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It’s About Time
America’s Imprisonment Binge

James Austin, John Irwin, and Charis Kubrin

America’s Growing Correctional Industrial Complex

Over the past two decades, the United States has been engaged in an unprecedented imprisonment binge. Between 1980 and 2000, the prison population ballooned from 329,821 to 1,318,892—a rise of 319 percent. The increase was so great that by 2000 the number of citizens incarcerated in state and federal prisons exceeded or approximated the resident populations of thirteen states and was larger than all of our major cities with the exceptions of Chicago, Houston, Los Angeles, New York, and Philadelphia. The incarceration rate (number of persons in state and federal prison on any given day per 100,000 population) increased during the same time period from 138 to 478, as compared to only 26 in 1850. We now imprison at a higher rate than any nation in the world, having recently surpassed South Africa.

Most Americans are unaware that the adult prison population represents no more than one-fifth of the entire correctional industrial complex. There are another 621,149 people in jail, nearly 3.9 million on probation, and 725,527 on parole. In total, almost 6.5 million adults—about 1 of every 32 adults—were under some form of correctional supervision in 2000. In 1980 the ratio was only 1 of every 91 adults.

The rise in prison populations has been accompanied by equally large increases in these other forms of correctional supervision. Between 1980 and 2000, the probation, parole, and jail populations (facilities that typically house pretrial defendants and offenders sentenced to short jail terms of one year or less) grew almost as rapidly as the prison population, as
Table 20.1. Adult Correctional Populations, 1980–2000

<table>
<thead>
<tr>
<th></th>
<th>1980</th>
<th>2000</th>
<th>Change (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Probation</td>
<td>1,118,097</td>
<td>3,839,532</td>
<td>243</td>
</tr>
<tr>
<td>Jails</td>
<td>164,994</td>
<td>621,149</td>
<td>279</td>
</tr>
<tr>
<td>Prison</td>
<td>329,821</td>
<td>1,381,892</td>
<td>319</td>
</tr>
<tr>
<td>Parole</td>
<td>220,438</td>
<td>725,527</td>
<td>229</td>
</tr>
<tr>
<td>Totals</td>
<td>1,832,350</td>
<td>6,568,100</td>
<td>258</td>
</tr>
<tr>
<td>Population</td>
<td>162,800,000</td>
<td>209,100,000</td>
<td>28</td>
</tr>
<tr>
<td>Adults under supervision (%)</td>
<td>1.1</td>
<td>3.1</td>
<td>182</td>
</tr>
<tr>
<td>Arrests</td>
<td>6,100,000</td>
<td>9,100,000</td>
<td>49</td>
</tr>
<tr>
<td>Reported index crimes</td>
<td>13,400,000</td>
<td>11,600,000</td>
<td>(13)</td>
</tr>
</tbody>
</table>


Table 20.1 shows. Probation grew by 243 percent during the same time and remains the dominant form of correctional supervision.

It should also be noted that more Americans experience jail time than any other form of correctional control. In 1994, the U.S. Department of Justice reported 9.8 million admissions to the nation’s 3,300-plus jails. Assuming that approximately 75 percent of these admissions represent mutually exclusive adults, this means that nearly 1 of every 25 adults in America goes to jail each year. But even these staggering numbers do not account for all Americans involved in the correctional system. Not counted in the six million daily correctional population figure are nearly 110,000 children incarcerated and nearly 2,500 prisoners held by the military. Although there are no firm government estimates, there are several hundred thousand juveniles on probation or parole plus the same number of adults and juveniles on some form of pretrial supervision. Based on these estimates, one can safely assume that over 7 million Americans are under the control of one of several adult and juvenile correctional systems.

Yet after decades of steady growth, there is some evidence that the accelerating use of imprisonment may be subsiding. Between January 1 and December 31, 2000, thirteen states experienced decreases, led by Massachusetts (down 6 percent), followed by New Jersey (down 5 percent), New York (down 4 percent), and Texas (down 3 percent). Between 1990 and 1999, the prison population grew an average of nearly 6 percent a year, but in 2000, the annual rate of growth declined to 4 percent. Still, many states who have adopted “truth in sentencing” and other mandatory sentencing policies, which serve to increase the number of persons incarcerated and lengthen their sentences, continue to experience growth in their inmate populations. Five states—Idaho (up 14 percent), North Dakota (14 percent), Mississippi (11 percent), Vermont (11 percent), and Iowa (10 percent)—had increases of at least 10 percent in 2000.

RACE, ETHNICITY, AND GENDER AND HIGHER IMPRISONMENT RATES

Those under the control of correctional authority do not represent a cross section of the nation’s population. They tend to be young African-American and Hispanic males who are uneducated, without jobs, or, at best, marginally employed in low-paying jobs. African-Americans comprise about 13 percent of the population but according to the most recent data from the U.S. Department of Justice, blacks constitute about 46 percent of the sentenced prisoners under state and federal jurisdiction. Furthermore, more than one-third of probationers and more than two out of five adults on parole in 2000 were black. At the same time, persons of Hispanic origin, who are of any race, comprised 16 percent of the probation population and 21 percent of the parole population. As Table 20.2 illustrates, there are great disparities in incarceration rates by race and ethnicity; black and Hispanic males have incarceration rates that are three to nearly seven times higher than white males.

These disparities by race and ethnicity are even more troubling when age is factored into the analysis. In 2000, nearly 10 percent of black males, age 25–29, were in prison. It is interesting to note, however, that while the incarceration rate for African-American males steadily increased over the last decade, the incarceration rates for white and Hispanic males have be-

Table 20.2. Male Incarceration Rates per 100,000 Male Population by Race and Ethnicity, 1990–2000

<table>
<thead>
<tr>
<th>Year</th>
<th>All</th>
<th>White</th>
<th>Black</th>
<th>Hispanic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>564</td>
<td>338</td>
<td>2,234</td>
<td>1,016</td>
</tr>
<tr>
<td>1995</td>
<td>781</td>
<td>449</td>
<td>3,095</td>
<td>1,234</td>
</tr>
<tr>
<td>1996</td>
<td>810</td>
<td>468</td>
<td>3,164</td>
<td>1,279</td>
</tr>
<tr>
<td>1997</td>
<td>841</td>
<td>491</td>
<td>3,253</td>
<td>1,272</td>
</tr>
<tr>
<td>2000</td>
<td>904</td>
<td>449</td>
<td>3,457</td>
<td>1,230</td>
</tr>
<tr>
<td>Change (%)</td>
<td>60</td>
<td>33</td>
<td>55</td>
<td>20</td>
</tr>
</tbody>
</table>

gun to decrease in the last three years. The incarceration rate for white males dropped from 491 to 449 and the rate for Hispanic males from 1,272 to 1,220 from 1997 to 2000; on the other hand, the rate for black males increased from 3,253 to 3,457 over the same time period. Thus, the subsiding increase in the use of incarceration that was mentioned earlier appears to be related primarily to decreases in the incarceration rates of whites and Hispanics, not blacks.

At year end in 2000, 91,612 women were in state or federal prisons—6.6 percent of all prison inmates. While the number of male prison inmates has grown 77 percent since 1990, the number of female prisoners has increased 108 percent. Female incarceration rates, though substantially lower than male rates at every age, reveal similar racial and ethnic disparities, as Table 20.3 shows. For example, black non-Hispanic females (with an incarceration rate of 205 per 100,000) were more than three times as likely as Hispanic females (60 per 100,000) and 6 times more likely than white non-Hispanic females (34 per 100,000) to be in prison. Similar to Hispanic male incarceration rates, Hispanic female rates have begun to decline substantially in the last three years; from 1997 to 2000, the rate dropped from 87 to 60 per 100,000. For white and black females, however, the opposite is true, as both rates have steadily increased over the last decade.

These disparities for both men and women have a real impact on the relative life chances of the different groups. In 1997, the Bureau of Justice Statistics calculated the lifetime likelihood of a person going to prison, assuming that rates of first incarceration and death remained at their 1991 levels. This analysis revealed that if the 1991 rates prevailed throughout the life of a cohort, about 16 percent of the blacks, 9 percent of the Hispanics, and 3 percent of the whites would be sentenced to prison at some time in their lives. These chances were much greater for men (9 percent) than for women (1 percent), and reached their highest level for African-American males. As shown in Table 20.1, nearly one in three black males (29 percent) could expect to be incarcerated at some time in their life given the 1991 rates. The comparable rates for Hispanic and white males were 16 and 4 percent, respectively. More importantly, these rates of incarceration have continued to rise since 1991, and especially for African-Americans and Hispanics.

