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America's One Million Nonviolent Prisoners

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POLICY
REPORT



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I. Introduction

Over the past two decades, no area of state government expenditures has increased as rapidly as prisons and jails. Justice Department data released on March 15, 1999 show that the number of prisoners in America has more than tripled over the last two decades from 500,000 to 1.8 million, with states like California and Texas experiencing eightfold prison population increases during that time. America's overall prison population now exceeds the combined populations of Alaska, North Dakota, and Wyoming.

What is most disturbing about the prison population explosion is that the people being sent to prison are not the Ted Bundies, Charlie Mansons, and Timothy McVeighs - or even less sensationalized robbers, rapists, and murders - that the public imagines them to be. Most are defendants who have been found guilty of nonviolent and not particularly serious crimes that do not involve any features that agitate high levels of concern in the minds of the public. Too often, they are imprisoned under harsh mandatory sentencing schemes which were ostensibly aimed at the worst of the worse.

As this analysis will show, the very opposite has been true over the past 20 years. Most of the growth in America's prisons since 1978 is accounted for by nonviolent offenders and **1998 is the first year in which America's prisons and jails incarcerated more than 1 million nonviolent offenders.**

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The cost of incarcerating this more than one million nonviolent offenders is staggering. The growth in prison and jail populations has produced a mushrooming in prison and jail budgets. In 1978, the combined budgets for prisons and jails amounted to \$5 billion. By 1997, that figure had grown to \$31 billion.¹ States around the country are now spending more to build prisons than colleges, and the combined prison and jail budgets for 1.2 million nonviolent prisoners exceeded the entire federal welfare budget for 8.5 million poor people last year.

This report will analyze the growth in the nonviolent prisoner population. We will explore some of the implications of the increase in nonviolent prisoners in terms of cost and public safety, and suggest some approaches that local, state, and federal governments should consider to address the incarceration of 1 million nonviolent prisoners.

II. One million nonviolent prisoners

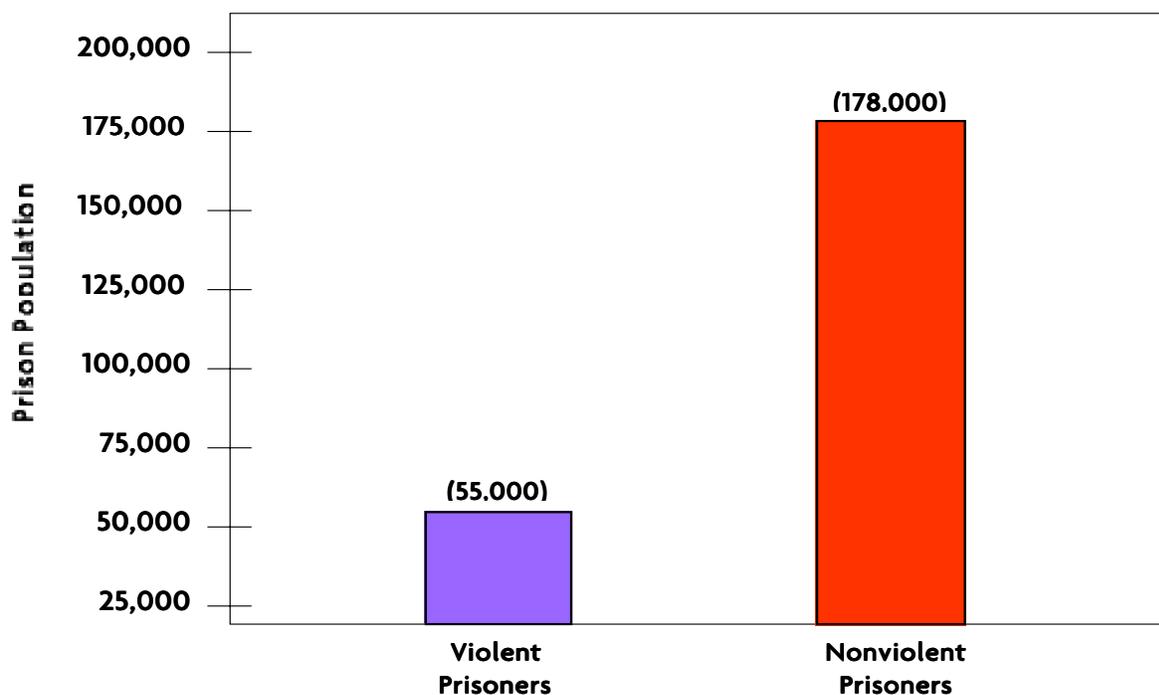
The percentage of violent offenders² held in the state prison system has actually declined from 57% in 1978³ to 47% in 1997⁴. However, the prison and jail population has tripled over that period, from roughly 500,000 in 1978, to 1.8 million by 1998. According to data collected by the United States Justice Department, from 1978 to 1996, the number of violent offenders entering our nation's prisons doubled (from 43,733 to 98,672 inmates); the number of nonviolent offenders tripled (from 83,721 to 261,796 inmates) and the number of drug offenders increased sevenfold (from 14,241 to 114,071 inmates). **As such, 77% of the growth in intake to America's state and federal prisons between 1978 and 1996 was accounted for by nonviolent offender** (see Table 1).⁵

