INCARCERATION NATION: THE “WHAT,” “HOW,” AND “WHY” OF THE UNITED STATES PRISON SYSTEM

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Abstract

Beginning in the 1970s, the United States experienced an exponential growth in its prison population that corresponded with a sharp rise in violent crime. However, while that rate began to fall around the mid-1990s and has been dropping ever since, incarceration rates have continued to climb, only recently experiencing a decline of their own. Today, the United States leads the world in the raw number of its own citizens it incarcerates and is second only to the tiny African nation of Seychelles in imprisonment rate per 100,000 citizens. This study looks at why incarceration is so high in the 50 states and finds several contributing factors, including Republican control of government, higher black and Hispanic population levels, poverty rate, ideology, and levels of welfare expenditures. It then examines how the United States’ prison system came to be this way through a series of case studies, which show that private prisons and the drug war have played a major role in some states. Finally, the study discusses the consequences of mass incarceration on America’s citizens and communities, and it proposes a set of policy solutions in an effort to contribute to the national dialogue on criminal-justice reform.

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Introduction

Between the 1920s and the 1970s, the United States’ rate of imprisonment found a stable equilibrium of about 100 per 100,000 people. However, in the late 1970s and early 1980s, there was a stronger social and legislative focus on crime, and the ascension of the Reagan administration precipitated a larger national swing on issues of law and order. In an effort to remove government from aspects of daily life, Reagan often turned to free-market solutions; one area subsequently impacted by this shift was the prison industry. Politicians of both parties began supporting tougher sentencing practices in response to public outcry over crime.

Figure 1

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From 1970 to 2001, the United States witnessed an acute spike in the imprisonment of its citizens, increasing from about 100 inmates per 100,000 people to 470. By 2012, that number was almost 716.

In total, there are over two million prisoners in American prisons and jails, including both those who have been convicted and those still awaiting trial. The United States has seen a constant rise in incarceration rates, even as levels of violent crime have been on a downward trajectory. Accounting for this uniquely punitive system of incarceration has baffled some criminologists and legal scholars as well as lawmakers and citizens. As Milton Rector, the president of the National Council on Crime and Delinquency, poignantly stated, “The rate of imprisonment in the United States, which takes pride...in its protection of liberty and freedom, is considerably higher than the rate in any other industrialized nation.”

To put this into perspective using raw numbers, China, which has a population roughly four times that of the United States, is a distant second with a prison population of roughly 1.6 million. Per 100,000 people, the next (major) highest-incarcerating countries are Cuba (510) and Russia (475). For reference, other Western countries have far lower rates, including Germany (79), Australia (130), and Japan (51). The United States still leads the world in these statistics, even though the imprisonment

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5 Ibid.
8 Supra, note 4.
9 Ibid.
rate has gone down over the past few years. In fact, the only other penal system in recent history with a comparable incarceration rate was the GULAG of the Soviet Union in the 1950s. These realizations have prompted much debate over why the United States has earned this dubious distinction.

Scholars and criminologists have devoted much of their time over the past few decades trying to observe the phenomenon of increasing incarceration rates across the United States. That longevity has produced several mutually agreed-upon influencing variables, including violent crime rates, poverty rates, the racial makeup of a state, the dominant political philosophy of a state, high-school graduation rates, and others.

One might intuitively think that violent-crime rates would best predict levels of imprisonment; however, as Figure 2 shows, as violent crime has subsided over the past two decades, incarceration rates have increased.

Figure 2


11 Supra, note 7.
Moreover, a 2015 study by the Brennan Center for Justice empirically tested the claim that crime dropped because of higher incarceration rates and concluded that, “when other variables are controlled for, increasing incarceration had a minimal effect on reducing property crime in the 1990s and no effect on violent crime. 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.”

Beyond the causes of the country’s crowded prison system, some are beginning to question the consequences of such a system and how we can begin to address them. Thus, this study will examine the phenomenon of mass incarceration holistically. First, I will observe what has caused the rise in United States incarceration rates over the past few decades. This will be carried out through a quantitative analysis that observes multiple variables across the 50 states. I base this research off a similar 2001 study by Greenberg and West, who look at imprisonment rates between 1971 and 1991. This chapter will update some of their variables and add a handful of others that have become more pertinent since their study was undertaken.

Second, I will look at how some of these variables interact with incarceration rates in four case studies. While Chapter 1 simply tells us which variables matter, Chapter 2 explores how their relationships with incarceration occur. I will examine each variable in four states—Arizona, Louisiana, Colorado, and Delaware—to help accomplish this. The three indicators I will use are the existence of private prisons in a

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12 Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, "What Caused the Decline in Crime?" Brennan Center for Justice, February 12, 2015, 79.
state, the severity of drug laws, and how much control the Republican Party exerts in each state's government.

Finally, the last chapter includes a discussion of why mass incarceration is a problem for the United States. This entails a look at the effects of such a system on communities, families, inmates, and governments. Moreover, Chapter 3 also seeks to contribute to the broader national discussion of reform by suggesting policy prescriptions that should be considered in any reform efforts. Some suggestions are original, while others are currently a part of national policy discussions.
I. The “What”: An Analysis of Causality

Most research on the phenomenon of mass incarceration heretofore either has not been comprehensive or was conducted long enough ago that it fails to account for some of the more recent changes surrounding the United States’ criminal-justice system. One thorough examination of determinants of prison population levels comes from Greenberg and West, who observe them across the 50 states between the years 1971 and 1991. This chapter seeks to build upon their research by including variables that other scholars have found to be relevant—the escalating drug war and the greater ubiquity of private, for-profit prisons, for example—in predicting incarceration rates across the United States. Moreover, as the last year in their study was 1991, this research will update their variables with data as recent as 2010.

Review of Literature

In the literature discussing the increased rate of incarceration in the United States, influencing factors are generally separated into four categories. The first considers serious violations of criminal law, such as violent crime and narcotics offenses. The others are composed of “factors that may constrain or influence the use of imprisonment as a response to criminal law.” This includes perceived threats, political factors, and cultural influences.

