



The Incarcerated State(s) of America: The Causes, Consequences, and Solutions to Mass Incarceration in the United States

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Introduction

America is exceptional in many ways—perhaps one of the most visible metrics by which the United States surpasses its peers is by incarcerating the greatest number of people in the developed world. The United States is home to less than 5% of the world’s population, yet it hosts nearly 25% of the world’s prisoners (Lee, 2015). The United States’ incarceration rate of just under 700 per 100,000 is five times higher than the average for Organization for Economic Cooperation and Development (OECD) member countries (Holodny, 2016). This instance of carceral exceptionalism is a relatively new development in the entire history of the United States: the U.S. prison population—currently around 2.2 million—has increased 500% in the last 40 years (The Sentencing Project, 2016).

This paper will explore the origins of the United States’ unparalleled levels of imprisonment (coined “mass incarceration”), elucidate its impact on both prisoners and those connected to inmates via family or community ties, and offer recommendations to attenuate the harms created by over-incarceration. By documenting the growth of what some call the “carceral state” (all of the institutions affiliated with incarceration, policing, law enforcement, and the courts) (Shenk, 2016), this paper will show why the United States is so exceptionally punitive and provide evidence-based solutions which can mitigate crime and reduce incarceration on both a federal and state level.

In short, I draw on existing empirical findings to show the causes and consequences of mass incarceration and offer policy recommendations with a history of documentable success and bipartisan appeal.



The History and Causes of Mass Incarceration

Analyzing the carceral state's growth over time is a complicated venture because its origins are difficult to pinpoint. There are certain distinct points in American history that, in hindsight, reveal themselves to be pivotal moments in the development of the U.S.'s far-reaching carceral state. One of these marked eras occurred between the late nineteenth and early twentieth centuries, in which political leaders publicized aggressive campaigns against immigrants, arguing that criminal activities that were associated with certain racial minorities. This could include any given group ranging from the Irish to Mexicans to African Americans. This criminalization directed towards minorities left an important framework of penal enforcement that has persisted until today (Travis, Western, and Redburn, 2014). Experts note that this was the beginning of America's criminal justice system as it currently exists—an interesting backdrop to the constant and complex interweaving of race and American criminal justice policy.

It was not until the 1960s and '70s that incarceration rates began to increase precipitously. This was, in large part, due to a stark and quick increase in crime rates across the country. Between 1960 and 1970, the violent crime rate increased by 126 percent, and the following decade saw a similarly remarkable increase of 64 percent (Eisen and Roeder, 2015). The homicide rate alone nearly doubled between 1964 and 1974 (Travis, Western, and Redburn, 2014). This coincided with a growing fear, on the level of a national emergency, that crime was becoming uncontrollable; namely, that the failure to mitigate crime was “a crisis of management, a crisis of legitimation, and a crisis of effectiveness” (Hudson 1993, p. 17). The fear of a national crisis was exploited by politicians hoping to appeal to the anxieties of predominantly white communities. By linking criminality to rioting, a shifting racial composition of the United States, and Vietnam War protests, civil rights opponents were able to transform the public's concern for crime into a weapon used to intensify incarceration. Leaders promised to address the aforementioned concerns regarding general



societal disorder and dysfunction by employing “tough on crime” policies. This exploitation manifested itself not only in the stump speeches of candidates vying for political power but also those already in power: studies analyzing the use of FBI and police data during this racially charged era find that data was systematically skewed to make crime seem excessively threatening and thereby foster support to launch a more robust war on crime (Thompson, 2010).