According to data from the Department of Justice, 52.7% of state prison inmates, 73.7% of jail inmates and 87.6% of federal inmates were imprisoned for offenses which involved neither harm, nor the threat of harm, to a victim.⁶ Assuming these relative percentages held true for 1998, it can be estimated that by the end of that year, there were 440,088 nonviolent jail inmates, 639,280 nonviolent state prison inmates, and 106,090 nonviolent federal prisoners locked up in America, for a total 1,185,458 nonviolent prisoners. The combined impact of the growth of prison and jail populations in general

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- and the accelerated growth of the nonviolent segment of the incarcerated population in particular - **has given 1998 the dubious distinction of being the first full year in which more than 1 million nonviolent prisoners were held in America's jails and prisons for the entire year.**⁷

Table 1: Increase in State and Federal Prison Commitments, 1978-1996



Source: Justice Policy Institute Analysis of U.S. Department of Justice Data (see footnote 5).

Over a million people have been warehoused for nonviolent, often petty crimes, due to our inability-our choice-to not sort out America's lingering social problems from those which threaten us with real harm. But the prison system looms so large on our political horizon, it is often difficult for Americans to conceive of its size and scale, and to comprehend how out of kilter it is with the rest of the industrialized world. Consider the following:

- **Our nonviolent prison population, alone, is larger than the combined populations of Wyoming and Alaska.**

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- The European Union, a political entity of 370 million,⁸ has a prison population, including violent and nonviolent offenders, of roughly 300,000. This is one-third the number of prisoners which America, a country of 274 million, has chosen to incarcerate for just nonviolent offenses.
- The 1,185,458 nonviolent offenders we currently lock up represents five times the number of people held in India's entire prison system, even though it is a country with roughly four times our population.

Tables 2 & 3: America vs. European Union: There are three times as many non-violent offenders in prison in America as the total (violent/nonviolent) EU prison population.