### Table 20.3. Female Incarceration Rates per 100,000 Female Population by Race and Ethnicity, 1990–2000

<table>
<thead>
<tr>
<th>Year</th>
<th>All</th>
<th>White</th>
<th>Black</th>
<th>Hispanic</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>31</td>
<td>19</td>
<td>117</td>
<td>56</td>
</tr>
<tr>
<td>1995</td>
<td>47</td>
<td>27</td>
<td>176</td>
<td>64</td>
</tr>
<tr>
<td>1996</td>
<td>51</td>
<td>30</td>
<td>185</td>
<td>78</td>
</tr>
<tr>
<td>1997</td>
<td>53</td>
<td>32</td>
<td>192</td>
<td>87</td>
</tr>
<tr>
<td>2000</td>
<td>59</td>
<td>34</td>
<td>205</td>
<td>60</td>
</tr>
<tr>
<td>Change (%)</td>
<td>90</td>
<td>79</td>
<td>75</td>
<td>7</td>
</tr>
</tbody>
</table>


Several factors have fueled the imprisonment binge. The most powerful has been the public’s growing fear of crime. Bill Chambliss has documented the well-orchestrated effort by powerful interest groups since the 1960s to make crime the most important issue on the public’s mind. Chambliss points out that prior to the 1960s crime was not cited by the public as a major concern. Yet led by a well-funded cartel of conservatives who were greatly concerned about the civil rights and anti-Vietnam war movements, a “War on Crime” was formally launched by an increasingly defensive President Johnson. Part of the increasing concern regarding crime was fueled by a substantial increase in the major “index” crimes (homicide, assault, rape, burglary, theft, and arson) reported to police in the late 1960s and early 1970s. Despite massive increases in the amount of money being spent on law enforcement and corrections coupled with a tapering off in the crime rate, the public has continued to believe that crime has been on the rise and their fear of crime remains high. The most recent Gallup poll national poll shows that violent crime tops the list of the most important problems facing the country.

Through the 1980s, the fear of crime and drug abuse was elevated each election year by the attention that politicians (both Democrats and Republicans) and the media gave to crime and drug problems. The most blatant example of these tactics was then Republican presidential candidate George Bush’s successful effort to erase his opponent’s (Michael Dukakis) early lead in the 1987 presidential campaign by blaming the tragic Willie Horton incident on liberal Democratic party politics. Smarting from this poignant lesson in dirty politics, Democrats have fully embraced “get tough on crime” policies in an effort to outflank and neutralize what has traditionally been a Republican perspective.

It was under a Democrat-controlled Congress that the controversial Federal Sentencing Guidelines, which mandated long prison terms for possession of crack cocaine, were adopted. And it was President Clinton’s administration that endorsed the most expensive crime bill in the nation’s history to fund 100,000 police officers and boot camps, and to help pay for prison construction for states willing to pass laws that would require long prison terms. Ironically, the public shifted its focus (or more correctly has...
had its focus shifted by the media) on violent crime even as the crime rate has declined.

Politicians harangue on the street crime problem because it is a safe issue. It is easy to cast in simple terms of good versus evil and no powerful constituency is directly offended by a campaign against street crime. Some politicians also use street crime to divert attention away from other pressing social problems—such as the threat of nuclear war, unemployment, high living costs, and the economy—all of which persistently top the list of public concerns. Measures to solve these problems would require changes that would offend powerful interest groups.⁵

THE WAR ON DRUGS

The public's concern over drug use has also been used as a political football to justify the ever-increasing use of imprisonment for drug users. The public's attention on drugs accelerated dramatically at the end of this decade and then declined but rose again in 1997 and 1998 as Republicans and Democrats began to worry about modest increases in the use of marijuana by high school students. In her analysis of the nation's early rationale for the War on Drugs, Marsha Rosenbaum points out that the drug problem has received similar treatment:

The Reagan administration initiated a "War on Drugs" in the early 1980s. The Bush administration appointed a "Drug Czar," and recently offered a major plan to remove the "scourge" of drugs from the American landscape. The media have reported on the violence occurring in our inner cities and in cocaine-source nations like Colombia. The public is bombarded with news about drugs, like the drug death of sports figure Len Bias and the confessions of celebrities about personal struggles with substance abuse.⁶

In addition to increased imprisonment rates, the War on Drugs spurred a movement toward more punitive sentencing policies for drug offenders. Moreover, mandatory drug testing and a reduction in affordable publicly funded drug treatment programs have meant that more and more released felons are being returned to prison for use of illegal drugs. Most important, because this war is focused on crack cocaine, which is mainly sold and used in inner-city communities, it is increasing the already disproportionately high number of African-American and Hispanic prisoners. For example, in 1926, the first year that the race of prison admissions was recorded on a national basis, only 21 percent of all prison admissions were African-American. By 1970, that figure had increased to 39 percent; by 2000, it had further grown to 46 percent.⁷

In their steady and unrelenting harangues on the crime and drug prob-

lems, politicians have argued that steady and dramatic expansion of prison populations is absolutely necessary to maintain a safe society. They contend that massive increases in imprisonment are positive signs—indications that the nation is increasingly intolerant of criminals and their antisocial and frequently violent behavior. Moreover, they claim that increasing the use of punishment in general and incarceration in particular has reduced crime.

THE ECONOMICS OF THE HAVES AND THE HAVE-NOTS

Many unsettling developments have made Americans more fearful, conservative, and mean-spirited, which is turn has also fueled the perceived need for more prisons. The perception of steady increases in crime is one contributing factor, but more fundamental are nationwide economic difficulties. Soaring inflation, high unemployment, and a decline in real wages of a significant proportion of the middle class have caused uncertainty about the economic future. Also, the proliferation of materialistic, ostentatious parvenus and the expansion of an underclass perceived as menacing have offended the public. These disturbing developments have been aggravated by the perception that, because of global, unmanageable economic processes, our society's economic problems are insolvable.

In terms of lowering our crime rate or in reducing the need for prisons, the following social and economic trends offer little reason for optimism for the future:

• Between 1980 and 1996, the number of persons living in poverty rose from 29 million to 37 million (27 percent increase).
• Fourteen million children, or more than one of every five children, live in poverty.
• For minority children, the figures are even more desperate: 40 percent of African-American children and Hispanic children live in poverty.
• The number of single-parent families, predominantly headed by females, increased from 22 percent in 1980 to 32 percent by 1997.
• Between 1980 and 1995, the number of births to unmarried women increased from 666,000 to 1,254,000. Approximately 13 percent of all births are to unmarried teenagers. The rates of illegitimate birth rates are highest among black and Hispanic women.⁸

Why did these disturbing trends emerge in the past decade? Part of the explanation lies in fundamental shifts in the distribution of wealth, as first documented by Kevin Phillips in his book The Politics of Rich and Poor.⁹ Phillips, using a wide variety of official data, argued that the government
economic policies of the past decade have improved the economic status of the rich at the expense of the lower and middle classes. These trends have continued to the present. Although the middle and upper class recently enjoyed the prosperity of a booming U.S. economy, not all Americans are benefiting from the current economic situation. In economic terms, the United States is becoming a more fragmented and segregated society. These trends not only contribute to crime rates and other social problems but also fuel a growing public demand to fund criminal justice services. In particular, the number of those Americans who are uneducated and raised in impoverished conditions will continue to grow and justify the need to further expand the correctional system. As Phillips stated:

For women, young people, and minorities the effect of economic polarization during the 1980’s was largely negative. The nation as a whole also suffered as unemployable young people drove up the crime rate and expanded the drug trade. Broken families and unwed teenage mothers promised further welfare generations and expense. And none of it augured well for the future skills level and competitiveness of the U.S. work force.10

These economic factors created an enormous public policy dilemma. On the one hand, we were expending a greater portion of our public dollars on incarcerating, punishing, treating, and controlling persons who are primarily from the lower economic classes in an effort to reduce crime. On the other hand, we had set in motion economic policies that serve to widen the gap between the rich and the poor, producing yet another generation of impoverished youths who will probably end up under the control of the correctional system. By escalating the size of the correctional system, we were also increasing the tax burden and diverting billions of dollars from those very public services (education, health, transportation, and economic development) that would reduce poverty, unemployment, crime, drug abuse, and mental illness. Although we have become more punitive than at any other time in our history, the public still believes that America is soft on crime and wants legislators and the courts to “get tougher” on crime.

Edward Latwak, in his analysis of the impact of the economy on the middle class, argues that the growing insecurity of the middle class has translated into an almost “insatiable demand” for even more punitive sentencing practices:11

The insecure majority does not realize that the economy too can be subject to the will of the majority... so it vents its anger and resentment by punishing, restricting, and prohibiting everything it can. The most blatant symptom is the insatiable demand for tougher criminal laws, longer prison terms, mandatory life sentences for repeat offenders, more and prompter executions, and harsher forms of detention (including, of late, chain gangs). Politicians have heard the people, and the result is a mass of new federal and state legislation that will greatly add to the staggering number of Americans already behind bars.

In many ways, this situation is similar to that of eighteenth-century England, which was passing through even more unsettling changes than we are today, and was faced with unprecedented crime waves in its new, crowded, filthy, polluted, slum-encircled, rabble-ridden cities.12 After experimenting with extraordinary punishments, particularly wholesale hanging and the use of prison barges, England turned to banishment as its primary penal measure. An important difference between eighteenth-century England and modern-day America, however, is that the world offered England locations to which it could send its felons: first America and then Australia. Between 1787 and 1868, hundreds of thousands of convicts (over 100,000 in the first fleet) were transported to Australia. It is ironic that Australia’s incarceration rate is currently below 100 per 100,000 residents.

