

Effect of drug policies on criminal justice systems in the us



Drug Policy and Criminal Justice in the United States

A series of drug policies and legislation (both federal and state) have perpetuated the massive criminalization of minorities and poor people. After decades of slight progress in addressing this inequity, policy in the near future could exacerbate it. Given the distinct tendency of the United States criminal justice system to target and confine people of color, racial bias cannot be ignored as a contributing factor when one considers America's ignominiously overpopulated prison system. It is, perhaps, *the* contributing factor. This is evident upon reviewing statistical data representing the incarcerated population. At the end of 2005, there were more than 1.5 million people incarcerated in state and federal prisons. Forty percent of these inmates were black, thirty five percent were white, and twenty percent were Hispanic (Harrison & Beck 2006). In other words, blacks comprise about twelve percent of the U. S. population but about *two-fifths* of the prison population . (Wodahl, 2008)

Other criminal justice data would indicate that this overrepresentation isn't coincidental, or the result of cultural differences, as some would suggest. Conviction rates, sentence severity and levels of overall community policing lean toward the reality of racial bias. Black and Hispanic males who are young and unemployed are punished more severely than similarly situated white males, " even when severity of the offense and criminal history were considered". (Wodahl, 2008)

Criminal Justice in the United States is unique among Western countries. In some respects, it's unique among all countries. The US has the highest

incarceration rate in the world. Based on collected data, the Prison Policy Initiative summed up one of its findings in the following way:

“ If we imagine every state as an independent nation, every state appears extreme. 23 states would have the highest incarceration rate in the world — higher even than the United States. Massachusetts, the state with the lowest incarceration rate in the nation, would rank 9th in the world, just below Brazil and followed closely by countries like Belarus, Turkey, Iran, and South Africa.” (Wagner, 2018)

American criminal justice policy reflects a desire for punitive measures. Which is to say severe punishment for crime has become more important than: cost reduction, less recidivism, and community welfare. This trait began under the presidencies of Nixon and Reagan and continued under Clinton. It was under these administrations that incarceration rates initially skyrocketed. The war on drugs, combined with “ law and order” legislation on a federal level, set the tone for State policy—ultimately leading to mass incarceration. In 1971, Nixon declared a war on drugs. This war would be waged mostly in communities of color. Largely ignoring drug use in white, wealthy neighborhoods. There needn’t be a significant leap to conclude racial bias. A quote from one of Nixon’s aides is particularly revealing:

“ The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but 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.”

— John D. Ehrlichman, former Nixon aide, interview with Dan Baum

Nixon himself was also clearly racist. During a meandering conversation with his secretary, Rose Woods, he criticized the views of his Secretary of State with regard to black people:

“ Bill Rogers has got — to his credit it’s a decent feeling — but somewhat sort of a blind spot on the black thing because he’s been in New York,” Nixon said . “ He says well, ‘ They are coming along, and that after all they are going to strengthen our country in the end because they are strong physically and some of them are smart.’ So forth and so on. My own view is I think he’s right if you’re talking in terms of 500 years,” he said. “ I think it’s wrong if you’re talking in terms of 50 years. What has to happen is they have to be, frankly, inbred. And, you just, that’s the only thing that’s going to do it, Rose.”

— Richard Nixon, former President of the United States, taped conversation

The next two presidents continued to create anti-drug legislation that empowered federal and state agencies to target minority communities. The 1984 Sentencing Reform Act and the 1994 Crime Bill were ostensibly meant to curtail a perceived drug epidemic. They included mandatory minimums and the three strikes rule. They even imposed harsher penalties for crack cocaine than powder cocaine (crack was cheaper and more commonly used

by people of color). These measures were not effective. The incarcerated population has more than quadrupled from around 100, 000 in the late seventies, to more than 400, 000 currently. Rates of drug use across racial demographics, however, have remained relatively stable since 1970.

The last decade has seen a small shift in criminal justice policies. The Obama administration quietly passed legislation that sought to correct the war on drugs. Notably, Obama was the first president since Jimmy Carter to leave office with a smaller federal prison population than he inherited (Gramlich, 2017). This decrease was driven by a trend of less punitive drug policies, both federal and state. On the federal end, the 21st Century Cures Act and the Comprehensive Addiction and Recovery Act were both passed during Obama's term. The 21st Century Cures Act increased spending on the opioid epidemic by \$1 billion. Instead of going toward anti-drug enforcement, it's slated for public health—addiction treatment and medical training. The Comprehensive Addiction and Recovery Act also emphasizes rehabilitation funding. States took steps toward a softer criminal justice system during this time, as well. Illinois passed a civil asset forfeiture reform bill last year. Several states legalized the recreational use of marijuana.

At the end of the Obama administration there was even a rare moment of bipartisan agreement. The systemic flaws of the criminal justice system were acknowledged to be so severe that in 2015, both parties joined advocates including the ACLU and the Koch brothers at the “Bipartisan Summit on Criminal Justice Reform” in Washington, DC. Speakers at this event derided the rhetoric of the 80s and 90s. They emphasized criminal justice reform as

moral necessity. There was even broad agreement that “ *black and brown people, the poor, the mentally ill, and the addicted had paid a disproportionately high price in the War on Crime and the War on Drugs. By 2016, organizations emerged such as the Dream Corps, whose initiative “#cut50” called for halving our nation’s prison population over the next 10 years.*” (Thompson, 2018)

Even at a point of deep political polarization, there is an impressive amount of overlap between voters with regard to criminal justice. A Justice Action Network poll conducted by Robert Blizzard (a partner at a Republican leaning research organization) came to the following conclusions:

“ Of the 800 registered voters polled between Jan. 11 and 14, 87 percent of Americans agree that some of the money being spent on locking up nonviolent offenders should be shifted to alternatives like electronic monitoring, community service and probation. Two-thirds of voters — 65 percent — support fair chance hiring, and 87 percent of voters strongly support replacing mandatory minimum prison sentences for non-violent offenders with a system that allows judges more discretion. Eighty-five percent of voters, meanwhile, agree that the main goal of the nation’s criminal justice system should be rehabilitating people to become productive law-abiding citizens.” (Blizzard, 2018)

A variety of polls—from the right and left, came by similar results. Despite public opinion, the Trump administration is poised to halt this established momentum.