The inception of America’s criminal justice system and its recent revival and reinvigoration were fundamentally linked to a desire to subdue minorities vying for political power. This motivation was also present during the presidencies of Richard Nixon and Ronald Reagan, under what is commonly referred to as the United States’ “war on drugs.” President Richard Nixon declared a federal war on drugs in 1971, capitalizing upon the anxieties of citizens who perceived a national epidemic of drug addiction and found it to be evidence of a national emergency which could only be solved through tough law-and-order agendas. Decades later, Nixon aide John Ehrlichman made the racialized component of this decision-making process abundantly clear: “by getting the public to associate the hippies with marijuana and blacks with heroin [...] and then criminalizing both heavily, we could disrupt those communities [...] We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did” (LoBianco, 2016, para. 3). These drug laws achieved their goal of disrupting communities; their passage ushered in an era of unprecedented rates of drug imprisonment (Reuter, 1992). By 1997, one in five state prisoners and two-thirds of federal prisoners were locked up for drug offenses (Travis, Western, and Redburn, 2014). In the 1980s, general arrests had increased by 28% but drug-related arrests had increased by a shocking 126% (Austin and McVey, 1989). The Nixon administration also succeeded in specifically harming minority communities with their war on drugs; in 1988, black Americans were arrested on drug charges five times as frequently as white Americans (Human Rights



Watch, n.d.), despite there being no notable difference in the use of illicit drugs across racial groups (Travis, Western, and Redburn, 2014, p. 60). The war on drugs began in 1971 and remains a driving force in creating racial disparities in the American criminal justice system.

Between the 1980s and 1996, the far-reaching effects of the war on drugs were codified into long-lasting and heavily impactful sentencing reforms that have had effects outside the realm of drug policy. One notable sentencing reform was the introduction of mandatory minimums, which, as the name suggests, require minimum prison sentences for those convicted of certain crimes. Mandatory minimums limit judicial discretion and guarantee that a prisoner stays in prison no matter the circumstance, which explains why they have been a large source of increasing incarceration rates. Between 1980 and 2010, half of the 222% increase in the state prison population was attributable to increases in prison sentences' length (The Sentencing Project, n.d.).

A similarly harsh and widely employed sentencing reform was the introduction of three-strikes laws, which require minimum sentences (usually around 25 years) for individuals convicted of their third felony. Indeed, studies also find that three-strikes laws are responsible for aggravating mass incarceration and existing racial disparities. All other things being equal, black individuals are significantly more likely than white individuals to be in prison due to a three-strikes violation (Jin and Hidalgo-Wohlleben, 2016).

Perhaps one of the most perverse mechanisms by which the carceral state grows is the proliferation of privately owned prisons. Privately owned prisons are by no means the most prominent form of prisons in the United States—as of 2018, they host 7% of state prisoners and 18% of federal prisoners (ACLU, n.d.)—but they are still responsible for intensifying mass incarceration. The profit structure of private prisons in the United States make these prisons particularly problematic and an engine for unbridled carceral expansion. Currently, states must fill between 80% and 100% of the beds within their private prisons in order to



avoid fines (Bowling, 2013). This incentivizes states to send prisoners to private prisons and encourages more punitive policy. Moreover, because private prisons profit from the presence of more prisoners, they cut costs by slashing programs meant to improve prisoners' outcomes and combat recidivism. Therefore, it comes as no surprise that prisoners in private prisons are more likely to recidivate and reenter prison after exiting (ITPI, 2016). Private prison corporations even admit they have an incentive to keep people flowing into American prisons. In their 2014 annual report, the Corrections Corporation of America (the largest private prison company in the U.S.) lamented that the "demand for our facilities and services could be adversely affected by the relaxation of enforcement efforts, leniency in conviction or parole standards and sentencing practices or through the decriminalization of certain activities that are currently proscribed by our criminal laws" (Cohen, 2015, para. 4). Unsurprisingly, private prison companies aggressively lobby for aforementioned sentencing reforms which encourage more prisoners and thus more profit (Bowling, 2013).

The Consequences of Mass Incarceration

Mass incarceration is, on its own, a moral failure. Broader than its internal failures, there are related impacts that should remind policymakers of the necessity of addressing mass incarceration. Incarceration and its impacts permeate surrounding communities, and as incarceration grows, its harmful effects metastasize.