America has had to construct its locations of banishment within its borders. This has been done at a feverish pace. As was done in eighteenth-century England, we have even tried using barges in New York City. Although we lack an Australia where we can set up prison colonies, we are increasingly building huge megaprison settlements in isolated rural locations where land is cheap and recession-starved communities are anxious for the economic benefits that a major prison will bring.

THE FINANCIAL COSTS OF IMPRISONMENT

Few advocates of imprisonment have addressed just how expensive the imprisonment binge in the United States has been. As shown in Figure 20.2, there has been a steady rise in the costs of the criminal justice system and prisons in particular. We are spending over $135 billion per year on criminal justice costs and approximately $45 billion on corrections. But even these figures have dramatically underestimated the amounts of money spent on housing prisoners (operating costs) and building new prisons (construction costs). In the final result, it is cheaper to build prisons than to operate them.

Operating Costs

On average, costs to operate our jails and prisons consumed 7 percent of state budgets in 2000.13 It cost nearly $40 billion to imprison approximately two million state and local inmates in 2000, up from $5 billion in combined prison and jail expenditures in 1978.14 To determine the costs per
inmate per day or year, prison administrators typically calculate operating costs by dividing their annual budget by the average daily prison population. Using this crude method, the daily cost is estimated at $56 or about $20,500 per year. There is wide variation among the states, with some reporting operational costs of over $30,000 and others below $15,000 per year. The most expensive prison systems tend to represent relatively smaller, more affluent states, with low crime rates and low incarceration rates, with organized labor and a predominantly white prisoner population, led by Minnesota ($37,925), Rhode Island ($35,739), Maine ($33,771), Alaska ($32,415), and Utah ($32,361). The least expensive prison systems are located in the south and tend to be in states that are less affluent, have high crime rates and high incarceration rates, and lack organized labor. These prisons house predominantly black inmate prisoner systems and are led by Alabama ($7,987), Oklahoma ($10,601), Mississippi ($11,156), Texas ($12,832), and Louisiana ($12,304).

However, this accounting practice is misleading and produces patently low estimates of the true costs of imprisonment. For example, agency budgets often exclude contracted services for food, medical and mental health care, legal services, and transportation provided by other government agencies. According to two studies conducted in New York, these additional expenses increased the official operating costs by 20–25 percent. An independent audit of the Indiana prison system found that actual expenditures were one-third higher than those reported by the agency. Besides these “hidden” direct expenditures, other costs are rarely included in such calculations. To name only a few, the state loses taxes that could be paid by many of the imprisoned, pays more welfare to their families, and maintains spacious prison grounds that are exempt from state and local real estate taxation.

Construction Costs

The other enormous cost is prison construction. Because prisons vary dramatically in their “mission,” construction (and operating) costs will be vary dramatically. Prisons are also enclosed, “total” institutions in which prisoners are not only housed but guarded, fed, clothed, and worked. They also receive some schooling and medical and psychological treatment. These needs require—in addition to cell blocks or dormitories—infirmaries, classrooms, laundries, offices, maintenance shops, boiler rooms, and kitchens. Dividing the total construction costs of one of these institutions by the number of prisoners it houses produces a cost per “bed” of as low as $5,000 for a minimum-security prison in Alabama to $128,000 for a maximum-security prison in Washington State. As of 1998, there were approximately 83,500 new prison beds under construction with another 86,500 being planned, for a total of 170,000 new prison beds. Assuming an average construction cost of $50,000, we will be spending $8.5 billion in direct prison construction costs.

But these costs are just part of the costs associated with building a new prison. First, the prison construction often needs to be financed. Instead of using current tax revenues to pay directly for this construction, however, the state does what most citizens do when they buy a house, that is, borrow the money, which must be paid back over several decades. The borrowing is done by selling bonds or using other financing instruments that may double or triple the original figure depending on the prevailing interest rates.

Second, other costs are associated with the construction costs themselves. These include architectural and legal fees, project management fees, prison equipment and site improvement costs for removing existing structures, hazardous waste materials, and landscaping.

Third, prison construction costs are further increased by errors in original bids by contractors and cost overruns caused by delays in construction, which seem to be the rule rather than the exception. A survey of fifteen states with construction projects revealed that cost overruns averaged 40 percent of the original budget projections. Because of these almost predictable overruns, prison construction projects typically have “contingency fees” set aside to cover such expenses.

The Million Dollar Cell

From the above discussion, it’s obvious that states will spend a lot more than $25,000 per year to house a prisoner and to build a cell for him or her to live in. But just how much more? In a recent study conducted for the U.S. Department of Justice, estimates were made on the costs of operating and constructing new prison beds for the District of Columbia. Table 20.4 uses the assumptions made in that study for developing the likely costs of a typical prison bed that will cost at least $50,000 to build. The results show that in total, a state will likely spend over $1 million in operating and construction costs over the projected thirty-year life cycle of that prison bed. The vast majority of those costs will be operations.

Prisons versus Education

The states are just beginning to feel these enormous increases in the cost of imprisonment. Budgetary battles in which important state services for children, the elderly, the sick, and the poor are gutted to pay for prisons have already begun. In coming years, great cutbacks in funds for public education, medical services for the poor, highway construction, and other
Table 20.4. The Million Dollar Cell: Typical 30-Year Life Cycle Costs of a Prison Bed

<table>
<thead>
<tr>
<th>Cost Item</th>
<th>Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Construction costs</td>
<td></td>
</tr>
<tr>
<td>A. Direct construction costs</td>
<td>$50,000</td>
</tr>
<tr>
<td>B. 20-year debt services costs at 7.15% per year</td>
<td>$45,000</td>
</tr>
<tr>
<td>C. Project management at 4% of construction costs</td>
<td>$2,000</td>
</tr>
<tr>
<td>D. Legal fees/testing and inspection at 2% of construction costs</td>
<td>$1,000</td>
</tr>
<tr>
<td>E. Architectural and engineering fees at 8% of construction costs</td>
<td>$4,000</td>
</tr>
<tr>
<td>F. Fixtures and equipment at 6% of construction costs</td>
<td>$3,000</td>
</tr>
<tr>
<td>G. Project Contingencies at 5% of construction costs</td>
<td>$2,500</td>
</tr>
<tr>
<td>H. Site improvements at 8% of construction costs</td>
<td>$4,000</td>
</tr>
<tr>
<td>Total Construction and Debt Service Costs (Items A–H)</td>
<td>$111,500</td>
</tr>
<tr>
<td>II. Operating Costs</td>
<td></td>
</tr>
<tr>
<td>A. Direct operating costs</td>
<td>$25,000</td>
</tr>
<tr>
<td>B. External indirect government support at 25%</td>
<td>$6,250</td>
</tr>
<tr>
<td>Total Operating Costs (Items A and B)</td>
<td>$31,250</td>
</tr>
<tr>
<td>III. 30-Year Operating Costs in 1999 Dollars</td>
<td>$937,500</td>
</tr>
<tr>
<td>IV. Total Costs for One Prison Bed in 1999 Dollars</td>
<td>$1,049,000</td>
</tr>
</tbody>
</table>

Source: James Austin, Darkene Grant, David Bogard, and Curtiss Pulitzer, District of Columbia Department of Corrections Long-Term Options Study (Washington, DC: National Institute of Corrections, U.S. Department of Justice, January 31, 1997).

State services will occur. A recent analysis of the “tradeoff” of prison beds for higher education was conducted by the Justice Policy Institute and the Correctional Association of New York. They found that since 1988, spending for New York’s public universities had dropped by 29 percent while funding for prisons had increased by 76 percent. In terms of real dollars, the state’s annual prison budget had increased by $761 while funding the New York City and state university systems had declined by $615 million. Currently, the state is spending $275 million more per year on prisons than on state and city colleges. And these costs do not include the $300 million now approved to construct an additional 3,100 new prison beds (at $96,775 per bed).20

THE “INCARCERATION REDUCES CRIME” DEBATE

Perhaps the most hotly debated topic today is whether the imprisonment binge has actually reduced crime rates. Those who are largely responsible for this state of affairs—elected officials who have harangued on the street crime issue and passed laws resulting in more punitive sentencing policies, judges who deliver more and longer prison terms, and government crim-

inal justice functionaries who have supported the punitive trend in criminal policies—promised that the great expansion of prison populations would reduce crime in our society.

Table 20.3 shows historical crime rate and incarceration rate data. As the chart indicates, prior to the 1970s, there were relatively low crime and incarceration rates. Thereafter, both measures grew steadily. Only in the past five years have crime rates begun their steady decline while incarceration rates have continued to increase. And, as we have noted throughout the book, the continuing increase in the prison population is not due to more people being sentenced to prison but due to prisoners serving longer sentences.

