

Reducing Mass Incarceration

By: Bianca M. Schumake

Urban Research and Resource Center

2019: The Year of Criminal Justice Reform

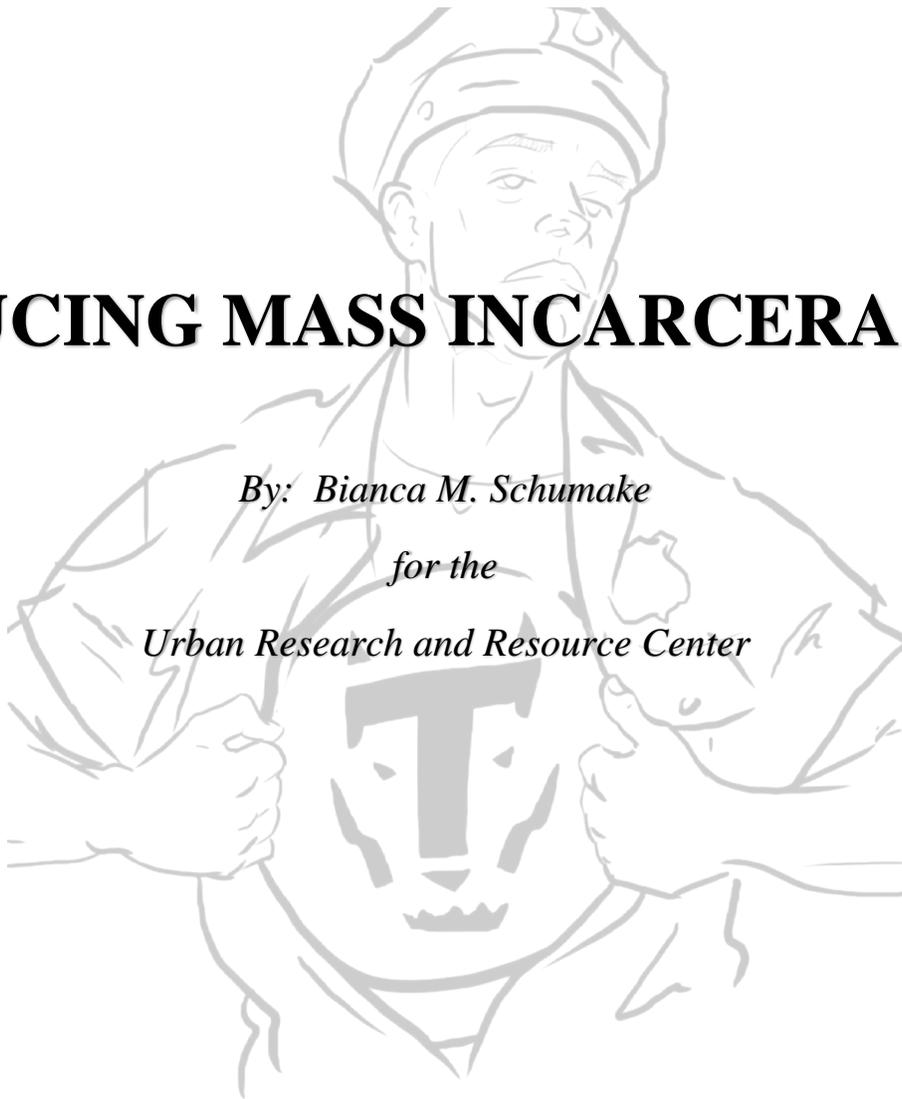


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for the

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at Texas Southern University

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The Incarceral Nation

The United States incarcerates people at a higher rate than any other country in the world. While the United States has only 5 percent of the world's population, it incarcerates nearly 25 percent of the world's prisoners. Our criminal justice system's policies and laws have created an epidemic of over-criminalization and over-incarceration. Government must reevaluate the policies of the last thirty years that have increased the rate of incarceration by 110 percent.

Michelle Alexander, the author of *The New Jim Crow*, describes mass incarceration in America as a massive system of racial and social control. It is the process by which people are swept into the criminal justice system, branded criminals and felons, and locked up for longer periods of time than in most other countries in the world. Former prisoners are then released into a permanent second-class status in which they are stripped of such basic civil and human rights, as the right to vote, the right to serve on juries and

the right to be free of legal discrimination in employment, housing and access to public benefits. It is a system that operates to control people, often at early ages, and virtually all aspects of their lives after they have been viewed as suspects in some kind of crime.