One additional consideration is the impact incarceration has on families of the incarcerated. Experts have written that incarceration's impact on familial structures "may be the least understood and most consequential implication" of locking up an increasing number of people (Murray and Farrington, 2006, p. 721). This impact manifests itself in a variety of ways. Boys whose fathers are incarcerated are more likely to be physically aggressive (Wildeman, 2010). Relatedly, incarceration is responsible for contributing to or causing numerous delays in development



(Turney, 2017). Relative to their peers, boys with incarcerated fathers experience significant declines in “non-cognitive readiness,” a measure which includes important tasks like staying focused, being attentive, and maintaining control over their emotions (Haskins, 2014). Thus, incarceration has an effect on children of incarcerated parents similar to missing school: sons of incarcerated fathers experience the equivalent of being 2 and 4 months behind their elementary school peers (Lind, 2014). These problems extend outside the classroom, as children of incarcerated fathers are about three times more likely to be homeless than their peers (Reckdahl, 2015).

Findings such as these encourage researchers to approach incarceration as not-so-much a policy issue, but instead as a public health issue (Board, 2017). Approaching mass incarceration in this way reveals a variety of troubling insights. Community members living in areas with high levels of incarceration—coined “high-exposure areas”—report significantly higher levels of major depressive disorder and generalized anxiety disorder (Hatzenbuehler, Keyes, Hamilton, Uddin, and Galea, 2014). This can adversely affect every member of a high-exposure neighborhood, regardless of whether or not the individual at hand was formerly incarcerated.

It is important to document these often unforeseen impacts on those individuals indirectly affected by incarceration, but one cannot overstate the impact incarceration also has directly on the incarcerated. Compared to the general public, former prisoners are five times as likely to be infected by HIV (CDC, n.d.). Up to 25% of current prisoners suffer from a serious mental illness, compared to 5% of the general U.S. population (AMA, 2014). The lack of support for prisoners who battle mental illness and serious health problems could explain why they struggle to reenter society: 76.6% of former prisoners can be expected to be reincarcerated after they leave prison (James, 2015).

There is an entire school of thought in criminology dedicated to the argument that mass incarceration has a criminogenic effect (an inten-



sifying effect on the presence of crime) on its surrounding community. Given the reasons emphasized earlier, experts in this school of thought posit that incarceration leads to instability, breeding more crime and thus, incarceration. The concept is supported by the theory of “coercive mobility” in which the constant disruption to family and community structures created by high levels of incarceration breeds more social disorganization (Rose and Clear, 2006). There is empiric evidence to support the theory; mass incarceration breeds more crime both as citizens are sent to prison (Clear, 2008) and as they are released back into their communities (Vieraitis, Kovandzic, and Marvell, 2007). As a result, researchers report that high levels of incarceration in “impoverished communities has broken families, weakened the social control capacity of parents, eroded economic strength, soured attitudes toward society, and distorted politics; even after reaching a certain level, it has increased rather than decreased crime” (Clear, 2007, p. 5). Therefore, if mass incarceration’s goal is to incapacitate criminals and subsequently decrease crime, it is not only failing—it’s making the problem worse.

To summarize, mass incarceration is responsible for disrupting families and harming the development of children of the incarcerated—often times for victimless crimes such as drug possession. It has an impact that is equivalent to taking a child out of school—inhibiting their ability to learn and stunting their maturation. It is responsible for harming the communities in which it is most prevalent and creating a spillover effect where depressive and anxiety disorders are more likely. It harms prisoners directly, failing to afford them equal access to healthcare and mental health treatments, making their time inside of prison more arduous and their integration post-prison more difficult. It may also have a criminogenic effect on its surrounding community, meaning crime breeds crime which breeds more crime. As a result, the consequences of incarceration become the causes of incarceration, creating a dangerous and seemingly inescapable cycle of carceral growth.



Policy Recommendations for Mitigating the Impacts of Mass Incarceration

The War on Drugs

Perhaps the most immediate policy recommendation when it comes to “solving” mass incarceration is ending the war on drugs. This paper has mentioned the large role played by draconian drug policies in contributing to high levels of incarceration. Since the beginning of the war on drugs in the early 1980s, there has been a 500% increase in incarceration in the United States (Sentencing Project, n.d.)—those who are locked up tend to be engaging in victimless crimes. Of the 1.5 million drug arrests in 2014, over 80% were for possession only (Drug Policy Alliance, 2016). In a 2015 report, the Brookings Institution, a non-partisan think tank, concluded that “drug crimes have been the predominant reason for new admissions into state and federal prisons in recent decades” (Rothwell, 2016, para. 7).