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14 Ibid., 618.
Crime

Crime has long been considered a central reason for high prison populations: the natural response to crime is to put criminals behind bars. Greenberg and West deem violent crime to be predictive of higher incarceration rates because imprisonment is the strategy states will often use as a countermeasure. They find that states with higher violent-crime rates imprison more of their citizens. They assert this was likely due to the fact that violent-crime rates—as opposed to, say, property crime or non-violent crimes—tend to see prison sentences given as punishment. Sutton similarly finds that homicide rates are strong and significant predictors of imprisonment.

However, recent trends have added a new element to the discussion. The Disaster Center documents that, since 1991, there has been a slow, steady decrease in total crime, and specifically in violent crime. Today, the violent-crime rate is at historic lows. This reversal began happening even as incarceration rates continued to climb. There are two competing theories for why this happened. Some scholars subscribe to the idea that higher levels of imprisonment have taken the most dangerous criminals off the street, which has thus made communities safer. A 1994 study by Marvell and Moody found that prison population growth leads to lower crime rates.

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15 Ibid.
Two years later, Levitt found that, for every additional criminal locked away, the number of crimes committed fell by 15 per year. He concluded that “the marginal costs of incarceration are at or below the accompanying social benefits of crime reduction.”\(^{20}\)

Levitt and Kessler found similar conclusions about the deterrence effect when observing crime in the years following California’s passage of Proposition 8, which stiffened sentences for some harder crimes.\(^{21}\)

However, much has changed since those studies were undertaken. In 2015, the Brennan Center for Justice issued a report entitled “What Caused the Drop in Crime?” The report specifically tested the claim that crime dropped due to incarceration and concluded that, “when other variables are controlled for, increasing incarceration had a minimal effect on reducing property crime in the 1990s and no effect on violent crime. 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.”\(^{22}\)

A report produced by The Sentencing Project looked at the impact of decarceration on public safety in three different states: California, New Jersey, and New York. The report found that all three states experienced greater reductions in violent crime in the 2000s than the national average; toward the end of the decade, as crime rates continued to decline, they began to coincide with a decrease in imprisonment.\(^{23}\)

The authors stated that, while it may seem counterintuitive for crime to be decreasing


\(^{22}\) Oliver Roeder, Lauren-Brooke Eisen, and Julia Bowling, "What Caused the Decline in Crime?" Brennan Center for Justice, February 12, 2015, 79.

as fewer people are being imprisoned, “this is because just as forces beyond crime rates affect incarceration levels, forces beyond incarceration affect crime.”24

The so-called "War on Drugs" has also influenced rising prison populations. States with higher rates of narcotics arrests generally see a climb in rates of imprisonment.25 During the last quarter of the 20th century, strict laws criminalizing drugs became ubiquitous in the United States, which was followed by a major uptick in imprisonment rates.26 In 1986, Congress passed the Anti-Drug Abuse Act—widely considered to be the first major piece of legislation passed to fight the War on Drugs—which created mandatory minimum sentences for an array of substances, with a particular emphasis on marijuana.27 Starting around the mid-1980s, drug-related arrests saw a sharp spike and have only continued to climb. Notably, research shows that most of the imprisonment for drug charges that occurred during the period 1972–2002 resulted in offenders spending time in state prisons.28

Furthermore, although violations of drug laws account for a relatively small fraction of those in prison, the War on Drugs had ancillary effects that may be responsible for the rise in incarceration.29 First, criminalizing any good or service for which there is a demand will necessarily create a black market. Organizations then form to traffic these products; in the case of illicit drugs, these groups are often gangs. As the

24 Ibid., 7.
25 Supra, note 13.
Bureau of Justice Statistics (BJS) notes, violent crime is an inevitable byproduct of this type of environment, as there is no legal arbiter to settle disputes. Violent confrontations can occur from competition over markets and customers, disagreements over individual transactions, and the possibility that those involved in the drug trade are simply more prone to use violence.\(^{30}\)

The other secondary effect of the War on Drugs is the attitudinal change toward issues of crime. Nunn suggests this is evident in the use of the word “war.” The police who are tasked with carrying out the war may succumb to a “warrior mentality.” This view is enhanced by the use of military-style equipment, weapons, and tactics when initiating drug raids.\(^{31}\)

**Perceived Threat**

There are other, less direct predictors of high incarceration rates, one of which is race. According to Glasser, the results of the drug war largely stem from racial profiling.\(^{32}\) Following the passage of the 1986 Anti-Drug Abuse Act, the Drug Enforcement Agency created a new initiative known as “Operation Pipeline.” The main idea of this program was to intercept drugs as they were being transported. Program statistics show that, while only 21% of those driving down the stretch of I-95 near Baltimore, Maryland, were racial minorities, they constituted 80% of those who were pulled over and searched. Key signs for law enforcement included cars with an air


freshener, which could possibly be present to conceal the smell of marijuana, and bumper stickers indicating the driver had been to Jamaica, which “raises the odds that there are drugs inside the car.”

These disparities in drug arrests are not confined to the Mid-Atlantic; they span the country. A 1995 BJS report noted that blacks constituted 40% of all drug arrests but only 13% of drug users. More recently, the American Civil Liberties Union (ACLU) issued a comprehensive report on racial disparities in sentencing and found that, not only are blacks far more likely to be arrested on marijuana charges than whites (and at higher rates than a decade prior), but also this happens despite the fact that both races use the drug at the same rate. Similarly, the 1986 drug law created legal disparities in sentencing between crack and powder cocaine. The sentencing ratio was 100 to one for cocaine and crack, respectively, meaning that five grams of crack triggered the same minimum sentence as 500 grams of cocaine. This disparity helped create an inequality in prison populations, as the majority of those committing offenses with crack were African American.

