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The Reverse Mass Incarceration Act

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The last four decades have seen an exponential increase in the United States prison population. The rise in mass incarceration has taken an enormous economic and social toll—with much of the brunt falling on low-income and minority communities.

The scale of the problems demands ambitious solutions. Just as the federal government pushed states into mass incarceration in the 20th century, it should move them away from it in the 21st.

The size of the US prison system is truly unparalleled. With almost 1 in 100 American adults locked away behind bars, our incarceration rate is the world's highest—eight to nine times that of many European countries. This adds up to an overwhelming 2.3 million people in prison and jail today (five times as many as there were in 1970).

Those numbers would not be so shocking if there were persuasive evidence that today's penal policies are effective in reducing crime. Yet, quite the opposite is true. A 2015 [analysis](#) I coauthored with colleagues from the Brennan Center found that “in the 2000s, increased incarceration had no effect on violent crime and accounted for less than one-hundredth of the decade's property crime drop.”

States such as New York, New Jersey, California, Mississippi and Texas have significantly reduced their prison populations and seen drops in crime.

While these numbers are cause for some optimism, the long-term economic toll of mass incarceration remains. Jails and prisons are largely the province of the poor. Two-thirds of those detained in jail [report](#) incomes of less than \$12,000 before arrest. But that is just the start.

Incarceration fosters economic insecurity through fees and fines and by making access to public benefits difficult or impossible. By one estimate, incarceration reduces annual earnings for male ex-offenders by [40 percent](#). Another analysis finds that there would be roughly 5 million fewer people living in poverty (a [20 percent](#) decrease in the poverty rate) if not for the rise in incarceration rates over the last several decades.

Mass incarceration, and the money to pay for it, came from a shift in public policy in the mid-1980s that viewed imprisonment as a primary tool for fighting crime. Several factors were responsible for this approach. Rising crime rates, including the crack cocaine epidemic, contributed to a widespread media portrait of a society spinning out of control. In addition, the public was demanding action. By 1982, nearly [half](#) of Americans (48 percent) said they were afraid to walk alone in their neighborhoods at night. Further, some criminologists were predicting a coming crime wave because of a swell in the population of teenagers and young adults, the age cohort that commits the most crime. Even as crime began to plateau in the early 1990's, criminologist Jack Levin [warned](#), “This is the lull before the crime storm that we're going to have in this country the next decade.”

The apogee of the get-tough-on-crime philosophy was passage of the 1994 federal crime [bill](#), formally known as the Violent Crime Control and Law Enforcement Act. Among other things, the measure called for the hiring of 100,000 new police officers, made an array of offenses (such as carjacking and “drive-by” shootings) federal crimes, allowed juveniles 13 and older to be tried as adults in federal court, and mandated life in prison for conviction of a third violent felony.

At the time, the most controversial part of the bill was the ban on assault weapons, which has since lapsed. Yet, tucked within the legislation was \$19 billion in today's dollars for states to increase incarceration.

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Many states were already building new prisons, but the federal money supercharged the prison construction boom. At the peak of the rush, a new prison opened on average [every 15 days](#), according to the Congressional Research Service. Indeed, prison construction may be considered one of the most concerted public works projects in recent history.

What is needed is a new federal crime bill, one that has incentives for states to reduce their prison populations instead of expanding them. The overall goal would be to reduce the prison population 20 percent in the next decade. The legislation, which could be called the "[Reverse Mass Incarceration Act](#)," would have four key features:

- A new federal grant program of \$20 billion over 10 years in incentive funds to states.
- A requirement that states reduce crime and their prison population by at least 7 percent over a three-year period in order to receive funding.
- A clear methodology that includes factors such as population size to determine the amount of funding a state receives for meeting the targets.
- A requirement that states invest these funds in evidence-based programs proven to reduce crime and incarceration.

This kind of legislation would bring about a large-scale decrease in our prison population and make clear that our society is capable of responding to crime in a more evidence-based, nuanced, and humane way. But first we need to make these type of changes part of the national dialogue.

Now is the time for leadership. With the next presidential election in less than 12 months, all candidates should be pressed for their views on criminal justice to determine whether they wish to merely continue the failed policies of the past or bring about a new era of reform that the criminal justice system desperately needs. Mass incarceration was a deliberate public policy choice; undoing this failed system must be as well.

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