Given the evidence above, any policymaker attempting to address America’s absurd levels of incarceration must advocate for an end to the war on drugs. Ending the war on drugs would require changes in federal and state drug laws. “Ending” the war on drugs may be a misnomer because reducing new prison admission requires an incremental approach as opposed to a sweeping one—this section will document the ways in which policymakers can reduce the potency of draconian drug laws.

A first step is eliminating mandatory minimum sentences for minor drug offenses. Earlier, the argument was put forth that mandatory minimums are to blame for much of mass incarceration’s growth because half of the state prison population’s growth in the past three decades was attributable to increases in prison sentences’ length (The Sentencing Project, n.d.). This is significant because roughly two-thirds of mandatory minimum sentences have been drug offenses (United States Sentencing Commission, 2017), meaning they are chiefly responsible for this precipitous increase. Experts believe that addressing this issue would create



promising results. An interactive calculator from the Urban Institute reveals that reducing the length of sentences for drug offenders by 50% would reduce the overall prison population by 32,750 (7%) by 2021 (King, Peterson, Elderbroom, and Pelletier, 2018).

A closely related step to reduce unnecessary drug use convictions is eliminating three-strikes laws, which require offenders to go to prison for a minimum of 25 years after three felonies. These laws can often send low-level drug offenders to prison for life (Gupta, 2014), despite the intentions and recommendations of judges (Moyer, 2017). The goal of ending three-strikes laws, then, would be to reduce the number of new prison admissions for drug users (among other offenders) in the United States. The Urban Institute's calculator also found that reducing new admissions for drug offenses (a key consequence of eliminating three strikes laws) by 50% would reduce the overall prison population by 32,659 (7%) by 2021 (King, Peterson, Elderbroom, and Pelletier, 2018).

Together, reducing new admissions for drug offenses and cutting the sentences of drug offenders by 50% would reduce the prison population by nearly 15%. "Ending" the war on drugs, or taking steps in the right direction by lessening the impact of stringent and draconian drug laws, would make notable progress in fighting mass incarceration.

A more ambitious solution is the decriminalization of drug use in the United States. This policy solution would have a similar effect on reducing new admissions because there is no basis to lock up a drug user if drug use is not a criminal activity. Many are taken aback by the prospect of decriminalizing drug use in any capacity, but international comparisons provide a more illuminating perspective by which decriminalization should be approached. In 2001, Portugal decriminalized all drugs, from marijuana to heroin to cocaine. Today, when a Portuguese citizen is caught with an illegal drug, he is sent to a "Dissuasion Commission" instead of prison, where social workers talk to the user in an attempt to prevent addiction. In short, Portugal treated its former drug crisis as a public health issue rather than a criminal one. Its progress 17 years later



has not suggested decriminalization is something to fear, but instead it is to be embraced. By 2017, Portuguese heroin use had declined by 75%, the number of deaths from overdoses had dropped 85%, and drug-related HIV diagnoses had fallen by 90% (Kristof, 2017). Portugal has a drug-related death rate of six per one million people, 51 times lower than the United States' rate of 312 deaths per one million (Kristof, 2017). If Portugal is any example, drug decriminalization should not be feared but instead embraced.

While the United States has spent decades fighting a war on drugs with little to show for their efforts, Portugal has waged a war on drugs and won. Decriminalization of drug use in the United States may not be a panacea to mass incarceration, but it would be a meaningful step in the right direction, combatting the prison population's growth (Drug Policy Alliance, 2017) and opening the door to a winnable war on drug addiction in the United States.

Reforms Targeting Violent Offenders

Some experts, however, argue that ending the war on drugs alone would not make serious progress in making the U.S.'s levels of incarceration anywhere similar to the rest of the developed world. Recently, researchers have criticized the "Standard Story" often told by those on the American left (Lopez, 2017). This story chronicles the passage of stringent drug laws and notes the precipitous increase in incarceration rates shortly thereafter, therefore connecting America's high levels of incarceration to the long-fought war on drugs.