One goal of federal and state governments should be deterring individuals from committing crime, however there is no rational correlation between the rate in which the United States incarcerates individuals and deterrence. According to *Equal Justice Initiative*, the increase in the jail and prison population from less than 200,000 in 1972 to 2.2 million today has led to unprecedented prison overcrowding and seriously strained state budgets. There is reason to believe mass incarceration is a result of a national no-tolerance policy aimed at drug offenders. However, after more than two decades of the policy, there has been no significant decrease in drug offenses. Clearly mass incarceration

has been a dismal failure and is not and cannot be the sole solution.

Mass incarceration stifles the growth and development of a society. The state of American criminalization is dire and needs to be addressed responsibly and quickly. In this article, I look at ways to effectively reduce mass incarceration in America. In part one of the paper, I provide an overview of the statistics of over-incarceration. In part two, I identify the reasons for so many people being incarcerated in American jails and prisons. Finally, in part three, I make recommendations for changing laws and policies to effectively reduce incarceration.

Statistical Overview

According to the *Sentencing Project*, there are 2.2 million people in the nation's prisons and jails—a 500 percent increase during the last 40 years. Changes in law and policy, not changes in crime rates, account for most of

this increase. A series of law enforcement and sentencing policy changes of the “tough on crime” era resulted in dramatic growth in incarceration, creating overcrowding in prisons and financial burdens on states. Since the official beginning of the War on Drugs in 1982, the number of people incarcerated for drug offenses in the U.S. skyrocketed from 40,900 in 1980 to 469,545 in 2015.

The American criminal justice system holds more than 2.3 million people in 1,719 state prisons, 102 federal prisons, 901 juvenile correctional facilities, 3,163 local jails, and 76 Indian County jails as well as in military prisons, immigration detention facilities, civil commitment centers and prisons in the U.S. territories.¹

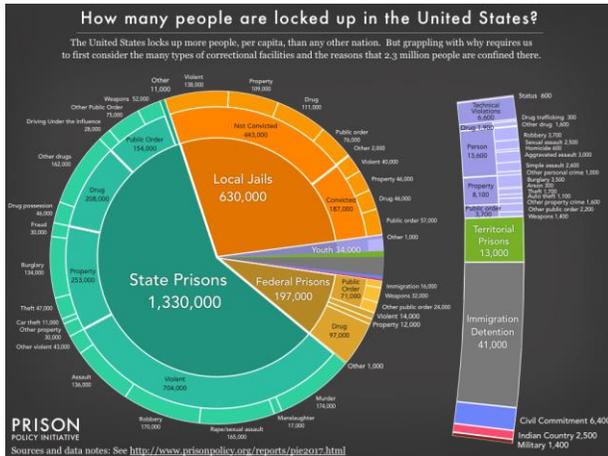
The chart below demonstrates the incarceration numbers within the United States and also provides a breakdown of the

¹ Wagner, Peter, and Bernadette Rabuy. "Mass Incarceration: The Whole Pie 2017." Mass Incarceration: The Whole Pie 2017 | Prison Policy

Initiative. March 14, 2017, <https://www.prisonpolicy.org/reports/pie2017.html>. Last accessed January 2018.

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many types of correctional facilities and the crimes for which they have been convicted and imprisoned.



While states and the federal government have modestly reduced their prison populations in recent years, incarceration trends continue to vary significantly across jurisdictions. Overall, the number of people held in state and federal prisons has declined by 4.9 percent since reaching its peak in 2009. Sixteen states have achieved double-digit rates of decline and the federal system has downsized at almost twice the national rate. But while 38 states have reduced their prison

populations, in most states this change has been relatively modest. In addition, 12 states have continued to expand their prison populations even though most have shared in the nationwide crime drop. Six states have reduced their prison populations by more than 20 percent since reaching their peak levels:

- New Jersey (35 percent decline since 1999)
- New York (29 percent decline since 1999)
- Alaska (27 percent decline since 2006)
- California (26 percent decline since 2006, though partly offset by increasing jail use)
- Vermont (25 percent decline since 2009)
- Connecticut (22 percent decline since 2007)

The number of prisoners in state and federal correctional facilities fell by 1 percent from year-end 2015 to 2016, marking the third consecutive year that the U.S. prison population declined.² State and federal