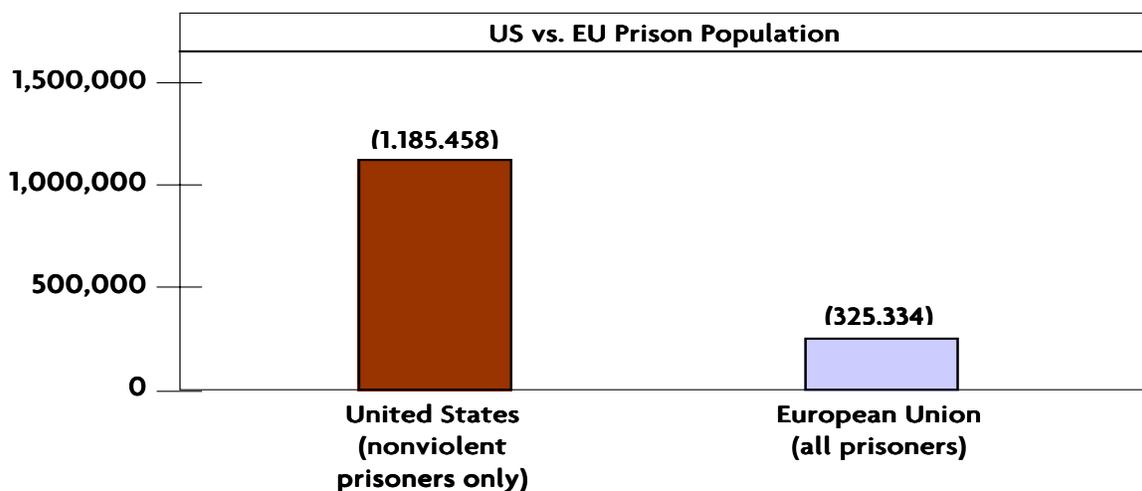
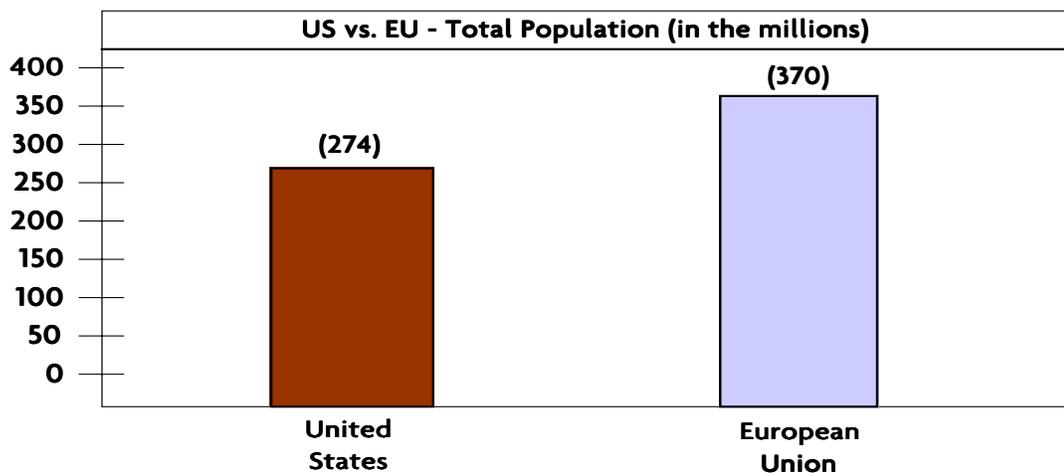
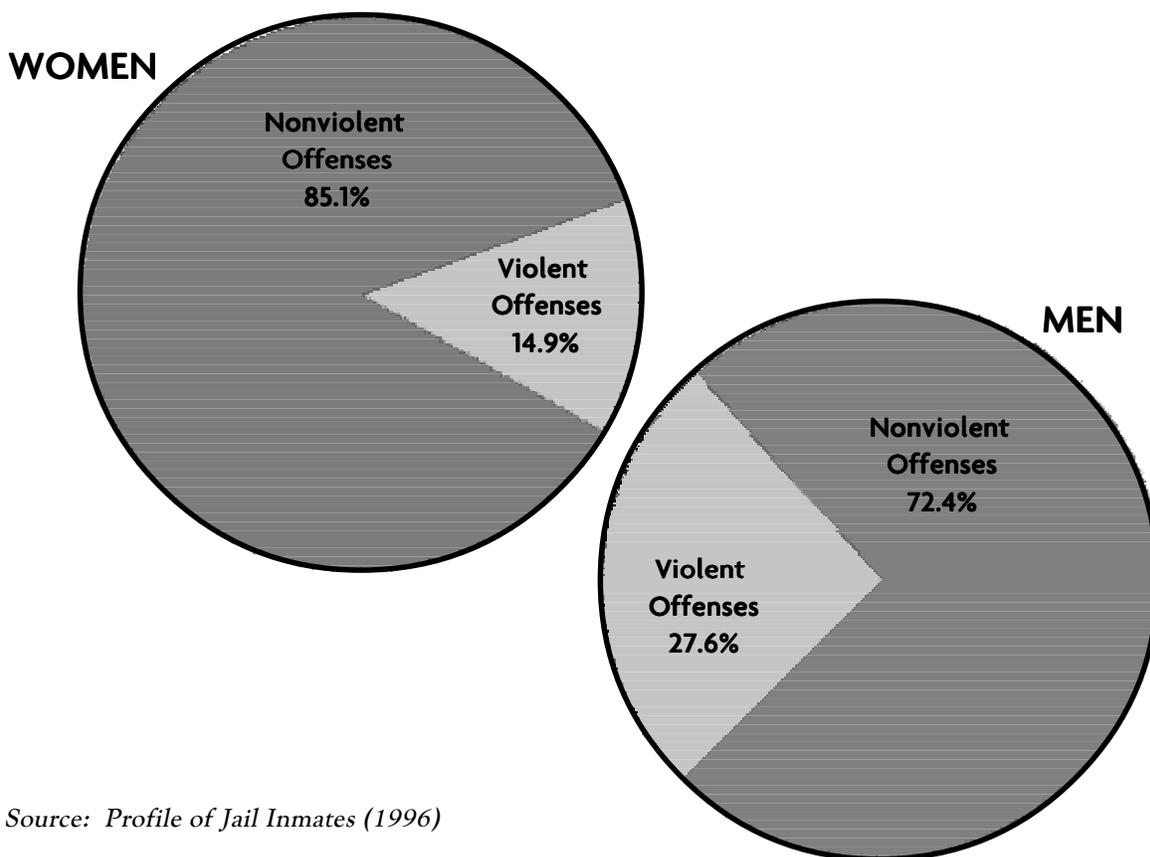