Does this chart prove or disprove the arguments for and against the “incarceration reduces crime” equation? In this section, we review the scientific basis that has been offered by criminologists in support of the imprisonment binge. In making this assessment, we maintain that there are several basic requirements for their argument to hold. First, there must be a steady and consistent association over time between incarceration rates and crime rates. Where departures exist from the basic relationship they must be reported and explained. Second, other changes in other factors known to be associated with crime rates must also be controlled for, or at least acknowledged. Failure to meet either of these two requirements would be sufficient reason to reject the proincarceration position.

The Argument in Favor of Incarceration Reduces Crime

The proincarceration advocates have a very simplistic two-variable equation: as incarceration goes up, crime rates must go down. To provide the scientific basis for this argument, the U.S. Department of Justice has played a key role in both articulating this proposition as a reasonable policy and by funding a number of studies to demonstrate the causal relationship between imprisonment and crime. Beginning in the late 1980s, several key officials in the Bush administration’s Department of Justice launched a major information campaign to solidify the scientific basis for supporting incarceration as the best means for reducing crime as follows:

Statisticians and criminal justice researchers have consistently found that falling crime rates are associated with rising imprisonment rates, and rising crime rates are associated with falling imprisonment rates.21

Former Attorney General William Barr restated this position, arguing that the country had a “clear choice” of either building more prisons or tolerating higher violent crime rates. This view implied that increasing the government’s capacity to imprison is the single most effective strategy for reducing crime. Barr listed twenty-four steps the government should take to reduce violent crime, including “truth in sentencing,” which requires in-
mates to serve the full amount of their sentences, increased use of mandatory minimum prison sentences, relaxation of evidentiary rules to increase conviction rates, greater use of the death penalty, and higher numbers of police officers.\textsuperscript{22}

Similarly, President Clinton successfully campaigned for 100,000 police officers to be added to the streets to increase arrests. The 1994 Crime Bill, advocated by the then Democrat-controlled Congress and eventually adopted in 1996 by the Republican-controlled Congress, was designed to encourage states to increase the use of imprisonment by adopting "truth in sentencing laws" that would require inmates convicted of violent crimes to serve 85 percent of their sentences. States that adopted such laws were rewarded with federal funds to help pay for the construction of more prison beds. Clearly, both political parties have decided that we need to get even tougher with criminals.

During this period, a number of reports and studies were issued by the U.S. Department of Justice to support the proposition that increases in incarceration reduce crime. A primary tactic was to compare Uniform Crime Reports (UCR) and the National Crime Survey (NCS) is now referred to as the National Criminal Victimization Survey, NCVS) for violent crime rates (homicides, robbery, assault, rape, and kidnapping) with imprisonment rates between 1960 and 1990 in ten-year increments.\textsuperscript{23} By selectively using these ten-year increments, the Justice Department's bar chart shows that, during the 1960s, imprisonment rates dropped by 19 percent while reported violent crime rates increased by 104 percent. During the 1970s, violent crime rates continued to increase again, but by only 47 percent, whereas imprisonment rates increased by 39 percent. And, in the 1980s, as imprisonment rates increased by 99 percent, violent crimes rates again increased, but by only 11 percent.

In other words, although violent crimes rates steadily increased over the past three decades, the rates of increase were lowest during the 1980s, when imprisonment rates were at their highest levels. These data led a Justice Department spokesperson to claim that violent crime will decline even more if more persons are imprisoned:

No one knows for sure what the 1990s will bring. But my guess, based on the lessons learned over the past three decades, is this: If imprisonment rates continue to rise, overall violent crime rates will not increase and could actually fall in the 1990s. A big "if," of course, is whether imprisonment rates will continue their steady upward climb.\textsuperscript{24}

The Argument against "Incarceration Reduces Crime"

The major flaw in the "incarceration reduces crime" policy is its simplistic nature. For some reason, imprisonment advocates have completely rejected or ignored the long and rich history of criminology that has shown that many other social forces, in addition to the response of the criminal justice system, affect crime rates. It would be hard to find any credible social scientist or reasonable person who would agree that the rate of crime in any society is the sole product of how many of its citizens are incarcerated. Rather, crime is the product of a society's many very complex individual, social, economic, political and even random circumstances. What is being asked of the American people is to exclude all other factors known and to put all of our crime-fighting eggs in the incarceration basket. We believe a more careful examination of all available information demonstrates major inconsistencies in this argument and lends greater support to the conclusion that more imprisonment has little to do with crime rates.

Inconsistencies in the Incarceration Leads to Lower Crime Rate National Trend

Returning to the argument set forth by the U.S. Department of Justice that crime rate increases were lowest in the decade of the 1980s and highest in the 1960s, a more careful year-by-year analysis of the same UCR data cited by the Justice Department shows that the nation's overall crime rates have had relative periods of stabilization in all four decades and usually during the initial part of the decade (1960–1962, 1970–1973, 1975–1978, 1980–1984, and 1990–1994), only to be followed by crime rate increases despite increases in the use of imprisonment. For the imprisonment theory to be valid, these countervailing trends either should not have occurred or should somehow be explained by the imprisonment theory. If there were a direct causal relationship between imprisonment and crime rates, stabilization in crime rates during these time periods should have taken place.

The imprisonment advocates also claimed at one time that crime has been reduced since 1973 by over 30 percent, with most of the decline occurring since 1980. They have based their case exclusively on the 1973–1992 NCVS household surveys. During this same time period, imprisonment rates more than tripled, from 98 to 329 per 100,000. Like the UCR rates, the NCVS data also show a decline in household reported crime beginning in 1980. Beginning in 1985, however, both the UCR and NCVS violent crime rates began to increase despite the fact that the imprisonment rate continued to escalate. In fact, the overall violent victimization rate in 1995 is virtually the same as it was in 1973 when the number of people in prison was only 200,000.

Inconsistencies among Selected States over Time

If we were to pick three states to test the imprisonment theory, Texas, California, and New York would be the obvious choices. As shown in Table
20.5, both California and Texas are the nation’s leaders in increasing prison populations. In 1992, then attorney general William Barr believed that California should serve as the model for the rest of the country. In fact, he was urging Texas to follow California’s lead: “California quadrupled its prison population during the 1980s and various forms of violent crimes fell by as much as 37 percent. But in Texas, which did not increase prison space, crime increased 29 percent in the decade.”

Under Democratic governor Ann Richards’s leadership, Texas launched the largest prison construction program in the state’s history. As shown in Table 20.5, both California and Texas continued to increase their imprisonment rates in the 1990s. California increased its imprisonment rates by over 50 percent while Texas tripled its rate. Both reported the same decline in crime rates (about 35 percent) as the national rate. Not surprisingly, politicians in favor of imprisonment point to these two states as examples of how imprisonment reduces crime. However, if we add New York to the analysis we see how the “greater imprisonment, lower crime” thesis fails. New York has only slightly increased its prison population and imprisonment rates. Yet it has reported an even larger decrease in its crime rate. Furthermore, despite its lower incarceration rate, the overall crime rate is significantly lower in New York than in California and Texas.

Inconsistencies within States

The proincarceration argument also fails to explain why within a state, jurisdictions that exercise very different sentencing policies report similar declines in crime rates. The most recent example of this situation is in California, where in San Francisco a remarkable experiment in reincarceration occurred. As shown in Table 20.6, the county has reduced the number of offenders it sends to state prison each year by over 60 percent. According to some, this should certainly produce a huge crime wave, but in fact, the crime rate went down by almost 40 percent—virtually the same decline reported for the state and Los Angeles (Table 20.7).

<table>
<thead>
<tr>
<th>Year</th>
<th>Population</th>
<th>Serious Crime Rate</th>
<th>Felony Arrests</th>
<th>Sentences</th>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>1990</td>
<td>724,100</td>
<td>34,443</td>
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<th>Reported Prison Sentences</th>
<th>Reported Crime</th>
<th>Reported Prison Sentences</th>
<th>Reported Crime</th>
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<td>2,352</td>
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| Change (%) | -45 | -38 | -61 | -49 | 27 |

Source: Institute on Crime, Justice and Corrections, San Francisco Jail Crowding Study
Bad Math: The Numbers Don’t Add Up

A number of criminologists and major studies have greatly contributed to the scientific basis for expanding the use of incarceration. Much of this “science” is grounded in a small number of studies funded by the U.S. Department of Justice in the 1970s, conducted by the Rand Corporation and its leading researchers (Jan and Marcia Chaiken, Joan Petersilia, Peter Greenwood, and Alan Abrahamse). These studies had newly admitted prisoners self-report how many crimes they had committed prior to being incarcerated. Based on these survey results, the Rand researchers concluded that a small number of prisoners had committed a very large number of crimes before they were incarcerated. Assuming they would continue to commit crimes at the same rate for an extended period of time, crime rates could be lowered by “selectively incapacitating” them. Lost in the discussion was the finding that most inmates sentenced to prison have very low or even nonexistent rates of criminal activity, suggesting that many prisoners posed little threat to public safety and need not be incarcerated. Nonetheless, policymakers were urged to adopt selective incapacitation sentencing strategies.