Donald Trump has remarked that he intends to address drug use as a public health crisis. This would be in line with previous progressive policy. However, suggestions of intensely punitive measures and the confirmation of Jeff Sessions as Attorney General do not bode well for a reduction in judicial bias or mass incarceration. In much the same way previous administrations have justified harsh punishment, Donald Trump himself has even proposed a death penalty for drug dealers. While speaking to an audience in Manchester, New Hampshire, the President remarked:

“ If we don’t get tough on the drug dealers, we are wasting our time - and that toughness includes the death penalty.”

Attorney General Jeff Sessions has referred to marijuana smokers as bad people and has directed an increased use of mandatory minimums.

“ Good people don’t smoke marijuana.” (Jeff Sessions, 2016)

In June of 2017, Sessions wrote a Washington Post editorial advocating for harsher sentencing and unforgiving judicial practices entitled: *Being Soft on Sentencing Means More Violent Crime. It’s Time to Get Tough Again.*

Sessions also overruled a 2013 policy statement issued by then Attorney General Eric Holder as part of his Smart on Crime initiative. In a 2017 memo to staff, he ordered federal prosecutors to *“ charge and pursue the most serious, readily provable offense” in every criminal case.*

Based on the Trump administration’s approach, the following trends can be expected. First, an increase in the federal prison population.

“ In a 2017 budget document, the Justice Department projected a 2 percent increase in *the federal prison population through FY 2018, ‘ based on the current trends and accounting for the recently revised sentencing guidelines.’ to meet that projection, the prison population would have to rise by 7, 500 by the fiscal year’s end.*” (Brennan Center for Justice, 2017)

Second, drug use will remain hugely problematic in white and minority communities alike, however the latter will be disproportionately imprisoned. Unsuccessful, punitive policies will not address the root of drug use, and so it will continue to rise.

“ Criticism of the Trump Administration’s response to these deaths has been growing. The administration declared a national emergency but has yet to implement major solutions.” (Brennan Center for Justice, 2017)

Finally, there will continue to be increased pressure on states that have legalized marijuana at any level. Meanwhile, Black Americans are nearly four times more likely to be arrested for marijuana possession than their white counterparts, despite comparable usage rates across groups. (ACLU, 2013)

“ The Attorney General has repeatedly made clear his belief that marijuana is a dangerous drug and that asserting federal supremacy in drug policy is one of his priorities.” (Brennan Center for Justice, 2017)

Given these policies and trends, overall efforts to reduce the incarcerated population of the US will stagnate and possibly reverse under the current administration. Thereby, perpetuating the massive criminalization of minorities and poor people. The prison population, which fell under the

previous administration could plateau. However, it's more likely to increase. Proportionally speaking, most of these new prisoners will be minorities. In recent weeks, the Trump administration has made overtures regarding prison reform. However, the specific nature of these reforms has yet to be determined.

REFERENCES

- American Civil Liberties Union, “ The War on Marijuana in Black and White,” available at <https://www.aclu.org/report/report-war-marijuana-black-and-white?redirect=criminal-law-reform/war-marijuana-black-and-white>
- Gramlich, J. (2017, January 05). Federal prison population fell during Obama’s term, reversing recent trend. Retrieved from <http://www.pewresearch.org/fact-tank/2017/01/05/federal-prison-population-fell-during-obamas-term-reversing-recent-trend/>

■ H. r. 3131 – 103rd Congress (1993-1994): Violent Crime Control and Law Enforcement Act Of 1993 Brooks -Jack – <https://www.congress.gov/bill/103rd-congress/house-bill/3131?q=%7B%22search%22%3A%5B%22Violent%2BCrime%2BControl%2BAnd%2BLaw%2BEnforcement%2BAct%22%5D%7D&r=1>

- Kaeble, D., Tsoutis, A., Glaze, L., & Minton, T. (n. d.). Correctional Populations in the United States, 2014(United States, Bureau of Justice Statistics, Office of Justice Programs).
- Nagourney, A. (2010, December 10). *MP3* . New York: New York Times.
- Audio File. Richard Nixon makes racially charged remarks.
- NEW POLL: Voter Support Sky High for Bipartisan Justice Reforms, Especially Among Women Voters. (2018, January 25). Retrieved from <http://www.justiceactionnetwork.org/new-poll-voter-support-sky-high-bipartisan-justice-reforms-especially-among-women-voters/>

<https://assignbuster.com/effect-of-drug-policies-on-criminal-justice-systems-in-the-us/>

- S. 668 - 98th Congress (1983-1984): Sentencing Reform Act Of 1984
Kennedy -Edward - <https://www.congress.gov/bill/98th-congress/senate-bill/668?q=%7B%22search%22%3A%5B%22Sentencing%2BReform%2BAct%22%5D%7D&r=1>
- Wagner, P., & Sawyer, W. (n. d.). Mass Incarceration: The Whole Pie 2018. Retrieved from <https://www.prisonpolicy.org/reports/pie2018.html>