² Bureau of Justice Statistics. "Bureau of Justice Statistics - Prisoners in 2016, Jails in 2016 - Preview." Bureau of Justice Statistics (BJS). January

9, 2018. Accessed January 2018. <https://www.bjs.gov/content/pub/press/p16pr.cfm>.

prisons held an estimated 1,505,400 prisoners in 2016, 21,200 fewer than in 2015. The population of the Federal Bureau of Prisons (BOP) accounted for more than a third (34 percent) of the total change in the prison population, dropping by 7,300 prisoners, from 196,500 to 189,200 prisoners. State and federal prisons admitted 2,300 fewer prisoners in 2016 than in 2015. The BOP accounted for the majority (96 percent) of the decline, down 2,200 admissions. Although the overall prison population decreased, the number of prisoners held in private facilities increased 2 percent in 2016.³

More than half (54 percent) of state prisoners were serving sentences for violent offenses at year-end 2015, the most recent year for which data were available. Nearly half (47 percent) of federal prisoners had been sentenced for drug offenses as of Sept. 30, 2016, the most recent date for which federal offense data

were available. More than 99 percent of those drug sentences were for trafficking.⁴

In 2016, the rate at which people were sentenced to more than one year in state or federal prison (imprisonment rate) was the lowest since 1997. There were 450 prisoners per 100,000 U.S. residents held in state and federal prisons in 2016, compared to 444 prisoners per 100,000 in 1997.

The imprisonment rate decreased for non-Hispanic adult black, non-Hispanic adult white and adult Hispanic prisoners from 2015 to 2016. The rate of imprisonment decreased 4 percent for black adults (from 1,670 to 1,608 per 100,000), 2 percent for white adults (from 281 to 274 per 100,000) and 1 percent for adult Hispanic prisoners (from 862 to 856 per 100,000). During the decade between 2006 and 2016, the rate of imprisonment decreased 29 percent for black adults, 15 percent for white adults and 20 percent for Hispanic adults.⁵

³ Id.

⁴ Id.

⁵ Id.

At year-end 2016, more than 21 percent of federal prisoners (39,956 of 189,192) were non-U.S. citizens (excluding persons detained by the U.S. Department of Homeland Security).⁶

Major Sources of the Increased Prison Population

A. Drug Offenses

Most of the state and federal prisoners are incarcerated for convictions of non-violent drug offenses. Of these prisoners, people of color are profoundly overrepresented. Although rates of drug use and sales are similar across racial and ethnic lines, black and Latino people are far more likely to be criminalized than white people.

About 17 million whites and 4 million African Americans reported having used an illicit drug during the month immediately preceding a 2015 national survey.⁷ African

Americans and whites use drugs at similar rates, but the imprisonment rate of African Americans for drug charges is almost 6 times that of whites.⁸ African Americans represent 12.5 percent of illicit drug users, but 29 percent of those arrested for drug offenses and 33 percent of those incarcerated in state facilities for drug offenses.⁹

There were more than 1.5 million drug arrests in the United States in 2016.¹⁰ The vast majority – more than 80 percent – were for possession only.¹¹ People of color experience discrimination at every stage of the judicial system and are more likely to be stopped, searched, arrested, convicted, harshly sentenced and saddled with a lifelong criminal record.¹² This is particularly the case for drug law violations. Research shows that prosecutors are twice as likely to pursue a mandatory minimum sentence for black

⁶ Id.

⁷ "Criminal Justice Fact Sheet." NAACP. Accessed February/March 2018. <http://www.naacp.org/criminal-justice-fact-sheet/>.

⁸ Id.

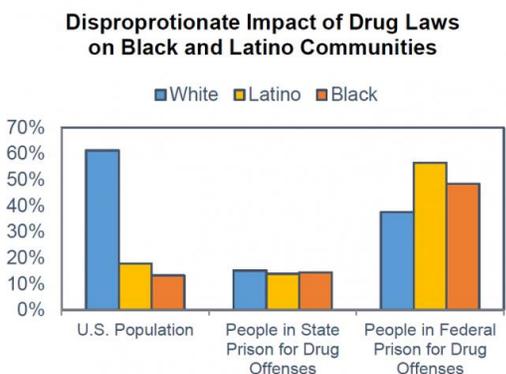
⁹ Id.

¹⁰ "The Drug War, Mass Incarceration and Race (English/Spanish)." Drug Policy Alliance. January 25, 2018. Accessed January/February 2018. <http://www.drugpolicy.org/resource/drug-war-mass-incarceration-and-race-englishspanish>.