A review by the National Academy of Sciences and by Rand’s own follow-up research later discovered that the selective incapacitation policy was incorrect for two reasons. The National Academy reanalysis of Rand’s research found that it had significantly overestimated the incapacitation effects of their original sample of inmates. And Rand itself found that its criteria for identifying high-risk inmates at the time of sentencing was invalid. But these findings did not deter others from arguing that incapacitation was a proven cost-effective approach to fighting crime.

The first major effort to promote incapacitation was a report written by Edwin Zedlewski that was published with great fanfare by the U.S. Department of Justice, National Institute of Justice (NIJ) in 1987. Zedlewski argued that by incarcerating high-rate offenders as defined by the Rand studies, crime would be significantly reduced and society would reap enormous economic benefits. Specifically, he states that although one year of incarceration would cost $25,000, society would aver $430,000 in social costs. Most of these averted costs were be realized by assuming that each incarcerated offender would have committed 187 crimes per year, which would have cost victims and society’s response to crime about $2,300 per crime.

A related but later study conducted by Mark Cohen and his colleagues tried to quantify the “true” costs of crime. The study was first published in 1988 with another version released in 1996 by the U.S. Department of Justice’s NIJ. It took the cost of crime a major step higher by adding the costs of “pain and suffering” to the cost benefit equation. Remarkably, this piece of research claimed that the true cost of crime was actually $450 billion per year, with $345 billion being linked to so called “quality of life” issues. These cost figures are well above the government’s own estimates of $17.6 billion.

These two studies have formed the basis for many politicians to argue that increased incarceration will significantly reduce crime and yet save money—in fact hundreds of billions of dollars. Policies that served to reduce lengths of stay were criticized as “ineffective.” Instead, “truth in sentencing,” “three strikes and you’re out,” and other efforts to lengthen prison terms were advocated by many politicians who now had a scientific basis for their ideology. For example, John Dilulio, using these data claimed that “prisons were a bargain” and California’s then-governor Pete Wilson’s chief economist promised that by passing the “three strikes and you’re out” legislation, the crime rate in California would drop by 20 percent and the state would save $55 billion.

These studies have been roundly criticized largely because the numbers presented do not add up to what is well-known regarding number of crimes and their costs. With respect to the number of crimes associated with incarcerated felons, Zimring and Hawkins have simply noted that assuming the 187 crimes per offenders were true and given the large increase in the prison population, crime would have been eliminated in the United States many years ago. Clearly, something is very wrong with the assumption that the average number of crimes committed per year for sentenced inmates is so high.

With respect to the cost benefit claim by Cohen et al., Austin and Zimring and Hawkins have pointed out the inappropriateness of using rarely-awarded jury awards for “pain and suffering” for all crimes regardless of their relative pettiness:

These estimates are applied to all crimes despite the fact that virtually none of them result in jury awards. Even if one assumes that the $345 billion estimate of “quality of life” is accurate, what does it mean in real dollars? The answer is very little. The number is only a monetary symbol, it has nothing to do with real dollars, and has no economic significance.

The specific cost estimates are opportunistic, arbitrary, inconsistent, and too high. The schema lacks an articulated theory of either public or private cost. Moreover, Cohen’s analysis reveals no relationship between its cost estimates and its conclusions about the cost-effectiveness of the investment in further crime control resources.

Failure to Control for Other Factors Known to Be Associated with Crime Rates

All of the data presented here point to an inescapable conclusion: crime rates are much more the products of other aspects of our society. Here, we return to the themes articulated by others, namely, factors other than in-
carceration rates, which are known to be linked to crime rates. In order for the "incarceration reduces crime" thesis to be valid, one must shown that these other crime-related factors remained constant or were controlled in the analysis.

Demographics

Since most crimes are committed by males between the ages of fifteen and twenty-four, as that population grows or subsides, one can expect associated fluctuations in the crime rates. Before changes in crime rates can be attributed to changes in imprisonment rates, the influence of demographic changes must be considered.

Beginning in the early 1960s, the size of this age group began to grow and continued to grow through the 1970s—the exact period of the rise in crime rates. By 1980, this growth had peaked and began to decline—just as the crime rate also began to decline. An article by two criminologists found that most of the decline in crime rates observed since 1979–1985 was a direct result of a declining "at-risk" population. Unlike the reincarceration rate analysis, this study controls for changes in incarceration rates. When we take into account the influence of this demographic shift, reductions in the NCVS from 1980 to 1988 are largely attributable (60 percent of the crime reduction explained) to reductions in the fifteen to twenty-four age group, the high crime rate population. The same analysis, when applied to the UCR data, actually shows an increase in UCR during the same period.33

Demographics also influence how crime is reported in the NCVS rates. Since they are based on the number, characteristics, and location of U.S. households, changes in the attributes of households over the past two decades will influence reported crime rates. For example, the Justice Department has acknowledged that, since 1973, the size of the American household has (1) declined, (2) shifted from urban areas to suburban locations, and (3) shifted from the Northeast and Midwest to the South and the West.34

The first two conditions automatically reduce crime rate estimates because smaller households located in suburban areas are less likely than larger and urban households to experience crime. The third condition, relocation to the West where crime rates are highest, increases the likelihood of households being victimized. These trends in the NCVS must be more carefully analyzed before conclusions can be made that a tripling of the incarceration rate is solely responsible for declines in personal and household theft.

The Economy and Other Social Economic Indicator

The 1990s have also witnessed major improvements in a number of areas know to be related to crime rates (see Table 20.8). We have already noted the effects of demographics—namely the aging of the U.S. population. Unemployment in general has declined from 6.2 percent of the work-eligible population to 4.1 percent in 1999. There are also indications that the number teenage births and public welfare rolls have declined as well. And there are many more indicators of social well-being that also point in a positive direction. Many of these indicators are reflective of the earlier cited study by Linsky and Straus. As these indicators continue to improve, we can continue to expect further declines or at least stabilization in the crime rates. Clearly, these factors should also be accounted for in assessing fluctuations in crime rates.

VOODOO/ENRON CRIMINOLGY

The failure of the massive expansion of prison populations to accomplish its most important objective—the reduction of crime—should come as no surprise, because the idea that increased penalties will reduce crime is based on a simplistic and fallacious theory of criminal behavior. It starts with the idea that every person is an isolated, willful actor who makes completely rational decisions to maximize his or her pleasure and to minimize his or her pain. Consequently, individuals only commit crimes when they believe it will lead to more pleasure, gain, or satisfaction, and with minimal risk for pain or punishment. If penalties for being caught are small or nonexistent, then many persons who are not restrained by other factors (for example, strong conventional morals or the disapproval of close
friends or family) will commit crimes—indeed, a lot of crimes. Only by increasing the certainty and severity of punishment, this thinking goes, will people “think twice” and be deterred.

The punishment/incapacitation/deterrence theory assumes that all individuals have access to the same conventional lifestyles for living out a law-abiding life. This is not true for most of the individuals who are caught up in our criminal justice system. For many, particularly young members of the inner-city underclass, the choice is not between conventional and illegal paths to the good life but between illegal and risky paths or no satisfaction at all. They are faced with a limited and depressing choice between a menial, dull, impoverished, undignified life at the bottom of the conventional heap, or a life with some excitement, some monetary return, and a slim chance of larger financial rewards, albeit with great risks of being imprisoned, naimed, or even killed. Consequently, many “choose” crime despite the threat of imprisonment.

For many young males, especially African-Americans and Hispanics, the threat of going to prison or jail is no threat at all but rather an expected or accepted part of life. Most minority males will be punished by the criminal-justice system during their lifetime. Deterrence and punishment are effective only when the act of punishment actually worsens a person’s lifestyle. For millions of males, imprisonment poses no such threat. As a young black convict put it when Claude Brown told him that his pre-prison life meant that there was a “60 percent chance he will be killed, permanently maimed, or end up doing a long bit in jail”:

“I see where you comin’ from, Mr. Brown,” he replied, “but you got things kind of turned around the wrong way. You see, all the things that you say could happen to me is dead on the money and that is why I can’t lose. Look at it from my point of view for a minute. Let’s say I go and get wiped [killed]. Then I ain’t got no more needs, right? All my problems are solved. I don’t need no more money, no more nothing, right? Okay, supposin’ I get popped, shot in the spine and paralyzed for the rest of my life—that could happen playing football, you know. Then I won’t need a whole lot of money because I won’t be able to go no place and do nothin’, right? So, I’ll be on welfare, and the welfare check is all the money I’ll need, right? Now if I get busted and end up in the joint [prison] pullin’ a dime and a nickel, like I am, then I don’t have to worry about no bucks, no clothes. I get free rent and three squares a day. So you see, Mr. Brown, I really can’t lose.”