Table 4: Women are Fastest Growing, Least Violent Prisoners



As we incarcerated more and more people for nonviolent offenses, African Americans and Latinos comprised a growing percentage of the people we chose to imprison. In the 1930s, 75% of the people entering state and federal prison were white (roughly reflecting the demographics of the nation). Today, minority communities represent 70% of all new admissions, and more than half of all Americans behind bars.⁹

At year end 1996, there were 193 white American prison inmates per 100,000 whites, 688 Hispanic prison inmates per 100,000 Hispanics and 1,571 African American prison inmates per 100,000 African Americans. This means that blacks are now imprisoned at 8 times the rate of whites and Latinos are imprisoned at 3½ times the rate of whites. Increasing incarceration rates for African Americans have been driven largely by increases in drug sentencing over the past two decades.

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Ironically, women represent both the fastest growing and least violent segment of prison and jail populations. Women made up 3% (12,927)¹⁰ of state prisoners in 1978, a figure which grew to 6.3% (79,624)¹¹ by 1997. While only 27.6% of male jail inmates are violent offenders, an even smaller 14.9% of female jail inmates are in for violent offenses.¹² Sixty-four percent of male jail inmates have not been arrested for an act of violence on either their current or any prior offenses. That's true for 83.1% of female jail inmates.¹³

III. The costs of incarcerating one million nonviolent offenders

The cost of incarcerating over a million nonviolent offenders is nothing short of staggering. In a time when our political leaders celebrate the end of big government, prisons, jails and the services that go into them constitute one of the largest and fastest growing parts of the public sector.

- According to the Criminal Justice Institute, it costs \$20,224.65 to incarcerate one jail inmate for one year in 1997.¹⁴ Assuming the costs did not rise between 1997 and 1998, this would mean that the cost of jailing the 440,088 nonviolent jail prisoners was \$8.9 billion.
- State inmates cost an average of \$19,801.25 to incarcerate per year.¹⁵ That means that, in 1998, it cost \$12.7 billion to lock up 639,280 nonviolent state prisoners.
- Federal prisoners cost an average of \$23,476.80 per year to imprison. The tab for incarcerating 106,090 nonviolent federal prisoners in 1998 comes to \$2.5 billion.¹⁶
- In total, in 1998, American taxpayers spent \$24 billion to incarcerate over 1 million nonviolent offenders, many of whom had either never been locked up before or who had committed no prior acts of violence.

These figures should be considered conservative because they do not include facility construction costs which, in 1997, amounted to an additional \$3.4 billion for the 50 states. Further, according to several estimates, there are hidden costs of operating prisons and jails, such as health care and other contracted services, and debt services on prison bonds which probably drive the average annual cost of imprisonment up closer to \$40,000.

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Even without these hidden costs, the amount we spend to incarcerate America's nonviolent offenders is so large, it is hard to find other government expenditures to compare it to. The \$24 billion figure is almost 50% larger than the entire \$16.6 billion the federal government currently spends on a welfare program that serves 8.5 million people.¹⁷ We are spending 6 times more to incarcerate 1.2 million nonviolent offenders this year than the federal government will spend on child care for 1.25 million children.¹⁸ While states and counties have lavished money on their prison and jail systems, they have consistently failed to provide adequate funds for educational, health and mental health, and social programs which could have reduced the need for jails and prisons in the first place, thereby feeding the cycle of imprisonment.