Empirical research also supports the idea that race is a determinant of incarceration rates. In Greenberg and West’s study, states with higher percentages of black residents see correspondingly higher imprisonment levels. Nicholson-Krotty and Meier find that, between the years of 1950 and 1998, there was a corresponding

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33 Ibid., 704–705.
37 Supra, note 13.
0.58\% increase in average sentence length for every 1\% increase in the black poverty rate.  

Some might argue that the reality of such disproportionate incarceration is due to the simple fact that blacks commit more violent crimes than other races. According to 2012 figures by the Federal Bureau of Investigation (FBI), black Americans committed just under half (49.4\%) of all murders in the country, though whites were responsible for violent crime more broadly (58.7\%), which includes forcible rape, robbery, and aggravated assault. The Manhattan Institute notes that in New York City blacks commit crimes at far higher rates than whites, meaning that “virtually every time that the police in New York are called out after a shooting, they are being summoned to minority neighborhoods looking for minority suspects.”

However, crime statistics do not tell the full story. As Tonry argues, “[Most] contemporary scholars of crime...agree that black criminality is the product of social and economic disadvantage, much of it...traceable to racial bias and discrimination.” Greenberg and West partly attribute higher levels of black incarceration to history: there was a severe backlash against policies passed during and after the Civil Rights Movement, such as integration and affirmative action. Essentially, whites may have felt threatened or resentful of these changes, and this perceived threat may have manifested itself in more discriminatory laws toward blacks.

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Alexander further develops this argument. She posits that incarceration is simply the newest permutation of punishing black individuals in America. After slavery was abolished in the South, many states implemented Jim Crow laws, which essentially acted to keep blacks from operating as equals to their white counterparts. One such law was the poll tax. Alexander argues black Americans now face a “new Jim Crow” through incarceration. While the United States population is 75.1% white and 12.3% black, whites only compose 33.3% of the prison system, while blacks constitute 45.6% of all prisoners. Given this disparity, a greater proportion of blacks face discrimination upon their release from prison, such as barriers to jobs or housing, as well as an inability to vote in many states.

Other research shows that economic factors like economic inequality and poverty rates can help elevate these perceived threats. Though Greenberg and West do not find economic inequality to be a significant predictor of incarceration rates, others do. Pettit and Western suggest that criminal-justice officials perceive the poor as a threat to social order. This can lead to the creation of more stringent laws, as well as increased attention on the poor by law-enforcement officials, to ensure members of the former group do not become restive and try to better their situation. Similarly, the growing income gap creates the same kind of anxiety among the wealthier mem-

bers of society. Pettit and Western conclude that economic inequality leads to inequality in incarceration, as it expands criminal punishment among the disadvantaged.45

One economic theory of imprisonment shared by many scholars is known as the Rusche-Kirchheimer hypothesis, or the theory of “labor surplus and punishment,” which considers unemployment in the context of “perceived threat.”46 The theory posits that the unemployed tend to be the most desperate and, therefore, the most susceptible to crime. Societal elites, wary of a perturbed and swelling underclass, will try to mitigate this by intensifying punishment as the surplus (or unemployed) population grows. Multiple studies have confirmed that higher unemployment is a strong causal indicator of higher levels of imprisonment. Greenberg and West find that, for every 5% increase in unemployment, there is a corresponding rise in the imprisonment rate by about 16.5 per 100,000 people.47 In a cross-national study, Sutton shows that a 1% rise in unemployment leads to a 0.3% increase in prison populations.48

Soss et al. offer another view on the poverty-incarceration relationship, one that incorporates political factors—a category that will be discussed in greater detail shortly.49 Through an observation of the 1996 welfare-reform act, they argue that states use anti-poverty policy to “manage” the poor and determine who is worthy of government assistance. They note that “poverty is more than a blight to be eradicated;

45 Ibid.
47 Supra, note 13.
48 Supra, note 16.
it is also a problem of governance.” The authors note that, because it is impossible to completely eradicate poverty in a competitive, capitalistic society, poverty programs are used to move the poor into the lower reaches of social institutions. Moreover, governments, which dictate the behavior of the poor if the latter wishes to receive benefits, also contain a disciplinary arm for those who do not comply: incarceration. As Soss et al. explain, “[In] the 1970s, welfare and penal operations shifted in tandem as two elements of a single apparatus for managing the poor.”

**Political Factors**

Scholars have long considered political factors to be a major influence on incarceration rates. Specifically, Tonry claims that the power of politically “right” parties, or conservative parties, is a useful predictor. He explains that, until the 1960s, debates of crime and punishment used to be much less about ideology and more about policy differences on how best to address crime. These differences were typically handled by policy experts and technocrats—disputed and worked out within parties, not across them. However, in the 1960s, when the Democratic Party experienced a fissure over issues of civil rights, the Republican Party used the opportunity to more clearly define the differences between the parties. Republicans claimed that rampant crime was due to lenient judges and soft punishments.

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50 Ibid., 1.
51 Ibid., 109.
Tonry notes that the politicization of criminal-justice policy necessarily led to tougher policies. Complex policies were reduced to pithy slogans, which helped bring about ideas like “mandatory minimum” sentences and the “three-strikes” rule. These policies and others were meant to give less discretion to judges when deciding sentences for criminal defendants. Mauer observes that, between the years of 1980 and 1996, the prison population in America nearly tripled and that shifts toward stricter criminal-justice laws accounted for 88% of this increase.

Sutton finds politics to be an influential factor in other countries as well. In Australia, Canada, New Zealand, the United Kingdom, and the United States, conservative parties have tended to favor harsher sentencing laws and penalties for crime than have more liberal parties. After Sutton tests this assumption, it proves to be statistically significant. Conversely, however, Greenberg and West try to measure this effect by accounting for the party of a state's governor, and they find that it makes virtually no difference.