The primary critics of this Standard Story are Professor John Pfaff in his book "Locked In: The True Causes of Mass Incarceration and How to Achieve Real Reform" (Pfaff, 2017) and Marie Gottschalk in her book "Caught: The Prison State and the Lockdown of American Politics" (Gottschalk, 2016). These authors argue that, although important, drug offenses make up a relatively small proportion of overall offenses committed by those currently serving time in American prisons. The Bureau of



Justice Statistics reports that only 15.7% of state prisoners are locked up for drug offenses (Lopez, 2017). Proponents of the Standard Story may argue that drug offenses are responsible for nearly half of federal offenses. This is true, but it fails to account for the fact that federal prisons only hold about 13% of the nation's prisoners (Pew Research Center, 2012). Therefore, state prison populations are the best metric by which we should measure individual-level contributions to incarceration rates.

Considering drug offenses' contributions to incarcerable offenses overall, drug policy reform should not be thought of as a panacea to mass incarceration. Instead, researchers encourage an approach which places an emphasis on violent crime. Roughly 53% of inmates in state prisons were convicted of violent crimes, with the largest proportion of that group being convicted of murder (Carson and Anderson, 2016). Clearly, addressing incarceration caused by offenses such as murder is a bit more of a challenge than addressing incarceration caused by drug use because murder, unlike drug law violations, is never a victimless crime. Despite this challenge, Pfaff, Gottschalk, and others still argue that violent crimes, not drug offenses, should be policymakers' priority.

They are correct in arguing that such reforms would have a meaningful impact. Reducing the lengths of stay for violent offenders by 50% would reduce the prison population by 16%, and reducing new admissions for violent crimes by 50% would reduce the prison population by 14% (King, Peterson, Elderbroom, and Pelletier, 2018). Together, reforms targeting the prison population responsible for committing violent crimes would have roughly twice the incarceration-reducing impact as the most comprehensive drug reforms.

Is it really an admirable, if even feasible, goal to try to cut the prison sentences of violent offenders in half? Such a proposal would surely be politically unpopular. But the literature suggests such a reform would address the ills of mass incarceration without jeopardizing public safety. A recent study from the Brennan Center for Justice found that 39% of the prison population in the United States is unnecessarily incarcerated



(Austin et al., 2016). This can in part be explained by the troubling trend toward needlessly lengthening prison sentences: between 2000 and 2014, the length of prison sentences rose an average of 37% (Villa, 2017). This increase in the length of prison sentences, however, does not seem to make us safer; one comprehensive analysis concluded that “the incremental deterrent effect of increases in lengthy prison sentences is modest at best” (Travis, Western, and Redburn, 2014, p. 5).

This lends credence to the theory that at least some current prisoners are serving sentences that are longer than what is necessary to maintain public safety. Still, some would be understandably concerned with the prospect of, in effect, releasing violent offenders from prisons and sending them back into the streets by cutting their sentences short. Would allowing an influx of former violent offenders jeopardize a community’s safety? The evidence seems to suggest the answer is no. This is principally due to the “bell-curve” trajectory of violent crime over one’s lifetime, in which criminal tendencies emerge and peak during an individual’s early years and subside shortly thereafter (Piquero, 2008). One 2003 study by Professors Robert Sampson and John Laub explored this sociological phenomenon in the real world by following a group of men, their development, and their propensity toward crime between ages 7 and 70. Their findings led them to conclude that “desistance processes [processes of ceasing antisocial behavior such as criminal activity] are at work even among active offenders and predicted life course persisters” (Sampson and Laub, 2003, p. 1). Of the 500 men tracked in this study, 46 (9.2%) continued to offend consistently into their 30s, and only 3% did so at high rates (Sampson and Laub, 2003). The study also found that “childhood prognoses account poorly for long-term trajectories of offending,” meaning long sentences for young offenders are especially ineffective at preventing future crime. This is important when considering the aforementioned age-crime curve which posits that an individual’s likelihood to commit a crime peaks in teenage years and decreases thereafter (Farrington, 1986). This study ultimately revealed that the “incapacitative effect” of incarceration



tion (mitigating crime by taking potential criminals off of the streets) may be limited in its effectiveness. Studies generally agree that incarceration “incapacitates only very incompletely” (Bennardo, 2012, p. 1) and that incapacitation is responsible for less than 20% of all crime prevention (Cohen, 1983, p. 1).