¹¹ Id.

¹² Id.

people as for white people charged with the same offense.¹³ Among people who received a mandatory minimum sentence in 2011, 38 percent were Latino and 31 percent were black.¹⁴



About one in six people in state prison are incarcerated for a drug conviction, and far fewer are incarcerated for low-level drug offenses, such as possession. Cutting drug admissions in half would shrink the prison population by 7 percent, or almost 33,000 inmates, by the end of 2021. Reducing lengths of stay for drug offenses by 15

percent or 50 percent would yield similar results.¹⁵

The most effective reforms integrate criminal justice and drug treatment systems and services. Treatment for incarcerated drug abusers should include continuing care, monitoring, and supervision after incarceration and during parole. Methods to achieve better coordination between parole/probation officers and health providers are being studied to improve offender outcomes.¹⁶

B. School-to-Prison Pipeline

The school-to-prison pipeline disproportionately targets youth of color and youth with disabilities for incarceration. School policies tend to isolate them from their peer groups through expulsion, suspension, ineffective retention policies,

¹³ Id.

¹⁴ Id.

¹⁵ "Reducing Mass Incarceration Requires Far-Reaching Reforms." Urban Institute. Accessed March 2018. <http://webapp.urban.org/reducing-mass-incarceration/>.

¹⁶ National Institute on Drug Abuse. "What Role Can the Criminal Justice System Play in Addressing Drug

Addiction?" NIDA. Accessed January/February 2018.

<https://www.drugabuse.gov/publications/principles-drug-addiction-treatment-research-based-guide-third-edition/frequently-asked-questions/what-role-can-criminal-justice-system-play>.

transfers, and high-stakes testing requirements. Schools often unknowingly send their students through the "pipeline" with the use of pat-downs and frisks, arrests and referrals to the juvenile justice system.

The School-to-Prison Pipeline (STPP) is an injurious yet growing system of institutional inequity that funnels young people from schools to prisons. As part of the crisis of mass incarceration, STPP is a dimension of Jim Crow, redesigned. It is a disturbing national trend wherein children are policed out of public schools and into the juvenile and criminal justice systems, an increasing percentage of which are privatized. Many of these children are cognitively atypical or endure histories of poverty, abuse, neglect and/or trauma. Such students would benefit from additional educational and counseling services instead of the current practice of isolation, penalization and suspension/expulsion. Alternately, some

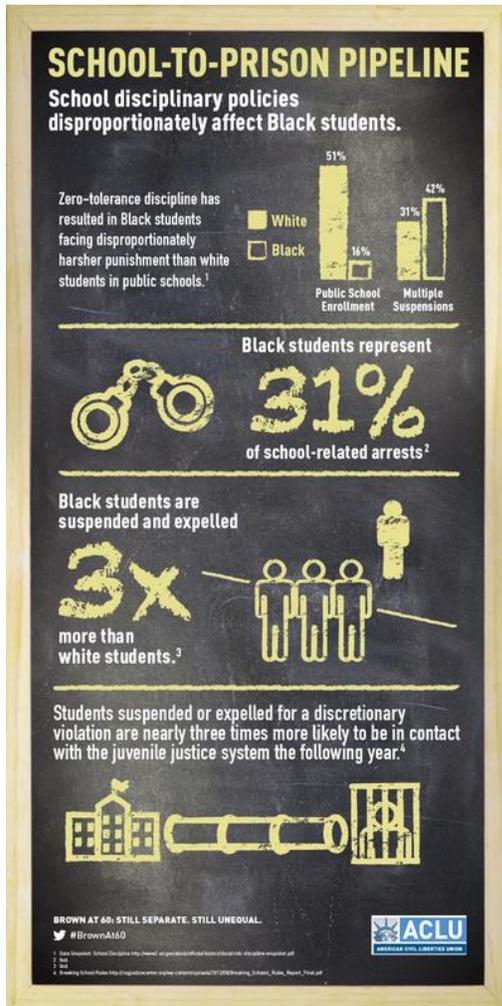
students are forced into this pipeline without cause—simply for being socially and culturally different. When combined with zero-tolerance policies, educators' decisions to refer students for discipline might lead to harsh and enduring punishment, contributing to extremely high dropout and "pushout" rates. Such students are much more likely to be introduced into the criminal justice system.¹⁷