Perhaps one of the most important pieces of literature that observes the political effect on criminal-justice systems is Simon’s *Governing Through Crime* (a work that also adds to the literature about perceived threats). Not unlike Tonry, Simon argues criminal justice underwent a transformation from a policy issue dealt with by experts to a governing tactic used by elected officials. One of his notable contributions to the research on this topic is a discussion of how the Civil Rights Movement was

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53 Ibid.
54 Supra, note 26.
55 Supra, note 16.
56 Supra, note 13.
partially responsible for tougher laws. Women and minorities were often the victims of violence, and their plights became intertwined with the national effort to address crime. Simon explains that both the black victims of racist violence and the female victims of rape and assault became “idealized political subjects,” which can be “easily linked to another key center of political mobilization…the taxpayer, victimized by government, threatened with the loss of wealth and even the ability to own a home by an avaricious political establishment.”

Simon ties together the factors influenced by “perceived threat” and “politics” through these observations. In the 1980s, when the country began to experience a rise in conservative power and a shift in the pervading political ideology, Republicans successfully introduced rhetoric linking taxes and the aforementioned issues plaguing crime victims to welfare for poor, minority communities in urban areas, the same communities that were often blamed for crime. Simon argues that this led to an implicit rule: lawmakers should always side with “the interests of a political subject that is both taxpayer and (potential) crime victim.” As fear of crime went up, legislators responded correspondingly to the wishes of this political subject.

Another political factor potentially influencing prison populations is the creation and propagation of private, for-profit prisons. The number of prisoners in private prisons increased by a dramatic 1600% between 1990 and 2009. As Sarabi and Bender explain, private prisons were not a force in America’s judicial system until the

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1980s, when Reagan began a renewed push for greater privatization of government services. Bender later developed this idea by studying the influence of the private-prison industry's lobbyists in Southern state legislatures. He found several instances of politicians favoring prison interests, whether by passing pro-industry laws or fighting off unfriendly legislation. Gottschalk notes that privatizing criminal justice also gives an easy out to politicians who want to appear tough on crime while still minimizing the role of the state.

**Cultural Factors**

One last area studied by Greenberg and West deals with the influence of cultural factors. One of the main cultural predictors of higher incarceration rates is the predominant political philosophy held by citizens in a particular state. For instance, states that are more ideologically conservative possess much higher prison populations than ideologically liberal states. Similarly, states with higher levels of religious fundamentalism are more prone to lock up more of their citizens than states with a more secular or moderately religious makeup.

These two factors influence others as well, such as welfare spending. Greenberg and West find that states with more generous welfare policies have lower prison...

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63 Supra, note 13.
populations.\textsuperscript{64} In calculating “social welfare” across countries, Sutton includes pensions, unemployment benefits, public assistance—what Americans generally refer to as “welfare”—and family allowances for families with children.\textsuperscript{65} He finds this to be a highly significant and inverse relationship, indicating higher rates of welfare expenditures correspond with lower levels of imprisonment.

Similarly, some scholars have found education spending to play a role vis-à-vis incarceration rates. As Sutton explains, “Schooling produces competent citizens. Thus, education expenditures provide a measure of public commitment to legitimate life-course development... Expansive investments in the field of education tend to narrow the developmental path toward criminality.”\textsuperscript{66} This variable often operates as a functional equivalent to welfare spending, and its efficacy is also usually dependent upon which political party is in power.

Low levels of education can also present problems. Past studies have found a strong causal link between the completion of high school and the probability that a student will end up behind bars. High-school dropouts are between three and four times more likely to be incarcerated than their peers who complete at least 12 years of schooling.\textsuperscript{67} Research also finds that those who completed at least some education beyond high school saw the most dramatic decrease in their likelihood of going to prison later in life, more than at any other stage of educational progression.\textsuperscript{68}

\begin{itemize}
\item \textsuperscript{64} Ibid.
\item \textsuperscript{65} Supra, note 16, 361.
\item \textsuperscript{66} Ibid.
\item \textsuperscript{67} Supra, note 44.
\end{itemize}
Greenberg and West also find that a few factors that might logically influence incarceration rates are, in reality, insignificant. They find that there is no regional effect of note. Though imprisonment rates tended to be higher in the South, this is perhaps due to other variables, such as the prevalence of conservatism, religious fundamentalism, and higher black populations in that region. Additionally, the presence of Hispanics does not appear to be significant. However, since 1990, the last year of Greenberg and West’s study, the number of Hispanics who have been incarcerated has increased by 43%.\(^{69}\) By 2005, roughly one in six Hispanic men could expect to end up in prison, which is double the rate of non-Hispanic whites who face the same consequence.

**Theorizing Imprisonment Rates**

Though my analysis will emulate Greenberg and West in some ways, this study also seeks to further develop their methods and findings. First, it will update the data sets used in their study to include trends that have occurred since 1991, which will account for the previously mentioned decline in crime rates. Additionally, variables will be added to assess the effect of high-school dropout rates and the presence of private prisons within a state. The variable measuring drug arrests will also be revisited, in order to account for the peak years of the drug war. Finally, this study will also develop a new way to measure the power of the Republican Party across the states.

The BJS released a 2011 report showing that arrests for drug possession and use have seen a dramatic rise since 1990.\textsuperscript{70} Although this data comes from the national level, I can extrapolate that this trend can still be observed when analyzed on a state-by-state basis. I expect the influence of narcotics arrests on incarceration rates to be much stronger in the years succeeding 1990.

\textit{Hypothesis 1: By expanding the scope of the study to include the peak years of the drug war, I expect there will be a stronger causal relationship between narcotics arrests and incarceration rates than was found by Greenberg and West.}

I will observe the power of the Republican Party within a state. Although members of both political parties were supportive of “tough-on-crime” measures in previous decades, past research indicates conservative parties have been likelier to favor stricter criminal-justice policies as well as less generous welfare policies. Greenberg and West attempt to measure this phenomenon by observing the party of a state’s governor. Their rationale is that “it is the governor who prepares budgets, making decisions about prison construction that should ultimately impact on prison populations.”\textsuperscript{71} However, governors may be elected in states that are dominated by the opposing party, which tends to manifest itself in the state legislature.\textsuperscript{72} This study will address this shortcoming by modifying how the variable is measured.