Voodoo criminology also espouses a fatalistic perspective that there is little one can do to change humans. This perspective has been argued most strongly by John Dilulio. In making his statements on crime and the criminal justice system Dilulio makes use of the entire range of tactics employed by the academic apologists. He uncritically accepts unverified, frequently outlandish statements of facts and builds his own arguments upon them. He draws conclusions from a single case—an anecdote. He selects facts or relationships, plucks them from their full context, and then twists them to suit his conservative agenda. Sometimes, it appears he just makes things up.36

Nonetheless, Dilulio and his fellow supporters (including former drug czar and Department of Education secretary William Bennett) have argued that many wayward youthful offenders should be viewed almost as human garbage and dumped behind bars for as long as possible.

America is no home to thickening ranks of juvenile “super-predators”—radically impulsive, brutally remorseless youngsters, including ever more pre-teenage boys, who murder, assault, rape, rob, burglarize, deal deadly drugs, join gun-toting gangs and create serious communal disorders. They do not fear the stigma of arrest, the pains of imprisonment or the pangs of conscience.”37

This dark futuristic view of America has led others to warn of an impending crime wave. James Alan Fox, a criminologist who often appears before congress to give advice on policy predicted that juvenile crime rates—especially crimes of violence—could only go up: “We are facing a potential bloodbath of teenage violence in years ahead that will be so bad, we’ll look back at the 1990s and say those were the good old days.”38

Dilulio himself recommended that the juvenile prison system be increased threefold to handle the new wave of “superpredators.” Fortunately, as before, these dire predictions and calculations have been way off the mark, with juvenile crime and especially juvenile violent crime dropping—not increasing as forecasted.

AMERICA’S FARM SYSTEM FOR CRIMINALS

We have a less deterministic view of human nature. Most people who engage in crime do so not as isolated individuals, but—like all of us—as participants in various social organizations, groups, or “social systems,” each of which has its own rules and values. Some groups in our society (often because of subjection to reduced circumstances such as poverty, idleness, and incarceration over an extended period of time) develop preferences for deviant lifestyles. For example, young males who were abused as children, dropped out of school, lived in poverty, abused drugs, and served many juvenile jail and prison sentences have become immersed in deviant values and are distant from any set of conventional values. They are most satisfied when engaging in specialized deviant practices related to their unique culture—wild partying involving drug use and sex along with extremely risky behavior involving displays of machismo.39
Since crime is not the sole product of individual motives, efforts, especially by the state, to punish the individual without addressing the social forces that produced that individual will fail. Individuals do not decide to sell drugs, purchase drugs, and set up single-proprietary operations on their own. Most street crime involves groups, organizations, and networks. Drug dealers are persons who have been involved in groups and networks of people who use drugs, have connections, and know or are dealers. The same is true of gang bangers, hustlers, and thieves.

In effect, America has created a lower-class culture designed to produce new cohorts of street criminals each generation. Similar to organized sports, most of these criminal operations have major leagues, minor leagues, and a bench. Children come up through the ranks, learn the game, and finally move into the starting lineup once they reach their adolescent years. When they are temporarily or permanently removed (that is, arrested, imprisoned, or killed), they are replaced by others from the bench to continue the game. When the bench is depleted, someone comes up from the minors. Much as in professional and college sports, the span of their career is short, with their most active crime years taking place between the ages of fifteen and twenty-four. Our impoverished inner-city neighborhoods (or what is left of them as neighborhoods) have almost unlimited reserves milling about who are kept out of the starting lineup by managers and first-string players. As soon as the police arrest the “kingpin” drug dealer, the leaders of a gang, or some of the top pimps or hustlers, new recruits move in to take over these positions.

This characterization of criminal operations also explains why the War on Drugs, which has been going on for two decades, has failed. During the 1980s, the government spent billions of tax dollars and arrested millions for drug possession or drug trafficking. Regularly, the media reported that a new large-scale drug operation and some kingpin drug dealers had been caught. Drugs continue to be as available as they were before the new arrests, however, as new kingpins quickly and often violently replace the recently departed leaders.

Even if a particular type of criminal operation dies out, new crime games appear. In the late 1980s, the news media and government officials were blaming crack cocaine dealing for unprecedented numbers of homicides in Los Angeles inner-city neighborhoods. However, sociologist Jack Katz discovered that, contrary to the media’s reports, homicide rates in the crack neighborhoods had not changed over the last decade. Earlier in the 1980s, rival gangs were killing each other over territory. It seems, using the sports analogy, that the number of players available for crime games is related to broader social conditions, such as the existence of a large underemployed population of young males who have the ordinary youthful desires for respect, excitement, and gratification but are confronted with extremely limited access to legitimate means of acquiring them. Thus, the number of potential players remains constant over an extended period. Only the types of games being played change from season to season.

**OUR PRISON SYSTEM IN THE TWENTY-FIRST CENTURY**

**Where Are We Headed?**

Unless we find a way to reverse the trends that have been set in motion, we will continue to pay a heavy price. Unless we wanted to strip down or abandon many other government enterprises—education, welfare, transportation, medical services—we would have to greatly increase state taxes to pay for this massive experiment in imprisonment. In many ways—the financial costs, the social disruptions, the removal of a very large percentage of young males—this current policy would be like World War II, prolonged for decades.

Of course, other consequences would arise. Since a large percentage of the current prison population is black, it would mean that most of the nation’s 5.5 million black males ages eighteen to thirty-nine would be incarcerated or under the criminal justice system, and we would look a lot like South Africa of the 1950s and 1960s.

Its now clear that this increase would have little if any impact on the crime rate. The prison population would become increasingly older, filled with hundreds of thousands of aging adults who pose a minimal threat to public safety. It is impossible to anticipate what new forms of social problems, crime, and upheavals this punitive experiment would cause. The massive social disruptions—such as the removal of most young black males—might result in unanticipated new types of violent criminal activities. Each year hundreds of thousands of prisoners are being released to society—many of them with no parole supervision. Many of them will be socially crippled and embittered by their long prison terms.

For the most part, their chances of pursuing a merely viable, much less satisfying, conventional life after prison are small. The contemporary prison experience has converted them into social misfits and cripples, and there is a growing likelihood that they will return to crime, violence, and other forms of disapproved deviance. They will at least be an enormous nuisance and burden.

This ultimate cost of imprisonment—that which society must suffer when prisoners are released—continues to be confirmed by research. The Rand Corporation found that convicted felons sent to prison or granted probation had significantly higher rates of rearrest after release than those on probation. Linsky and Straus found that states with higher rates of incarceration have higher rates of violence and suicide. Sampson and
Laub found persons who experienced incarceration had higher rates of criminality:

One clear possibility is that current [sentencing] policies are producing unintended criminogenic effects. From our perspective, imprisonment may have powerful negative effects on the prospects of future employment and job employment. In turn, low income, unemployment, and underemployment are themselves linked to heightened risks of family disruption. Through its negative effects on male employment, imprisonment may thus lead indirectly through family disruption to increases in future rates of crime and violence. The extremely high rate of young black males renders this scenario very real.44

Even if we assume that crime would eventually decline, how long would we have to maintain such a large prison system to continually deter and incapacitate each successive generation of potential criminals? Because we do not believe Americans are ready for this costly solution to the crime problem through imprisonment, we are left with its failure.

On another dimension, our national punishment policies and rising incarceration rates have significantly weakened the capacity of certain communities to perform crucial traditional functions: raise children, provide a healthy environment for families, provide jobs for young and old, and sustain a vibrant civic life. According to a number of theories of crime, including social disorganization theory, removing large numbers of community residents weakens informal social control mechanisms that are necessary to help prevent crime. In fact, some researchers are testing the hypothesis that the level of incarceration is so high that we have weakened the capacity of communities to control crime. These researchers believe that strong families, financially viable communities, and social cohesion—what is now commonly termed “collective efficacy,” or the ability of the collective to be efficacious—contribute to lower crime rates, then it is possible that a weakening of community capacity through a policy of mass incarceration might actually result in higher crime rates.

A related consequence of U.S. incarceration policies has to do with the fact that the communities hardest hit by these policies are often the poorest, and particularly poor communities of color. The cycle of arrest, removal, and incarceration is highly concentrated in communities that are already facing the enormous challenges of poverty, crime, disinvestment, and inadequate social services. For example, new federal laws authorize housing authorities and Section 8 providers to evict individuals with certain criminal convictions. What impact does this policy have on access to housing, homelessness, and family life in public housing? Consider the research finding that imprisonment has the effect of decreasing the lifetime earnings of former prisoners. As a higher percentage of men have prison experiences, particularly African-American and Latino men living in inner cities, what is the net effect of imprisonment policies on the financial health of those communities? Researchers are just beginning to understand these dynamics of our criminal justice policies.