The pipeline begins when a school allows a School Resource Officer to arrest a student — or, less drastically and more commonly, refers a student to law enforcement or juvenile court as a form of discipline. That makes it that more likely for a student to get a juvenile record. Even if punishment for a first offense is light, punishment for a second offense is likely to be much harsher. This happens more often at schools with officers. A report by the Justice Policy Institute found that, even controlling for a school district's

¹⁷ "Resolution on Dismantling the School-to-Prison Pipeline." NCTE. February 20, 2018. Accessed

March/April 2018.
<http://www2.ncte.org/statement/school-to-prison/>.

poverty level, schools with officers had five times as many arrests for “disorderly conduct” as schools without them.¹⁸



C. Sentencing Practices

Everyone wants the criminal justice system to be fair. Whatever one’s values, political

affiliations, or ideology, an unfair criminal justice system is a faulty criminal justice system. But there is a lack of clarity about what fairness means. Even when clear conceptions of fairness are provided, there can be several different kinds that are in conflict. For example, men are vastly overrepresented in prisons compared to women. On its face, this is an instance of *unfairness in outcome*. The chances a judge will sentence a man to prison are far greater than the chances a judge will sentence a woman to prison. One reason is that men are far more likely to be convicted of violent crimes for which a long prison sentence is expected.¹⁹

High rates of incarceration in the United States and the great numbers of people held in U.S. prisons and jails result substantially from decisions by policy makers to increase

¹⁸ Nelson, Libby, and Dara Lind. "The School to Prison Pipeline, Explained - Justice Policy Institute." Justice Policy Institute. February 24, 2015. Accessed March 2018. <http://www.justicepolicy.org/news/8775>.

¹⁹ "Fairness in the Criminal Justice System." Omnia. November 03, 2017. Accessed February/March 2018. <https://omnia.sas.upenn.edu/story/fairness-criminal-justice-system>.

the use and severity of prison sentences. However, sentencing disparities, biased sentencing and discrimination within the criminal justice system can no longer fall on deaf ears. Laws like mandatory minimums and the 3 strike rule have increased the incarceration rates while keeping individuals locked up for longer periods of time.

D. Denying Bail Bonds

When a suspect is arrested for an alleged crime, a bail amount is set. The suspect then needs to post that bond as a “guarantee” that he or she will appear in court until the case is disposed of.

The issue with bonds is that many people who are arrested, even for a non-violent offense, cannot post a bail bond because they have no money. They end up staying in jail for months and sometimes years awaiting a trial and adding to over-incarceration numbers.

The \$14 billion-a-year bail bond industry, underwritten by nine large insurance companies including some owned by multinational corporations, perpetuates a system in which people who can't afford bail remain in jail before trial. This leaves them with a choice between borrowing money or staying locked up. Those who remain incarcerated are less likely to win their court cases, researchers say. And those who borrow from bondsmen to buy their freedom often spend months or years paying it back. Every day more than 400,000 people are held in local jails while waiting for trial — far more than the 293,000 people in local jails that have actually been convicted of a crime.²⁰ After an arrest, commercial bail-bond agencies track people through multiple layers of coercion. They're first locked up while awaiting trial, then face a bail bondsman who essentially determines the terms of their

²⁰ Schuppe, Jon. "Bail-Bond System Exploits the Poor and Undermines Justice, ACLU Says." NBC News. May 12, 2017. Accessed February 2018.

<https://www.nbcnews.com/news/us-news/bail-bond-system-exploits-poor-undermines-justice-aclu-says-n757946>.

pretrial incarceration. According to American Bar Association, bail agents are empowered to set fees and collateral requirements, determine the rules for bond, or even whether to offer bail at all, “in secret, without any record of the reasons for these decisions.” When justice is blind to everything but profit, actual guilt has no bearing on sentencing, especially in black and brown communities.²¹

Money bail imposes many costs on society—including those stemming from pretrial detention, convictions and recidivism. The money bail system can potentially transform a low-risk American arrested for a misdemeanor into a repeat offender simply because he or she can’t pay bail. While the recidivism rate for local jails is nowhere nearly as high as state and federal prisons (67.8 percent, according to the National

Institute of Justice), it still creates a carceral system where offenses perpetuate offenses, leading to a permanent underclass of people forever bound to the criminal justice system simply because of their inability to pay.²²

E. Ineffective Counsel

Our system recognizes counsel for the accused as essential if we are to achieve equal justice. The Supreme Court said as much in *Gideon v. Wainwright* when it ruled that poor people accused of crimes must be provided counsel. The Court recognized that without lawyers there can be no justice, for it is through counsel that all other rights are protected.