\textsuperscript{71} Supra, note 13, 625.
Hypothesis 2: States with more conservative (Republican Party) control of government will have higher incarceration rates.

Some groups have a vested financial interest in keeping prisons full and often seek the passage of more stringent laws to ensure this. For instance, many state governments contract incarceration services out to private prison companies because they purport to be more efficient. It is thus to the advantage of private prisons to have more prisoners because they will only remain in business if their services are needed. Therefore, these companies, as Bender shows, will lobby for stricter or more laws and law enforcement in order to fill their cells with more bodies and, in so doing, maintain their profits. 73

Hypothesis 3: States with high private prison populations in state correctional facilities (relative to state-run prisons) will have higher overall incarceration rates.

Finally, literature has shown that high-school dropouts constitute a much greater share of prison populations than do those who have completed high school.

Hypothesis 4: States with higher high-school dropout rates will have higher incarceration rates.

Measurements

The unit of analysis for this study is the state, and 49 states are examined using a time-series analysis. 74 Measurements will be taken in five-year increments (i.e.,

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73 Supra, note 61.
74 Nebraska will not be observed in these tests, as it does not have a partisan legislature and therefore cannot contribute any data to the variable analyzing GOP control of government.
1990, 1995, 2000, etc.), which will be referred to as “base years.” Greenberg and West note that previous studies have assumed a mean sentence length of about two or three years, so spacing cases five years apart should guarantee that they are mostly independent of one another. Data will be collected from 49 states over five sampling years, providing a total of 150 and 235 cases for Model 1 and Model 2, respectively.

Dependent Variable

Consistent with Greenberg and West, incarceration rates will be measured as “the total number of prisoners in a state’s jurisdiction serving sentences of a year or more per 100,000 population. Prisoners sentenced in one state but serving in another...are attributed to the state that did the sentencing.”75 The reason for measuring the variable this way is that this study is concerned with the number of individuals sentenced in each state, not with the state or prison in which the sentences are served. This information will be collected from the BJS. Following Greenberg and West’s suggestion, prison-population measurements will be taken one year after the base years to allow for necessary time to convict and sentence those who have been arrested.

Independent Variables

The effect of the drug war will be calculated using data from the FBI’s Uniform Crime Reports, in which it documents drug-abuse violations by state. It will be measured as arrests per 100,000 people. Greenberg and West try to measure conservative

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75 Supra, note 13, 626–627.
party influence by using the party of the governor. However, many states have governors of a certain party even if voters overwhelmingly identify with the other; this should be evident in the makeup of the state legislature. To measure this effect, I will create a new index of GOP power. States with Republican control of both the governorship and both chambers of the legislature will be marked as a “5”; states in which Republicans completely control the legislature but not the governorship will be labeled as a “4”; states in which the GOP either only controls the governorship or controls the governorship and one chamber of the legislature, will be given a “3”; states in which Republicans control only one house of the legislature will be a “2”; and states with no Republican control will be marked as a “1.” This variable will be given a five-year lag from each base year in order to allow time for the policies of a new legislature or governor to take effect.

A variable assessing private prisons’ financial motives will also be added to further enhance Greenberg and West’s study. It will be measured by dividing the number of prisoners in private state prisons by the total population of all state prisons, giving us the proportion of prisoners in private facilities. These data will be collected from the BJS, which notes that its private-prison numbers are based on “the legal authority of state or federal correctional officials over a prisoner regardless of where the prisoner is held.” This is important, as prisoners are sometimes sent to facilities outside of the state in which they were sentenced.

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I will also use a variable accounting for high-school dropout rates. As measures for the dropout rates, per se, are not readily available for each base year, I will measure high-school graduation rates, the assumption being that the academic career of students who fail to graduate can only end in one other alternative: dropping out. This data comes from the National Center for Education Statistics, part of the United States Department of Education.

Control Variables

I measure a state’s violent-crime rate as violent offenses reported to the police per 100,000 inhabitants. Crimes classified as “violent” by the FBI include homicide, rape, aggravated assault, and robbery. Data is provided by the Disaster Center, which thoroughly documents FBI Uniform Crime Reports for every state between the years 1960–2012.

Data from the United States Census Bureau (USCB) will be used to find the percentage of each state’s population that is black and Hispanic. The USCB measures poverty rates as the percentage of a state’s citizens living below the poverty line. Unemployment rates are accounted for by using the average rate during each observed year. This data is provided by the Bureau of Labor Statistics.

I will follow Greenberg and West’s example of calculating the political conservatism of a state by using CBS News/New York Times polls. The closer to 0 the value lies, the more conservative a state is. The USCB also does an annual report on state-government finances that includes some welfare expenditures. The measure
includes federal aid programs (e.g., Temporary Assistance to Needy Families), medical-assistance programs, food-stamp administration, and child-welfare services, among other assistance. This will be measured as a percent of a state’s total expenditures and, in line with Greenberg and West’s methodology, will have a lag of two years relative to the base years to account for the effect of budget policies. Unfortunately, current data sets measuring religious fundamentalism are not available for the years used in this study; thus, the variable will not be included.

Methodology

Due to constraints on the availability of some data sets, two models will be tested, each employing multivariate linear regression. Model 1 will include every variable and observe base years between 2000 and 2010 in order to see what effect, if any, private prisons have on overall incarceration rates. Model 2 will omit the private-prisons variable and extend the years of observation to between 1990 and 2010. Removing this variable from the second model allows for the expansion of the time-series analysis: instead of only including data going back to 2000 (as in Model 1), we can use data from as far back as 1990. These time frames were chosen to account for any changes to the variables since 1991, the final year analyzed in Greenberg and West’s study.

78 Private prison data from the BJS has only been made available since 1999, which necessarily limits the scope of Model 1.
Data and Analysis

The regression analysis offers many significant findings for the independent variables. Both the private prisons and GOP variables were included in the first test. The R-squared score reveals that 69.9% of the variation of the dependent variable is explained by the variation on the independent variables. Moreover, the F-test confirms that the equation used for this model is significant.

