal punishment for what are often technical violations and the budgetary strains brought about by a ballooning federal prison population.

Other committee members include Rep. Raul Labrador (R., Idaho) and Rep. Karen Bass (D., Calif.). Recommendations made by the task force will be taken up by the House Judiciary Committee, Chairman Robert Goodlatte (R., Va.) said in an interview.

Mr. Goodlatte, an ex-officio member of the task force, said Congress creates 500 new crimes per decade, often with weakened or nonexistent standards as to whether the crime had to be intended. Mr. Goodlatte said as a result the U.S. has weakened a long-standing legal principle known as *mens rea*, Latin for a "guilty mind," which means the person must know they are doing something wrong before they can be found guilty.

"There is the issue of freedom and liberty," he said. Mr. Goodlatte said other questions include whether the federal government is moving into areas better handled by state criminal laws.

Rep. John Conyers (D., Mich.), the ranking member on the Judiciary Committee and an ex-officio member of the task force, said in a written statement that the "unduly expansive criminal provisions in our law unnecessarily drive up incarceration rates."