Access to an attorney means little if the attorney lacks the time, resources or skills to be an effective advocate. Across the country, public defenders or assigned counsel are too often forced to juggle hundreds of cases at

²¹ Chen, Michelle. "Our Bail-Bond System Is Broken." *The Nation*. May 12, 2017. Accessed March 2018. <https://www.thenation.com/article/our-bail-bond-system-is-broken/>.

²² Keller, Jared. "How the Money Bail System Perpetuates America's Mass Incarceration Problem."

Pacific Standard. August 26, 2016. Accessed March 2018. <https://psmag.com/news/how-the-money-bail-system-perpetuates-americas-mass-incarceration-problem>.

once, giving short shrift to investigation, case preparation and legal research. They often meet their clients for the first time minutes before critical proceedings.²³

Many indigent defendants are incarcerated because they are represented by an over-stressed and over-worked attorney who is already working a full case load. Defense attorneys must have the time and funds to adequately review all the ins and outs of a case before being expected to take on several more.

The tactics of some prosecutors also contribute to the large numbers of people who are behind bars today. Many prosecutors do not take the time to fully investigate the cases of the person they are trying to determine if they are truly guilty or innocent. Many are concerned with how many cases they can successfully win convictions and

ensure longer sentencing, which results in higher incarceration rates.

Prosecutors hold extraordinary power in the criminal justice system. They not only decide what cases get filed, they also decide what charges and enhancements are added, and whether there will be a plea offer. The structure of our criminal justice system, at both the state and federal level, strengthens prosecutorial power and create a plea bargaining environment with extreme power imbalances. Prosecutors use this power to put pressure on defendants to accept plea deals, which contribute to the high incarceration rates in the United States.²⁴

Prosecutors are in a uniquely powerful position to bring change to mass incarceration, since they make decisions about when and whether to bring criminal charges, and make recommendations for

²³ "Indigent Defense." American Civil Liberties Union. Accessed March 2018.
<https://www.aclu.org/issues/criminal-law-reform/effective-counsel/indigent-defense>.

²⁴ Alkon, Cynthia. "An Overlooked Key to Reversing Mass Incarceration: Reforming the Law to Reduce

Prosecutorial Power in Plea Bargaining." Texas A&M Law Scholarship. 2015. Accessed March/April 2018.
<https://scholarship.law.tamu.edu/facscholar/860/>.

sentencing. The mechanism for change would be a shift in how attorneys' performance is assessed. Prosecutors should be given incentives to focus on how their practices reduce crime in and improve the communities they serve, instead of focusing on how many people they convict and send to prison.²⁵

Policy Changes That Would Reduce Incarceration

A. Community Policing

Building more trust between the police and diverse communities help reduce mass incarceration. According to Dr. Kathryn Young and Professor Joan Petersilia, too many police departments engage in excessive surveillance and enforcement practices in urban neighborhoods suffering from violent crime— and these practices contribute to mass incarceration and diminish trust and respect for the police.

Research consistently shows that minorities are more likely than whites to view law enforcement with suspicion and distrust. People of color frequently report that the police disproportionately single them out because of their race or ethnicity. Distrust of police has serious consequences. It undermines the legitimacy of law enforcement, and without legitimacy, police lose their ability and authority to function effectively.²⁶

Instead of ensuring community safety, some police officers abuse their power. Others simply lack the proper training and knowledge it takes to patrol these poverty stricken neighborhoods. It is from poor communities of color that a very large number of felons are removed, and to these same neighborhoods that they return when their sentences end. This population

²⁵ Eisen, Lauren-Brooke, Nicole Zayas Fortier, and Inimai M. Chettiar. "Federal Prosecution for the 21st Century." Brennan Center for Justice. September 23, 2014. Accessed March/April 2018. <http://www.brennancenter.org/publication/federal-prosecution-21st-century>.