Table 1 shows that, among the independent variables, drug arrests are a significant determinant (at the 95% confidence level) of the incarceration levels of a state. However, the relationship is relatively weak: for every one-unit increase in drug arrests, there is a corresponding increase in the incarceration rates of just 0.144. Private-prison populations, GOP control of government, and high-school graduation rates did not prove to be significant indicators in this model.

Table 1. Regression Analysis of Independent Variables (with Private-Prison Variable)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 1 Imprisonment Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
</tr>
<tr>
<td>Drug arrests</td>
<td>.144</td>
</tr>
<tr>
<td>GOP control of government</td>
<td>7.679</td>
</tr>
<tr>
<td>Private prison populations</td>
<td>.741</td>
</tr>
<tr>
<td>High-school graduation rate</td>
<td>.262</td>
</tr>
<tr>
<td>Violent-crime rate</td>
<td>.041</td>
</tr>
<tr>
<td>Black population</td>
<td>6.639</td>
</tr>
<tr>
<td>Hispanic population</td>
<td>.788</td>
</tr>
<tr>
<td>Poverty rate</td>
<td>17.715</td>
</tr>
<tr>
<td>Unemployment</td>
<td>-6.891</td>
</tr>
<tr>
<td>Ideology</td>
<td>-2.102</td>
</tr>
<tr>
<td>State welfare expenditures</td>
<td>-5.922</td>
</tr>
</tbody>
</table>

R²: .699
N: 147

Notes:  *Significant at the 0.05 level
         **Significant at the 0.01 level
         ***Significant at the 0.001 level
One control variable worth noting is "violent crime." As expected, because imprisonment levels have increased as violent crime has gone down, there is no discernable causal relationship between the two. Additionally, the variable accounting for the effect of welfare expenditures has a strong causal relationship with incarceration rates: for every one-unit increase in welfare spending, there is a corresponding 5.922-unit decrease in the imprisonment rates.

Model 2 omits the private-prison variable, expanding the scope of the time-series analysis. It has slightly less predictive value (62.1%) than Model 1 (69.9%) but is nonetheless significant at the 99.9% confidence level. The model presents several points of interest. Again, drug arrests are found to be statistically significant at the 99.9% confidence level, and, although the corresponding increase in incarceration rate (0.211) is greater than in the first model, it is still relatively small.

Table 2. Regression Analysis of Independent Variables (without Private-Prison Variable)

<table>
<thead>
<tr>
<th>Variable</th>
<th>Model 2 Imprisonment Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>B</td>
</tr>
<tr>
<td>Drug arrests</td>
<td>.211</td>
</tr>
<tr>
<td>GOP control of government</td>
<td>13.644</td>
</tr>
<tr>
<td>High-school graduation rate</td>
<td>-2.534</td>
</tr>
<tr>
<td>Violent-crime rate</td>
<td>-.066</td>
</tr>
<tr>
<td>Black population</td>
<td>7.442</td>
</tr>
<tr>
<td>Hispanic population</td>
<td>2.281</td>
</tr>
<tr>
<td>Poverty rate</td>
<td>4.410</td>
</tr>
<tr>
<td>Unemployment</td>
<td>-.221</td>
</tr>
<tr>
<td>Ideology</td>
<td>-2.934</td>
</tr>
<tr>
<td>State welfare expenditures</td>
<td>.555</td>
</tr>
<tr>
<td>(R^2)</td>
<td>.621</td>
</tr>
<tr>
<td>N</td>
<td>235</td>
</tr>
</tbody>
</table>

Notes: *Significant at the 0.05 level  
**Significant at the 0.01 level  
***Significant at the 0.001 level
One of the most notable items in this model is the influence of the new GOP variable: there appears to be a strong causal relationship, significant at the 95% confidence level. This means that, for every one-unit increase in GOP control, there is a corresponding increase of 13.644 in the rate of imprisonment, confirming Greenberg and West’s original thought through a different means of measurement.

Black population and ideology continue to be significant at the 99.9% confidence level. Interestingly, the Hispanic population variable is just shy of being significant at the 90% confidence level, which is a major shift from the first model. This is likely due to adding two extra sets of years to the regression, expanding the time-series analysis. Additionally, the public-welfare variable suddenly loses its significance in these models.

**Discussion**

This study adds some important findings to the existing literature. I reconfirm the argument of others before me that institutionalized punishment practices are not entirely a product of efforts to combat crime; indeed, several factors having nothing to do with crime, per se—Republican control of government, black and Hispanic population levels, poverty rate, ideology, and welfare expenditures—were found to significantly influence state-level imprisonment rates. Conversely, violent-crime rates appear to have no causal relationship with incarceration rates. Of course, this does not tell us whether the opposite is true—i.e., whether rising incarceration rates have
led to lower crime rates. However, as previous literature has shown, this relationship is either weak or non-existent.79

Two of the four independent variables—drug arrests and GOP control of government—had a statistically significant relationship with the dependent variable of incarceration rates; however, only Hypothesis 2 proved to be correct. Drug arrests, while significant in both models, had a negligible impact on levels of imprisonment—far lower than I anticipated. In fact, the value given from Model 1 for the increase in incarceration rates due to drug arrests (0.144) is almost the same as the value given in Greenberg and West’s study (0.110), even though my study expanded the time range to include the putative peak years of the drug war: the 1990s. As the two authors explain, “That imprisonment rates increased greatly for all categories of offenders suggests that the War on Drugs was part of a wider turn toward more stringent crime control policies, rather than a distinct offense-specific phenomenon.”80 In essence, the increase in drug arrests did contribute to rising incarceration rates, if only marginally, but it was more a symptom of a broader political push to tackle crime than it was a major predictor.