As this section illustrates, reforms targeting violent offenders are just as important as ones aimed toward assisting drug offenders. Empirical literature suggests that the incapacitative effect of incarceration is limited at best. It comes as no surprise, then, that reducing the time sentences of violent offenders could reduce the aggregate prison population by up to 14% by 2021 (King, Peterson, Elderbroom, and Pelletier, 2018). In a comprehensive and holistic approach to mass incarceration, the United States should pass reforms which limit or reduce the length of sentences of prisoners convicted of violent crimes.

Innovative Reforms with a History of Success

California has experimented with the type of reforms Pfaff, Gottschalk, and other experts would recommend. In 2012, California passed Proposition 36, a proposition which provides early release to thousands of people convicted under the state’s harsh three-strikes law. The results have been promising. Of the prisoners who were initially released in 2012, the 6-month recidivism rate (the rate of reoffending and reentering prison within 6 months of release) was under 2%, a shocking result considering California’s usual 6-month recidivism rate of 16% and a nationwide rate of 30% (Stanford Law School, n.d.). If the goal is reducing crime, lowering recidivism rates should be a goal and, as a corollary, reforms such as Proposition 36, which shorten unnecessarily long sentences, should be a priority.

An additional approach to reducing incarceration rates which has a documentable history of success is “focused deterrence.” Focused deterrence aims to lower crime rates by creating community ties with local gangs and mitigating violence from the bottom-up. In their meetings with



gang members and affiliates, members of the police force offer assistance in housing, education, and rehabilitation in exchange for a departure from violent tendencies. The aptly-named Center for Evidence-Based Crime Policy (2018) reviewed 8 studies on focused deterrence and found that 7 of the 8 had positive impacts and were listed as successful interventions. The programs were associated with significant reductions in youth homicide victimizations, shots-fired calls for service, gun assault incidents, overall homicide reports, and gun-related assault. One study, for example, reported a 34.3% decline in the monthly homicide rate as a result of focused deterrence (McGarrell, Chermak, Wilson, and Corsaro, 2006).

Another notable and successful policing reform is “hot-spot policing.” Hot-spot policing focuses on the areas where crime is most concentrated and increases police presence and community involvement in those areas. One review of 25 hot-spot policing experiments noted that 20 of the 25 tests “reported noteworthy crime and disorder reductions” (Braga, Papachristos, and Hureau, 2005, p. 6) One hot-spot policing trial in Philadelphia found that blocks with hot-spot policing and extra patrols saw 23% less violent crime than blocks without extra policing (Pfaff, 2017). It should be noted, however, that hot-spot policing is not a standalone panacea. Aside from its effect on reducing crime, increased police presence may have deleterious effects on individuals in some urban communities (Brunson and Miller, 2006).

A final tactic which has a track record of success is the use of Cognitive Behavioral Therapy, or CBT. CBT is neither solely nor primarily an approach meant to mitigate crime as much as it is meant to improve the mental states of patients with general mental disorders. Because, however, most violent crimes are acts of anger and outbursts of passion, investing in this sort of mental health treatment early on can have significant effects on crime reduction. Indeed, one review of 58 studies found that such CBT programs can decrease recidivism by up to 50%, with an average of a 25% reduction (Lipsey, 2007). While most violent crimes are not committed by people with mental health disorders, CBT still has the



power to reduce recidivism for those individuals who are incarcerated with mental health problems.