²⁶ "Better Policing Can Improve Legitimacy and Reduce Mass Incarceration." Harvard Law Review. March 10, 2016. Accessed January 2018. <https://harvardlawreview.org/2016/03/better-policing-can-improve-legitimacy-and-reduce-mass-incarceration/>.

churning has been called “coercive mobility” by criminologists. Although it is the intent of legislatures, judges, police and prosecutors to protect citizens and communities, there is reason to believe that coercive mobility has the unintended consequence of actually increasing crime and victimization.²⁷

The practice of stop-and-frisk is another tactic that puts people in the pipeline for mass incarceration. The “Stop-and-Frisk” program trains officers to stop and question people at random, which often results in racial profiling. This method of policing also preys on the public’s lack of knowledge of their rights. Police have been accused of tricking people into allowing searches and even incriminating themselves.

The racial disparities inherent in policies like stop-and-frisk help explain why different racial groups see the police differently. The questions below illustrate the different

perceptions of stop-and-frisk among different ethnicities as well as the racial confidence gap in police performance.

How did officers decide to stop members of different racial groups?

Officers used higher thresholds of suspicion for stopping Whites. A higher proportion of stops of Whites were radio runs (a “radio run” generally means there may be a better reason for the stop, because someone else has called in), and the reason for the stop was less often “furtive movements.”

	Whites	Blacks & Latinos
What percentage of stops were purely a matter of officers’ discretion (i.e., were not radio runs)?	65.9%	75.4%
How often was the reason for the stop “furtive movements”?	44.5%	52.4%

How likely were they to find someone who might be dangerous?

²⁷ Crutchfield, Robert D., and Gregory A. Weeks. "The Effects of Mass Incarceration on Communities of Color." Issues in Science and Technology.

November 02, 2015. Accessed March 2018. <https://issues.org/the-effects-of-mass-incarceration-on-communities-of-color/>.

Because officers stopped a much narrower population of Whites, they found weapons and made arrests more often.

	Whites	Blacks & Latinos
What was the arrest rate?	6.8%	5.9%
How often was a weapon (including knives) found?	1.9%	1.1%

What do White vs. Black people say about their confidence in the police?

Polling data shows that White people are far more likely than Black people to have confidence in police. (Source: Pew Research Center, 2016.)

	Whites	Blacks
The police use the right amount of force for each situation	75% agree	33% agree
The police treat racial and ethnic groups equally	75% agree	35% agree
I have a lot of confidence in the police department in my community	42% agree	14% agree

B. Treating rather than incarcerating the Mentally Ill

Because drug addiction is a mental health issue, people who are repeat offenders for non-violent drug-related crimes should be sent to rehabilitation centers. Initiating drug abuse treatment in prison and continuing it upon release is vital to both individual recovery and to public health and safety. Various studies have shown that combining prison- and community-based treatment for addicted offenders reduces the risk of both recidivism to drug-related criminal behavior and relapse to drug use.

C. Decriminalizing Mischief

Our school systems need to dismantle this school-to-prison pipeline concept and stop criminalizing our youth. Teachers and administrators automatically label a misbehaving child as a bad apple or a future criminal. Instead of criminalizing children and resorting to disciplinary acts such as expulsion, educators and administrators must discover the causes of bad behavior and give

children who have behavioral issues the help that will actually be of benefit to them.

D. Equitable Sentencing

State and federal legislatures should reduce the minimum and maximum sentencing guidelines, and make them more proportional to the crimes committed. We suggest in the report that legislators consider a 25 percent cut as a starting point for the six major crimes (aggravated assault, drug trafficking, murder, non-violent weapons offenses, robbery and serious burglary) that make up the bulk of the nation's current prison population. This will make our system smarter while still protecting public safety.²⁸

E. Dismantling the Money Bail System

The money bail system is a trap for the poor. How long a person remains in jail should not depend on his or her ability to pay for freedom. Many defendants are still awaiting a trial in jail because they cannot afford cash

bail. If our legal system cannot create an equitable bail system, the only reasonable alternative is to get rid of it. No one, especially those held for non-violent offenses, should have to endure weeks, months, and even years in a cell awaiting a trial.

How Recidivism Contributes to Mass Incarceration

One of the main goals in the prison system is to rehabilitate prisoners in hopes that they will not continue to live a life of crime. Recidivism can be defined as the tendency of a convicted individual to reoffend after being released. Many ex-cons and ex-felons revert back to crime because they find it is difficult to adjust to the ways of a society outside of prison. Others simply have not learned their lessons and are comfortable with pursuing a life of crime.

There is little evidence that serving 20- and 30-year sentences does much to rehabilitate

²⁸ Four Things We Can Do to End Mass Incarceration | Brennan Center for Justice. December 19, 2016. Accessed February/March 2018.