One useful way to analyze the scale of prison expenditures is to compare it to what we are currently spending on universities. Prisons and universities generally occupy the portion of a state's budget that is neither mandated by federal requirements, nor driven by population (for example, K-12 education or Medicare). Because they dominate a state's discretionary funds, prison and universities must fight it out for the non-mandated portion of the budget.

More importantly, however, prisons and universities often target the same audience - young adults. As such, the fiscal trade-offs between these two sectors serve as a barometer of sorts, helping to gauge where we are going as a country, and what our priorities are.

In a series of studies about the shift in funding which has taken place between higher education and corrections, the Justice Policy Institute found:

- States around the country spent more building prisons than colleges in 1995 for the first time. That year, there was nearly a dollar-for-dollar tradeoff between corrections and higher education, with university construction funds decreasing by \$954 million (to \$2.5 billion) while corrections funding increased by \$926 million (to \$2.6 billion). Around the country, from 1987 to 1995, state expenditures for prisons increased by 30% while expenditures for universities decreased by 19%.¹⁹

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- During the 1990s, New York State's prison budget grew by \$761 million, while its budget for higher education dropped by \$615 million.²⁰
- From 1984 to 1994, California's prison system realized a 209% increase in funding, compared to a 15% increase in state university funding. California built 21 prisons during that time, and only one state university. There are four times as many African American men in California prisons as in its university system.²¹
- During the 1990s, Maryland's prison budget increased by \$147 million, while its university budget decreased by \$29 million. Nine out of ten new inmates added to the prison system during this period were African-American.²²
- The budget for Florida's corrections department increased by \$450 million between just 1992 and 1994. That is more of an increase than Florida's university system received in the previous ten years.²³
- The District of Columbia literally has more inmates in its prisons than students in its university system.²⁴

IV. The dubious crime control benefits of mass incarceration

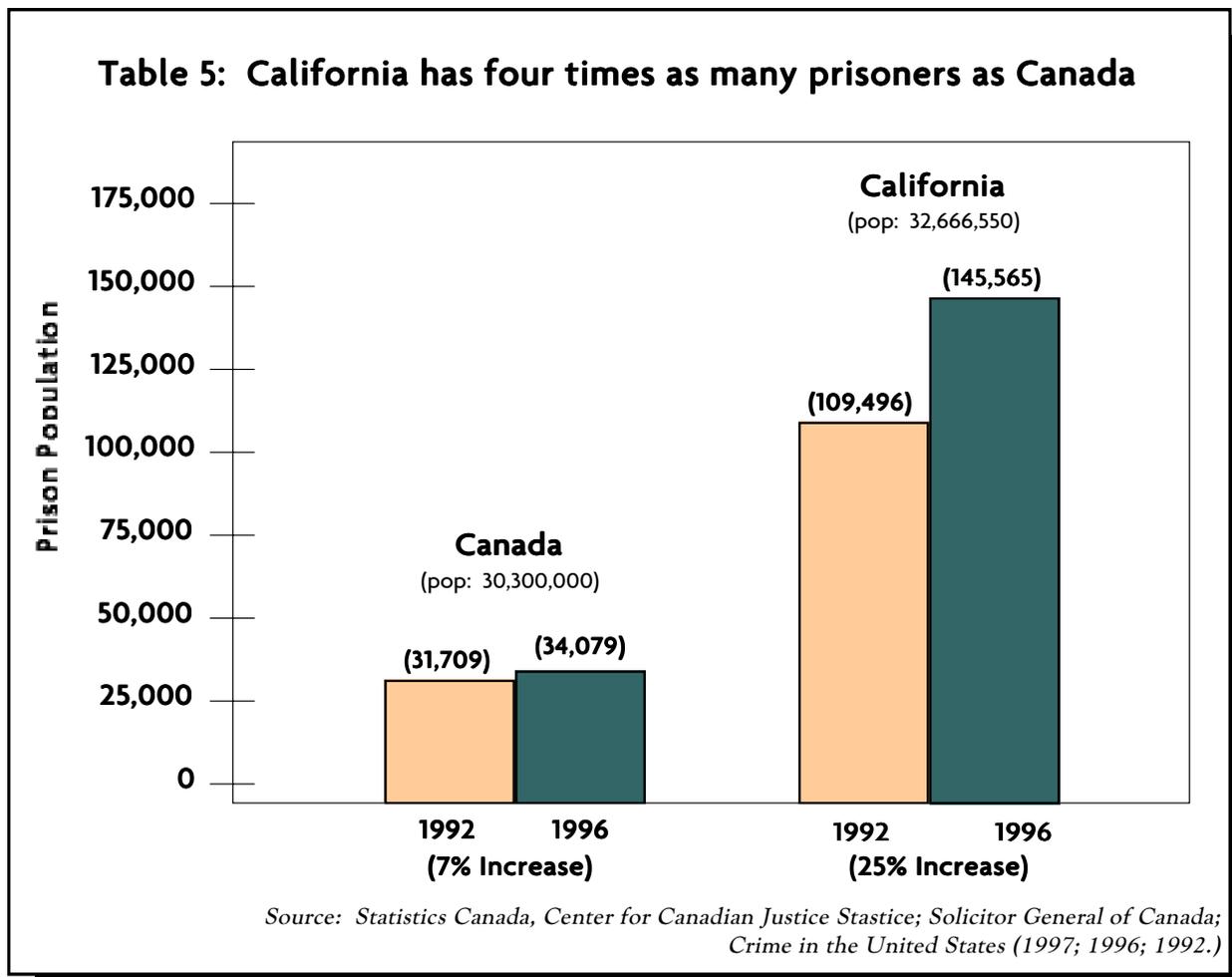
Many argue that this growth in imprisonment is a small price to pay for public safety. They say that criminal behavior, no matter how small, must meet with a swift and severe response, lest it grow out of hand. Conservatives like William Bennett, criminologist John DiIluio, and politicians across the country point to drops in crime over the past 5 or so years as proof that getting tough on the violent and the nonviolent alike has reaped substantial dividends.