Our Vindictive Society

Crime has incurred another profound cost: the increase of general vindictiveness in our society. Historically, Americans (as compared to Europeans and Japanese, for example) have been highly individualistic, which means, for one thing, that they are prone to blaming individuals for their actions. In America, according to the dominant ideology, everyone is responsible for his or her acts, and every act is accomplished by a willful actor. Consequently, every undesirable, harmful, “bad” act is the work of a blameful actor. This belief has resulted in our being the most litigious people in the world and has given us the world’s largest legal profession. It has also led us to criminalize more and more behavior and to demand more and more legal action against those who break laws. Today many Americans want someone blamed and punished for every transgression and inconvenience they experience.

Social science should have taught us that all human behavior is only partially a matter of free will and that persons are only partially responsible for their deeds. Everyone’s actions are always somewhat influenced or dominated by factors not of one’s own making and beyond personal control (with economic situation being the most influential and obvious).

Moreover, seeking vengeance is a pursuit that brings more frustration than satisfaction. It has not only been an obstacle in solving many social problems and in developing cooperative, communal attitudes (the lack of which is one of the important causes of the crime problem), but it is in itself a producer of excessive amounts of anxiety and frustration. Ultimately, vindictiveness erects barriers between people, isolates them, and prevents them from constructing the cooperative, communal social organizations that are so necessary for meaningful, satisfying human existence. Ironically, it is just these social structures that contain the true solution to our crime problem.

The Crime Problem as a Diversion

Our tendency toward vindictiveness is greatly nurtured by the media, politicians, and other public figures who have persistently ranted about the crime issue. They do this largely because the crime issue is seductive. It is seductive to politicians because they can divert attention away from larger and more pressing problems, such as the economy and pollution, whose solutions would require unpopular sacrifices, particularly for them
and other more affluent segments of the society. Street crime is seductive to the media because it fits their preferred "sound bite" format of small bits of sensational material. Likewise, it is deeply seductive to the public, who, though they fear crime, possess at the same time a deep fascination for it.

**IT'S ABOUT TIME**

We must turn away from the excessive use of prisons. The current incarceration binge will eventually consume large amounts of tax money, which will be diverted from essential public services such as education, child care, mental health, and medical services—the very same services that will have a far greater impact on reducing crime than building more prisons. We will continue to imprison millions of people under intolerably cruel and dangerous conditions. We will accumulate a growing number of ex- convicts who are more or less psychologically and socially crippled and excluded from conventional society, posing a continuing nuisance and threat to others. We will severely damage some of our more cherished humanitarian values, which are corroded by our excessive focus on blame and vengeance. And we will further divide our society into the white affluent classes and a poor nonwhite underclass, many of them convicts and ex-convicts. In effect, we are gradually putting our own apartheid into place.

We believe that these trends can be reversed without jeopardizing public safety. But how should we accomplish a turnaround of this magnitude? First, we must recognize that crime can, at best, be marginally reduced by escalating the use of imprisonment. If we are to truly reduce crime rates, we as a society must embark on a decade-long strategy that reverses the social and economic trends of the previous decade. In particular, we must jettison the overly expensive and ineffective criminal justice approach and redirect our energies toward the next generation of youth, who already are at risk of becoming the generation of criminals.

The "crime reduction" reforms we have in mind have little to do with criminal justice reform. Rather, these reforms would serve to reduce poverty, single-parent families headed by females, teenage pregnancies and abortions, welfare dependency, unemployment, high dropout rates, drug abuse, and inadequate health care. These are the social indicators that have proven to be predictive of high crime rates.

The programs and policies that will work, such as better prenatal health care for pregnant mothers, better health care for children to protect them against life-threatening illnesses, Head Start, Job Corps, and Enterprise Zones, have been well documented and may well be contributing to the current decline in crime. But we will also need a level of commitment from our major corporate leaders to reduce the flight of jobs, especially blue-collar and industrial jobs, from this country to Third World nations where cheap labor can be exploited for profits but at tremendous cost to this country.

So how do we go about cutting our losses? We begin by reducing, or at least reducing the rate of growth in, the prison population and reallocating those "savings" to prevention programs targeted at-risk youth and their families. But is it realistic to assume that prison populations and their associated costs can be lowered without increasing crime? How, exactly, should we proceed?

**Reduce Prison Terms**

Many methods of reducing prison populations have been advocated. Some argue that certain classes of felony crimes should be reclassified as misdemeanors or decriminalized completely. In the late 1960s, there was a great deal of support to do this for many minor drug offenses. Others claim that a significant number of those convicted of felonies could be diverted from prison to probation and new forms of alternatives to prison, including intensive probation, house arrest, electronic surveillance, and greater use of fines and restitution.

We are persuaded, however, that these "front-end" reforms would not substantially reduce prison crowding. Historically, well-intentioned alternatives have had marginal impact on reducing prison populations. Instead, they have had the unintended consequence of widening the net of criminal justice by imposing more severe sanctions on people who otherwise would not be sentenced to prison. They have little support with public officials, who, like the public, are increasingly disenchanted with probation and other forms of community sanctions. Moreover, the current problem is not increasing prison admissions but increases in the length of stay and the number of parole violators.

For alternatives to work, legislators, prosecutors, police, judges, and correctional agencies would all have to agree on new laws and policies to implement them. Such a consensus is unlikely to occur in the near future, since these measures are replete with controversy and disagreement. Even if the forces that are presently driving the punitive response to crime abated considerably, it would take several years to work through these disagreements and effect changes in the laws and policies that would slowly produce an easing of prison population growth. Such a slow pace of reform would not allow states to avoid the catastrophe that is rapidly developing in our prisons.

Even diversion of a substantial number of offenders from prison would not have a major impact on prison population growth. "Front-end" diversion reforms are targeted for those few offenders who are already serving
the shortest prison terms (usually less than a year). The recent flood of tougher sentencing laws has greatly lengthened prison terms for offenders charged with more serious crimes and repeat property or drug offenders. Consequently, it is this segment of the prison population that is piling up in the prisons. The problem is that inmates with long sentences are unlikely to be candidates for diversion from prison.

For these reasons, we believe the single most direct solution that would have an immediate, dramatic impact on prison crowding and would not affect public safety is to shorten prison terms. This reform can be done swiftly and fairly through a number of existing mechanisms, such as greater use of existing good-time credit statutes, accelerating parole eligibility, developing reentry programs for inmates, and altering existing parole revocation policies.

Indeed, many states have launched such programs with no impact on crime rates. Between 1980 and 1983, the Illinois director of corrections released more than 21,000 prisoners an average of ninety days early because of severe prison crowding. The impact on the state’s crime rate was insignificant, yet the program saved almost $50 million in tax dollars. A study of the program found that the amount of crime that could be attributed to early release was less than 1 percent of the total crime of the state. In fact, the state’s crime rate actually declined while the early release program was in effect. Based on these findings, the state expanded its use of “good time” by another ninety days. A recent study of that expanded program found that the state was now saving over $90 million per year in state funds, even taking into account the costs of early release crimes (which represented less than 1 percent of all crimes committed in Illinois) to crime victims.48

An earlier demonstration of how swiftly and easily prison populations can be reduced occurred in California from 1967 to 1970. When Ronald Reagan became governor, he instructed the parole board to reduce the prison population. The board began shortening sentences, which it had the power to do within the indeterminate sentence system, and in two years lowered the prison population from 28,000 to less than 18,000. Many other states are following these examples. At the time of this writing, the Texas prison system has dropped by nearly 10,000 inmates as the result of the parole board adopting parole guidelines. Other large states such as Michigan, Ohio, and New York are also reporting declines.

All of these states have found a way to reduce prison terms including inmates serving lengthy sentences for crimes of violence who, because of their age, no longer pose a threat to public safety. Because the average prison stay in the United States is approximately two to three years, even marginal reductions in the length of stay for large categories of inmates would have substantial effects on population size. Using the 1997 figure of approximately 540,748 prison admissions, and assuming that 80 percent of those inmates (representing those who are nonviolent and have satisfactory prison conduct records) had their prison terms reduced by thirty days, we can see that the nation’s prison population would have declined by about 36,000 inmates. A ninety-day reduction would result in nearly 110,000 fewer prisoners. Assuming a conservative average cost of $25,000 per inmate, the nation would avert as much as $2.8 billion a year in operating costs and virtually eliminate the need to construct new prisons except for replacement purposes.

Humanize Our Prisons

Whether or not we make any progress toward rational sentencing policies and succeed in dramatically reducing our prison populations, we must confront another issue. Our prisons are at best warehouses where prisoners stagnate and are rendered less and less capable of coping with outside society or, at worst, cruel and dangerous maximis where prisoners are damaged and suffer severely. As a civilized people, we must not tolerate this.

The consequences to our society of supporting or even tolerating inhuman prisons are varied and profound. There is the obvious consequence of having to receive back into our society released prisoners who have been critically damaged by their imprisonment. Less obvious is that the general society itself is polluted by the mistreatment of its prisoners. In the first place, guards and other staff persons who must work in the inhumane prison environment are contaminated by it, as are their families and the townsfolk near the prison. It is virtually impossible to be part of or witness to the systematic mistreatment of other human beings without experiencing some deleterious effects. More generally, support for an inhumane prison system requires that citizens embrace the simplistic concept that prisoners are less worthy beings who deserve their extreme punishment. This belief, which is advanced by unscrupulous and self-serving politicians for their self-gain, rests on—and then in turn, in a looping process—promotes invidiousness, hate, fear, and other emotions that are inimical to the functioning of a cohesive, orderly, beneficent society.