<https://www.brennancenter.org/blog/four-things-we-can-do-end-mass-incarceration>.

prisoners. Research indicates that longer sentences do not lower recidivism. Sometimes, longer terms can even increase recidivism.

The national crime rate in America and number of people incarcerated has declined during the past five years. That's an encouraging statistic. But, the percentage of new crimes committed by recidivists has been increasing, a statistic that is rather discouraging. Recidivism, is known by people in the prison industry as "the revolving door." Approximately 68 percent of all released prisoners, nationwide, are re-arrested within three years of their release.²⁹

Non-whites and poor people are the ones who are most directly affected by incarceration and recidivism. Poor blacks are among those most affected. But incarceration doesn't just affect the offenders who are imprisoned. It also affects the mobility of their families and

the communities they inhabit. Poor communities of color pay the highest price for high recidivism — in terms of pervasive intergenerational poverty, erosion of relationships, and public safety. And, often those most harmed are children.³⁰

One of the major justifications for the rise of mass incarceration in the United States is that placing offenders behind bars reduces recidivism by teaching them that "crime does not pay." This rationale is based on the view that custodial sanctions are uniquely painful and thus exact a higher cost than noncustodial sanctions. An alternative position, developed mainly by criminologists, is that imprisonment is not simply a "cost" but also a social experience that deepens illegal involvement. There is little evidence that mass incarceration reduces recidivism and at least some evidence to suggest that it has a criminogenic effect. The policy implications

²⁹ "Mass Incarceration, Recidivism, and Education." Quintal Law. January 22, 2017. Accessed March

2018. <http://www.quintallaw.net/recidivism-mass-incarceration-education/>.

³⁰ Id.

of this finding are significant, for it means that beyond crime saved through incapacitation, the use of custodial sanctions may have the unanticipated consequence of making society less safe.³¹

Conclusion

High incarceration rates have actually increased crime, destabilized schools, and created a sense of hopelessness in urban neighborhoods.

If we can build more trust between the community and law enforcement, increase the fairness in sentencing, address drug addiction as a mental health issue instead of a crime and acknowledge the socioeconomic inequalities that cause some to commit crime as a tactic for survival, then we can reduce mass incarceration in a way that could change society for the better.

Offenders deserve to be punished for the wrongs they have committed, but the system is called corrections for a reason — it's intended to correct (or reform) offenders. Nearly nine of ten Americans agree it is important to try to rehabilitate those who have committed crimes and are in the correctional system. The public also demonstrates high support for formal “rehabilitation ceremonies” that would restore full citizenship to offenders who completed treatment programs, apologized and stayed crime-free for several years.³²

Prisons must be regarded as behavioral-change institutions, not warehouses for wrongdoers. Being cruel to offenders by, for instance, exposing them to harsh prison conditions risks making them more criminal. Prisons must be therapeutic and focus on rehabilitation. This does not mean going easy

³¹ "Prisons Do Not Reduce Recidivism." *The Prison Journal*. Accessed March 2018. <http://journals.sagepub.com/doi/abs/10.1177/0032885511415224>.

³² Cullen, Francis T., and Erik Luna. "Evaluate Corrections Officials Not Just on the State of Prisons,

but on Rate of Recidivism." *USA Today*. February 03, 2018. Accessed March 2018. <https://www.usatoday.com/story/opinion/policing/2018/02/02/evaluate-corrections-officials-not-just-state-prisons-but-rate-recidivism/998071001/>.

on offenders, but instead insisting that they learn how to act responsibly. Rehabilitative interventions require inmates to engage in the difficult work of changing their thinking and behavior.³³

Prison reform and reducing mass incarceration will not be easy nor will it happen overnight, but the United States must dismantle its broken criminal justice system. The way this nation arrests, prosecutes and incarcerates its citizens must be confronted with new legislation. Our criminal justice system is far too dependent on incarceration as the default punishment for most crimes. Research indicates that the unnecessary use of incarceration is costly and ineffective at combating crime, preventing recidivism and promoting rehabilitation.

Mass incarceration is no longer seen as a tactic to ensure public safety. Instead it has emerged as a defining civil rights issue. Mass incarceration has dehumanized poor people

and people of color. It has broken up families and marginalized communities. Injustice to anyone is indeed injustice to everyone, so the fight for truly just laws, policies, practices and institutions is more urgent now than ever.

³³ Id.