There is no doubt that the imprisonment of nearly 2 million people has prevented some crimes from being committed. But as Michael Tonry, a professor of law and public policy at the University of Minnesota pointed out recently in *The Atlantic Monthly*, you could choose another two million Americans at random and lock them up, and that would also reduce the number of crimes.

In order to reasonably conclude that increased incarceration promotes decreased crime, one would need to show that a jurisdiction with a higher growth in its incarceration rates does better from a crime-control standpoint than a jurisdiction with a lower growth in its incarceration rate. If increases in incarceration promoted decreases in crime, one

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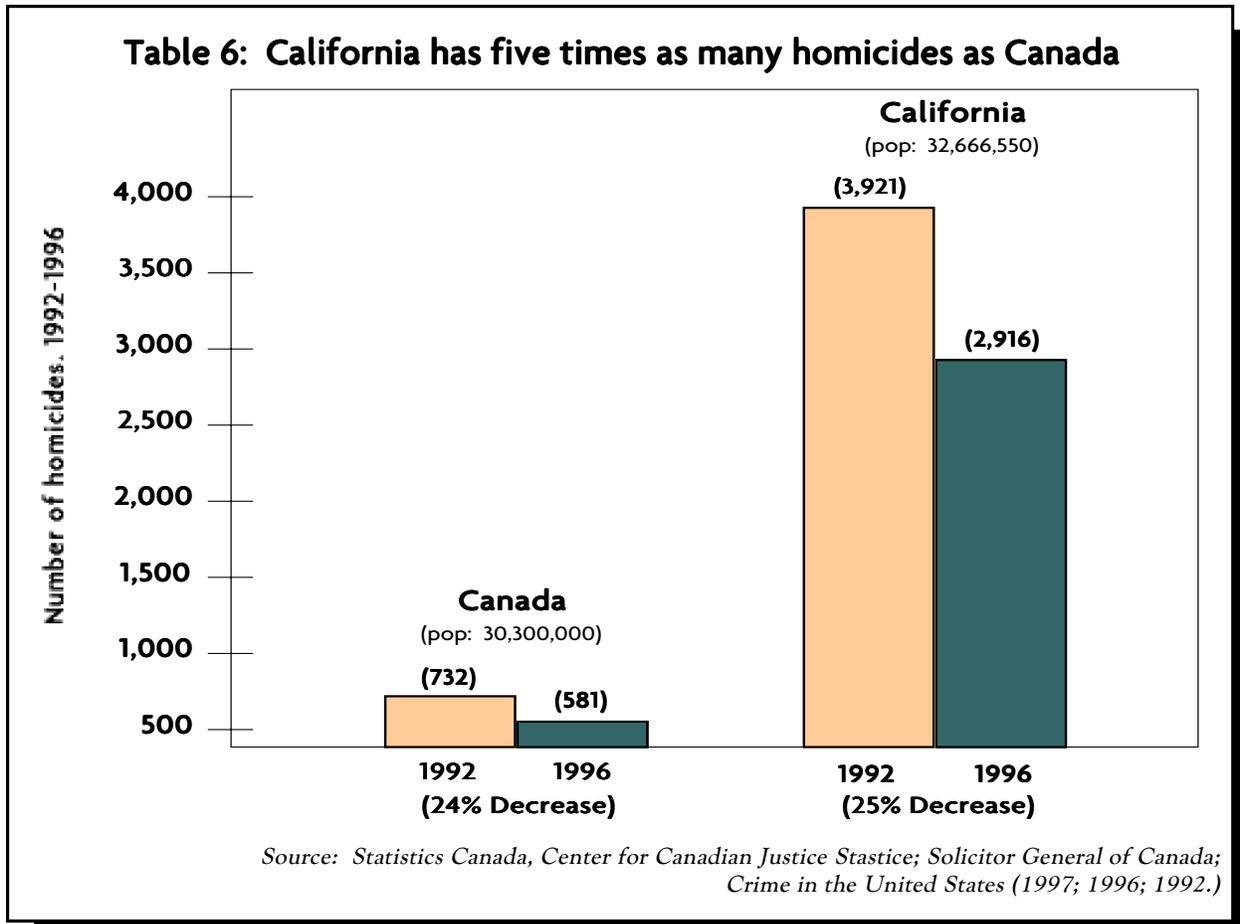
would expect that the jurisdictions with the highest growth in imprisonment would do best from a crime control standpoint. However, in the ten year period from 1980-1991, a period during which the nation's prison population increased the most, 11 of the 17 states that increased their prison population the least experienced decreases in crime. On the other hand, just 7 of the 13 states that increased their prison populations the most experienced decreases in crime: a virtual wash. In a previous study, one of the author's conducted a regression analysis comparing increases in imprisonment with changes in crime in every state in the country and found no relationship between increases in imprisonment and reduction in crime.²⁵



Canada, a country with about as many people as the state of California, has about one quarter as many people behind bars, and provides a good contrast for judging the crime control value of mass incarceration. Today, with 4.3 times as many prisoners, California

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has 4.6 times the homicide rate of Canada.²⁶ Between 1992 and 1996, Canada increased its prison population by a modest 2,370 inmates (7%), while California's prison population grew by 36,069 inmates (25%). Surprisingly, during that same period, both the Canadian and Californian homicide rate declined at exactly the same rate of 24% (although, with 2,916 homicide arrests in 1996, California still has 5 times as many murders as Canada's 581).²⁷