Prisons where prisoners are systematically treated as less than human and denied dignity, basic human rights, and life necessities and are physically and mentally mistreated are festering sores that poison the entire society. The state does not have to make prisons into country clubs or mollycoddle felons to treat prisoners humanely. Prisons are inherently punitive and can operate efficiently and effectively while treating prisoners in a manner consistent with the minimum standards and rights for prisoners that have been formulated by many private and public bodies.49 Many of these were proposed in the late 1960s and early 1970s, when con-
considerable concern and effort to reform the prison were manifest. Some have been realized in many prison systems. But many have not, and at present most people who decide or influence prison policy completely ignore prisoners' rights and welfare. The courts, particularly the U.S. Supreme Court, after almost completely ignoring the plight of prisoners (the “hands-off” policy, which prevailed until the early 1960s), began ruling on issues regarding prisoners' rights, cruel and unusual punishment, and due process. However, after the mid-1970s, the court effectively returned to the hands-off policy. 30

Given the anti-prison reform climate, we believe that presenting an argument in support of a full prisoners’ rights agenda would be futile at this time. However, several features of a system of incarceration should be acceptable to anyone interested in accomplishing the prison’s dominant goals—punishment and incapacitation—and not engaging in unnecessary and counterproductive punitive practices. These are as follows:

1. No cruel and unusual punishment. Prison overcrowding, adoption of control practices in reaction to prison violence, the lack of concern for the safety of the public has resulted in an increase in extremely punitive policies and practices. These include denial of adequate medical services, excessive use of physical punishment in the management of prisoners, and housing prisoners in extremely punitive arrangements, all of which, when delivered maliciously, have been ruled in violation of the Eighth Amendment of the Constitution. 51

2. Safety. Prisoners should be able to avoid being attacked, raped, and murdered. In other words, they should be protected from other prisoners and staff. Effective strategies such as adequate surveillance, voluntary access to safe living areas within prison systems, housing prisoners in small units, and single-celling should be introduced.

3. Health. Prisoners should have access to the resources and services required to maintain their physical and mental health. These include access to medical and psychiatric services, adequate diet, and recreation. It also means that they should not be subjected to incarceration regimens that are physically and mentally deleterious, such as extended periods of isolation and restriction on mobility. 52

4. Rehabilitation. As suggested earlier, there has been considerable disagreement on whether rehabilitative programs as they have been practiced are effective in reducing recidivism. However, it appears obvious to us and certainly consistent with a rational system of punishment that prisoners should have access to programs that, according to their and appropriate experts’ judgment, improve their chances to adjust to life after prison. This approach would include education, vocational training, and a wide variety of treatment programs that have been experimented with in the past or will be created in the future.

5. Reentry Assistance. Given the large number of inmates being released and the high rate of parole violations, it will be increasingly important to start building supportive reentry programs for these inmates. Most inmates receive little if any preparation for their release or assistance in the areas where they require the most help: employment, residence, and family support. Certainly it makes little sense to simply dump inmates out of prison with no more than $20 to $50 and expect them to make it on the outside as an ex-convict with few if any marketable or social skills. Community-based programs operated in particular by nonprofit organizations are needed to help facilitate the reentry process.

This is a minimum list of features that would serve as a foundation for a humane and rational system of incarceration. Many other characteristics should be introduced to achieve a truly effective and humane system. But these features are crucial. Without them we will continue to deliver excessive and irrational punishment to our prisoners and dump them back out into the “streets,” damaged and handicapped, ready to descend into the growing urban pit called the “underclass” or to be recycled once again through prison.

ACKNOWLEDGMENTS


NOTES


10. Ibid., p. 208.


15. In addition to the data provided by the Criminal Justice Institute on daily operating costs, the U.S. Department of Justice reported that in 1996, the operating costs were $20,100. The state-by-state comparisons are located in the DOJ report. See *State Prison Expenditures*, 1996 (Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, August 1999).


18. See Cory and Gettigner, *Time to Build?*


23. Crime in the United States is measured by two different methods. The first is the Uniform Crime Reports (UCR), which includes all crimes reported to the police and tabulated by the FBI. The UCR only captures a limited number of crimes (homicide, rape, aggravated assault, robbery, burglary, larceny theft, and motor vehicle theft). A second method involves annual surveys of households conducted by the Census Bureau to determine how many have been victimized by one of seven crimes (rape, robbery, assault, personal theft, household theft, burglary, and motor vehicle theft) each year. This crime reporting system, known as the National Crime Victim Survey, or NCVS, began in 1973. The NCVS does not include crimes against businesses (shoplifting, commercial burglaries), drug crimes, homicides, or crimes against children under the age of twelve. Furthermore, the NCVS tends to record a large number of trivial crimes that are ordinarily not reported to the police.

The UCR, unlike the NCVS, does include homicides, crimes committed against businesses or commercial properties, and crimes committed against children under the age of twelve and those not living in households. For these reasons, most criminologists believe that the UCR is a more reliable measure of crime.

For a review of the methodological merits of the UCR and NCVS, see Darrell Steffensmeier and Miles Hare, "Did Crime Rise or Fall During the Reagan Presidency?" *Journal of Research in Crime and Delinquency* 283(3, 1991): 330–59.

24. See Dillingham, Remarks.


34. See note 33.


36. The most blatant display of Dilulio’s use of these tactics appeared in a *Readers Digest* article titled "Crime in America: It’s Going to Get Worse" (1995). He begins his piece with a story about a guy, a "career criminal," who shot a man strolling on the street in a robbery attempt. According to Dilulio, the shooter had thirteen previous convictions for robberies, burglaries, theft and drug possession, but had slipped past "forgiving" judges for years.

This case is out of line with what is happening in Florida and misplaces the "blame" for this situation on liberal judges. Florida has had a habitual offender law for many years that allows for life sentences on the third conviction of a serious felony (including property or drug violations). It is up to the prosecutor to apply...
this extremely tough sanction to defendants. Judges have little control once the prosecutor decides to file charges a certain way. Dilullo knows very well that making points from a single case, an anecdote, is fudging. This case, if it did happen anything like Dilullo contends, is a weird anomaly and no conclusions about criminal justice policy can be drawn from it.

37. See Peter Eliah, SuperPredators, p. 4.
38. Eliah, SuperPredators, p. 25.
39. Jack Katz, in a study of street criminals, found that the excitement of criminal behavior was one of the strong attractions it holds for many offenders. See Seductions in Crime (New York: Basic Books, 1990). In a much earlier study, Joan Moore documented the culture of urban Chicanos in Los Angeles and how their involvement in gangs inevitably leads to drugs, arrests, and prison. See Homeboys: Gangs, Drugs and Prison in the Barrios of Los Angeles (Philadelphia: Temple University Press, 1978).
41. Todd R. Clear has presented evidence that this is in fact occurring already with great increases in incarceration of some categories of the population, particularly African-Americans. See "The Unintended Consequences of Incarceration," paper presented to the National Institute of Justice Workshop on Corrections Research, February 14–15, 1996.
44. Sampson and Laub, 1993: 255.
45. When he was U.S. attorney general under Ronald Reagan, Edwin Meese was one of the best examples of a powerful politician who made great use of the crime issue to divert attention. Throughout his public career, he barely avoided prosecution on various charges involving his and his friends’ receiving money illegally. All the while he persistently ranted about the crime problem, defined it as a problem of career criminals, and called for more punitive action, even suspension of constitutional procedures to keep career criminals in prison. In April 1988, the press reported on his possible involvement in the Wedtech scandal, which led to the conviction of several persons, one a very close personal friend of Meese. In the midst of all this, he delivered a speech to the nation’s mayors in which he again fumed against the new dangerous criminals, drug users.
46. See Lisbeth Schorr and Daniel Schorr, Within Our Reach (New York: Anchor Books, 1990), for an exhaustive list of such programs and policies.
51. The Federal District Court of Northern California ruled that treatment of prisoners at Pelican Bay SHU (segregated housing unit) was cruel and unusual in these respects. See Madrid v. Gomez, 889 F.Supp. 1149 (N.D. Cal. 1995).
52. In the opinion delivered by the Federal District Court regarding the conditions of confinement at Pelican Bay SHU, the Court found that “many, if not most, inmates in the SHU experience some degree of psychological trauma in reaction to their extreme social isolation and the severely restricted environmental stimulation in the SHU.” See Madrid v. Gomez.
53. In The Struggle for Justice (New York: Hill & Wang, 1971), the Working Party for the American Friends Service Committee, which consisted of persons with a variety of experiences with prison systems, produced one of the best thought out lists of these. See pp. 168–69.