The variable assessing the influence of GOP control of government—one of my original contributions to the literature—ultimately had great predictive value of incarceration rates. The results showed that the more control the Republican Party has over a state government, the likelier that state is to see its level of imprisonment increase. Although this variable was not significant in the first model, the second set

80 Supra, note 13, 637.
showed that it had great explanatory power. Some may be wary of the assertion that Republicans are largely responsible for the uptick in prison populations, as crime-control policies were supported by both parties over previous decades. However, Republican control of government may not solely reflect the party’s support of more punitive policies; it could be a significant variable because of its relation to other variables, such as the generosity (or lack thereof) of a state’s welfare policies. Ideology was also a strong and significant variable and helps explain the Republican-control theory: the more politically conservative a state is, the higher its incarceration rates are expected to be (and the more the state is likely to have a Republican-controlled government).

The other two independent variables were insignificant, and this could be due to the availability (or lack thereof) of necessary data. Data for private prisons was only available as far back as 1999, which gave a short window for observation. In fact, it may be more appropriate to view private prisons not as a cause of rising incarceration rates, but rather a symptom of the larger prison-industrial complex. As Peter Wagner of the Prison Policy Initiative describes them, “Private prisons are more like a parasite on the public prison system.”81 High-school graduation rates were also insignificant in the regression analysis. Although previous literature suggests this relationship should exist, it did not within the models of this study. It is a variable that might be worth revisiting in future research.

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Lastly, the variable measuring percentage of the black population in each state had a strong causal relationship with the prisons variable. This is possibly one of the most relevant findings, as this paper is being written in 2015, when police relations with the black community are tense and blacks are overrepresented in the prison system.\textsuperscript{82} The data in this study shows that, in states with a larger proportion of black residents, levels of imprisonment are likely to be higher. A look at the data shows that many states with a higher share of black citizens—Alabama, Arkansas, Georgia, Louisiana, Mississippi, and South Carolina—have tended to possess higher incarceration rates.\textsuperscript{83} As the United States grows more diverse, this trend will certainly be worth following.

This research did run into a handful of limitations. Since the study observes mass incarceration solely at the state level, it was unable to account for indicators that drive federal imprisonment rates. Drug laws, for instance, while often mirrored by state governments and the federal government, can differ, especially as states have passed ballot measures making the possession and use of substances like marijuana legal.

Moreover, there were several data limitations in developing the study. Private-prison data only goes back to 1999, presumably because private facilities were less of a factor prior to the turn of the century. Similarly, black and Hispanic population


\textsuperscript{83} “ACS Demographic and Housing Estimates,” United States Census Bureau, 2013; supra, note 76.
statistics become much more difficult to find in years preceding the 1990s, which perhaps explains why Greenberg and West align their base years with the Census.

One last limitation was the difficulty of tracking down historical data on religious fundamentalism (as measured by Greenberg and West) for all 50 states. The data sets I was able to acquire did not include the years specific to this study. According to Greenberg and West, who are able to test the variable, it is not statistically significant until the welfare-payments variable is dropped from the model. They explain, “Welfare generosity is a consequence of a state’s religious composition: States with more fundamentalists have lower welfare payment levels.”

In carrying out future research on this topic, it would behoove researchers to take federal issues into consideration. One limitation of this study is the fact that, as many states begin initiating marijuana-legalization efforts—the drug for which most people are arrested—federal law is starting to play a greater role in incarcerating drug offenders. Additionally, Corrections Corporation of America (CCA), one of the largest private-prison companies in the United States, runs several federal penitentiaries, many of which are home to undocumented immigrants. Here we view two issues at once. The private-prison variable may have greater efficacy if there is some way to account for them at both the state and federal levels. Likewise, because undocumented immigrants tend to serve their sentences in federal prisons as opposed to

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84 Supra, note 13, 634.
state or local jails, any study focusing more on federal-level issues should take this into consideration.86

Future researchers may wish to experiment with the variable measuring private prisons, as it is relatively new. Instead of the number of prisoners who are in private prisons relative to a state’s total prison population, one might look at the number of private prisons that exist in a state relative to state-run prisons, or perhaps the amount of campaign donations given from the private-prison industry to state legislators. Moreover, in the last few years, states have begun weaning themselves off, or completely banning, private prisons.87 Future research may therefore see a reverse in, or at least a refutation of, the expected trend of my study.

As with most studies, further pursuit of better data sets is always encouraged. Unfortunately, for this research pre-1990s data on drug arrests and state Hispanic populations was very difficult to track down. As more data on private prisons becomes available, we might see the effect of that variable on incarceration rates change.

Finally, as previously mentioned, revisiting the variable measuring educational attainment in a state could prove worthwhile. If data is available prior to 1990, allowing for an expansion of the time-series analysis, it might give different picture of the relationship between education and levels of imprisonment.

II. The “How”: A Case Study of How Variables Interact with Incarceration Rates

As Chapter 1 explained, there are multiple factors that have led to increased imprisonment levels in the United States, including drug arrests, poverty, state welfare expenditures, the proportion of a state’s citizens who are black, ideology, and the power of the Republican Party in a state. This chapter will test how three of the independent variables from the previous chapter interact with incarceration rates. I will develop four case studies, observing the following three variables across four different states. For each state, I will note how the three identified variables interact with imprisonment rates.

The first variable is the emergence of private prisons. The theory behind this rise in private-sector involvement is that privatizing criminal justice offers companies an opportunity to profit from an individual’s stay in prison because the higher the occupancy rate, the more support these facilities will receive from state governments to keep up with demand.\textsuperscript{88} Although Chapter 1 concluded this variable was not a significant predictor of incarceration rates, the data was somewhat limited, as it only dated back to 1999. Analyzing private prisons qualitatively may offer a different perspective.

Secondly, the escalation of the drug war has appeared to have a strong influence on rising incarceration rates. According to the BJS, by 2007, arrest rates for drug

\textsuperscript{88} “Banking on Bondage: Private Prisons and Mass Incarceration,” American Civil Liberties Union, November 2, 2011.
Possession were three times higher than they were in 1982. While Chapter 1 concluded that the influence of drug arrests on levels of imprisonment was significant but not strong, the data did not take into account the fact that the War on Drugs resulted in more than just drug arrests; it represented a complete shift in thinking toward crime. Nevertheless, although drug offenders make up just a small portion of the overall prison population, the effect of new marijuana-decriminalization and legalization laws in the country makes this variable an interesting case study in decarceration.