The Canadian murder rate has now reached its lowest level since 1969.²⁸ So, for all the billions of dollars California has outspent Canada on keeping people behind bars, Canada is still many times safer than a state of comparable size, and is actually decreasing the rate at which it incarcerates its citizens.

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Another way of looking at the effectiveness of mass incarceration is to examine different rates in the United States, over time. The prison population in America grew at an even greater rate in the five years prior to the recent drops in crime than it has in the last five years. So, while there was a 33.6% increase in the incarceration rate from 1987 to 1992, there was a 2% increase in the nation's crime rate, as measured by the FBI Uniform Crime Reports. From 1992 to 1997, there was a 25% increase in the prison population, and a 13% drop in the crime rate. The country actually did better, from a crime-control standpoint, when the prison population grew less precipitously!

The complexities of why crime rates change, and how disconnected they are to the incarceration rate is best typified by what some call the New York miracle. To be sure, the steady and steep drop in crime in America's largest city is responsible for a sizable portion in the drop in national crime rates. But, ironically, New York's crime rate fell despite the fact that it has had one of the slowest growing prison systems in the country over the past five years, and the New York City jail system has seen a real decline in the number of people it has held over this period.²⁹ Between 1992 and 1997, only two states experienced a slower percentage growth in their prison population than New York - Maryland and Maine. During that time period, for example, New York State's prison population grew from 61,736 to 70,026, while its violent crime rate fell by 38.6%, and its murder rate by 54.5%.