Federal Decision-Making and its Impact on Mass Incarceration

One cannot overstate the role of the United States Federal Government in addressing mass incarceration and its consequences. Growth in incarceration at the federal level has outpaced growth on a state level (Mauer, 2015). The federal prison system is currently operating at 140% of its intended capacity (Samuels, 2015), leading to deplorable living conditions, inaccessibility to basic amenities, and steep increases in suicide rates (Galvin, 2017).

Criminal justice decisions made on a federal level have a significant spillover effect on state and local decision-making (Advisory Committee on Intergovernmental Relations, 1981). Federal funding is often a necessary prerequisite for states' draconian criminal justice policies. 31.9% of state revenue comes from federal grants, serving as just one example of the inextricable relationship between the federal government and state policy (Schroeder, 2017). The Brennan Center for Justice recently argued for the necessity of changes in federal criminal justice policy by positing that "without a strong national movement, the bold reforms needed at the state and local level cannot emerge" (Grawert, Camhi, and Chettiar, 2017, para. 3).

Thus, the U.S. Congress should pursue a federal agenda to reduce mass incarceration. This paper has previously mentioned the large proportion of the federal prison population that is unnecessarily locked up. Given this, the federal government should implement reforms aimed to shorten unnecessarily lengthy sentences or encourage forms of punishment other than prison (as were discussed in the section prior). Experts vary in their specific policy recommendations, but some commonly recommended reforms are maximum limits on sentence lengths (Mauer, 2015) and the elimination of prison terms for low-level offenders (Grawert, Camhi, and Chettiar, 2017).



The federal government also has unique power in addressing the war on drugs. Although not as prominent at the state level, drug-related offenses account for 46.2% of those represented in federal prison (Bureau of Prisons, n.d.), a number which has only increased over time. It should be remembered that it has not been increasing drug use that has accounted for the increase in overrepresentation of drug offenders, but rather a lengthening of sentences. The Urban Institute has found that increases in sentence lengths, primarily those for drug convictions, were responsible for over half of the expansion of the federal prison population between 1998 and 2010 (Mallik-Kane, Parthasarathy, and Adams, 2012). Passing aforementioned reforms, like placing an upper limit on sentence lengths, and cutting lengths of stay for drug trafficking offenses in half would reduce the federal prison population by 18% by December 2023 (King, Peterson, Elderbroom, and Pelletier, 2018).

Progress on a federal level may seem unfathomable due to the recent actions and statements made by the administration of President Donald Trump (Hamilton, 2017; Hulse, 2017; Lopez, 2017; Jarrett and Scott, 2017). Despite this, there is momentum among voters and existing progress to be capitalized upon. 90% of Americans agree that America's prison system "needs fixing" (ACLU, 2017). More than half of Trump voters believe it is important to reduce the size of the prison population (Ofer, 2017), and 63% believe that judges should have more discretion in sentencing than is currently offered by mandatory minimum and three-strikes laws (Charles Koch Institute, 2017). Whatever their specific opinions on policy, criminal justice remains a hot button issue for all citizens, Trump voters included; 81% see criminal justice reform as "very" or "somewhat" important (Eisen and Chettiar, 2018). Mass incarceration remains one of the only true bipartisan issues in the United States (Gotoff and Lake, 2018), and the U.S. Congress should respond with policy which corresponds with such enthusiasm.



Conclusion

The confluence of decades-old tough-on-crime political rhetoric, stringent drug laws, consistent lengthening of prison sentences, and perverse sentencing reforms has created a seemingly impermeable carceral state which affects tens of millions of Americans and has no international comparison.

Mass incarceration is not an issue which only affects the 2.2 million people in the confines of an American prison. Nor does it only affect the additional 7.2 million under control of the state on probation, parole, or under a deportation order. It impacts the families of those incarcerated, the communities in which they once abided, and the taxpayers who pay an approximate \$182 billion annually to maintain America's carceral state.

It is time for a new approach to mass incarceration. This new approach should be guided by reality rather than rhetoric and exhibit rationality instead of post hoc rationalization. Evidence exists of successful reforms which combat incarceration without putting communities at risk. States and the federal government have a responsibility to adopt such reforms, prioritizing an evidence-based approach that, somewhat paradoxically, makes America more extraordinary by making it less exceptional.



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