New York State's modest prison growth provides a solid contrast to the explosive use of incarceration in other states. For example, during that time period, California's prison population grew by 30%,³⁰ or about 270 inmates per week, compared to New York State's more modest 30 inmates a week. By contrast, California's violent crime rate fell by a more modest 23%, and its murder rate fell by 28%. Put another way, New York experienced a percentage drop in homicides which was half again as great as the percentage drop in California's homicide rate, despite the fact that California added 9 times as many inmates per week to its prisons as New York.

It must be kept in mind that virtually all of these nonviolent offenders will be released from prison and will try to pick up life on the outside following their profoundly

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damaging time in prison. For the most part, their chances of pursuing a merely viable, much less satisfying, conventional life after prison are diminished by their time behind bars. The contemporary prison experience often converts them into social misfits, and there is a growing likelihood that they will return to crime and other forms of deviance upon release from incarceration. Research by the Rand Corporation³¹ confirmed what common sense tells us about the prison experience when it found that convicted felons sent to prison had significantly higher rates of rearrest after release than similar offenders placed on probation. The damage done to nonviolent offenders by their experience behind bars is at least one reason why the crime-control impact of massive incarceration is disappointing.

V. Conclusion and Recommendations

The policy implications of imprisoning more than one million nonviolent prisoners are profound, and warrant a great deal of public discussion and debate. Over the past two decades, America has rushed headlong into the use of imprisonment as its primary crime-fighting tool. In so doing, small fries have been locked up at far higher rates than big fish at enormous social and economic costs, and with little benefit to show for it.

The tide must now be turned and turned abruptly. States and the federal government should abolish mandatory sentencing schemes which send nonviolent offenders to prison for lengthy periods of time. New York's mandatory sentencing system - dubbed the Rockefeller Drug Laws - cost state taxpayers \$680 million in 1998, a figure frighteningly close to the \$615 million New York has cut from its university system's annual budget.³² A recent analysis by Human Rights watch has concluded that 80% of the nonviolent offenders who received prison sentences in 1997 under the Rockefeller Laws had never been convicted of a violent felony.³³

Experiments such as those in Minnesota should be replicated nationwide. Minnesota's sentencing law change during the 1980s drastically slowed prison growth in that state and reserved prison space for violent and more serious offenders, while establishing a network of support programs for less serious offenders. Small release valves for dangerously crowded prison systems, like the highly-effective use of early release in

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Illinois, should spread to similarly overcrowded systems around the country. New federal funds (and those now earmarked exclusively for prison construction) should be allocated to help states develop ways to substantially reduce the number of nonviolent prisoners in their systems and to carefully evaluate the impact those reforms have on crime.

We are convinced that little will change unless the debate over crime and punishment can be covered more responsibly by the media. From 1992 to 1996, while homicides throughout the country were declining by 20%, the number of murders reported on the ABC, CBS, and NBC evening news increased by 721%. Six times as many Americans ranked crime as the number one problem in 1996 as in 1992. As long as the public, politicians, and the media focus on the demonic images of Hannibal the Cannibal, our jails and prisons will continue to fill up with the gang that couldn't shoot straight.

At a time when crime is down, the economy is strong, and no Americans are fighting on foreign soil, we have a unique opportunity to turn our attention to one of our most pressing domestic problems. The cycle of imprisonment has taken on a life of its own, but it is something we created, and as such, something we can change.

The Justice Policy Institute is a policy development and research body which promotes effective and sensible approaches to America's justice system.

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For more information on criminal justice research, please visit our website at www.cjcj.org/jpi.

VI. Endnotes

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5. State data for 1978 through 1996 from several sources: Gilliard, Darrell K. et al. *Trends in U.S. Correctional Populations, 1992*, p. 11-17, Washington D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1992; Federal data from *Sourcebook of Criminal Justice Statistics, 1980.*, Maguire, Kathleen and Ann L. Pastore, editors *Sourcebook of Criminal Justice Statistics, 1996* [1980, 1996], Washington D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1997. Note: Federal and state data were combined to create a national aggregate figure.
6. Gilliard and Beck, 1998. p. 11.; Harlow, Caroline Wold, *Profile of Jail Inmates, 1996*, Washington, DC: Bureau of Justice Statistics, 1998, p. 2.
7. It is possible that the nonviolent prison population topped 1 million towards the end of 1997. With the current state of knowledge about jail and prison inmates, and the constant change in correctional populations, it is impossible to know exactly when the million mark was passed.
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