Finally, the literature finds that the power of the Republican Party is a good predictor of higher incarceration rates, a claim that was substantiated in Chapter 1. Studies have shown that, during the era of conservative resurgence, America’s total prison population almost tripled, mostly due to shifting attitudes about criminal-justice policy. In each selected state, I will examine party control of the legislature and the governorship to determine how this phenomenon occurred.

**The Variables**

The American Bar Association notes that, when private prisons first surfaced around 1990, only about 7,000 citizens were housed in them, but, by 2010, that number had gone up to 126,000. By the end of 2013, the total number of prisoners in

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private facilities was around 194,000.\textsuperscript{92} As discussed in Chapter 1, this may be due to prison economics: private corporations have a vested financial interest in keeping prisons full and often seek the passage of more stringent laws to ensure this.

An example of one such company is CCA, the largest private-prison company in the United States. CCA owns and operates 66 private facilities across the country, which combined include 91,000 beds for prospective inmates. In 2011, CCA took in $1.7 billion in revenue. From 2003 to 2012, it allocated more than $17 million toward lobbying efforts as well as $1.9 million toward political contributions.\textsuperscript{93} A close second to CCA is The GEO Group, Inc., which runs 65 private prisons in the United States that contain a total of 65,716 beds. The company recorded $1.6 billion in total revenue in 2011. Between 2003 and 2012, it spent $2.5 million and $2.9 million on lobbying efforts and campaign contributions, respectively.\textsuperscript{94}

In 2011, the BJS released a report showing that arrests for drug possession and use have risen dramatically since 1990.\textsuperscript{95} Accordingly, I expect the influence of narcotics arrests on incarceration rates to be much stronger in the years succeeding 1990. Starting with California in 1996, however, some states began passing laws which permitted the use of medical marijuana. Moreover, in 2012, states began fully legalizing marijuana, which accounts for over half of all drug arrests.\textsuperscript{96} Therefore, the impact of narcotics arrests on incarceration rates should be weaker in states that have either partially or fully legalized marijuana than in states with stricter drug laws.

\textsuperscript{92} E. Ann Carson, “Prisoners in 2013,” Bureau of Justice Statistics, September 2014.
\textsuperscript{94} Ibid.
\textsuperscript{95} Supra, note 70.
\textsuperscript{96} “Marijuana Arrests by the Numbers,” American Civil Liberties Union, accessed November 11, 2014.
Lastly, I will examine the power of the Republican Party within each selected state. As discussed in Chapter 1, members of both political parties historically have been supportive of “tough-on-crime” measures; however, past research indicates conservative parties have been more likely to favor stricter criminal-justice policies as well as less generous welfare policies. Something to observe in this chapter is whether the party of the governor matters at all. Greenberg and West choose to look only at the party of the governor in their 2001 study, which neglects the power that parties may hold in the legislature. My analysis in Chapter 1 found that party control of both the governorship and the legislature mattered. However, during the tough-on-crime years, even some Democratic governors supported more punitive measures. Part of this analysis will study whether the party of the governor makes any difference at all.

The Case Studies

I have chosen four disparate states (differing in size, location, demographics, etc., to the extent possible) for my case studies: Arizona, Louisiana, Colorado, and Delaware. In each case study, the three independent variables will be observed and discussed as they relate to each state’s respective incarceration rate.

Arizona

Private Prisons

Arizona has one of the most notable presences of private prisons in the country as well as perhaps some of the most obvious effects of these facilities operating
within their borders. Of note, three privately run prisons in the state maintain contracts with the Arizona government that include a 100% quota mandate. If that quota is not met, it falls on the government to reimburse the prisons for any unused beds.97 In this arrangement, the prisons offered lower rates to the state for emergency beds that could house an overflow of prisoners. The tradeoff for the state is that it must ensure the regularly rated beds remain at full capacity.98 This incentive structure may contradict public-policy goals of reducing prison levels and recidivism rates, but it is necessary in order for these companies to remain in business.

Figure 3


98 Ibid.
One way these corporations sought to maintain a steady flow of inmates to their facilities was through what became one of the most controversial immigration laws in the country: SB 1070. The 2010 law essentially allowed police to detain anyone who could not prove he or she was in the country legally, and it did so without explicitly prohibiting racial profiling. It was crafted by the American Legislative Exchange Council, of which CCA was a member at the time. While many citizens and businesses protested the law, CCA and other prison corporations admitted that a strict criminal-justice system was necessary for them to remain operating at full capacity. In its 2010 annual report, CCA said, “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.”

One factor many advocates say could be a catalyst for changing this system is a 2010 state auditor report that showed that the cost of housing an inmate in a private facility is actually greater than it would be in a state-run prison. And yet the proportion of inmates serving time in private facilities in Arizona is projected to continue growing. In order to understand why this is happening, one need look no further than Arizona State Representative John Kavanagh, a Republican. In 2014, Kavanagh

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100 Ibid.
101 Carl Takei, “Happy Birthday to the Corrections Corporation of America? Thirty Years of Banking on Bondage Leaves Little to Celebrate,” American Civil Liberties Union, January 29, 2013.
was reviewing a state budget proposal to be voted on by the legislature. At the eleventh hour, Kavanagh decided to make a change to the budget of his own accord, an act that was afforded to him through his position as the House Appropriations chairman. He added an extra $900,000 in funding to the already $45 million that had been earmarked for The GEO Group, which maintained that the latter sum was not enough to address its numerous needs.104

When questioned by colleagues, Kavanagh maintained that the legislature had a “moral responsibility” to increase The GEO Group’s payments due to the fact that the prison had offered the aforementioned reduced rates for emergency beds when there had been an overflow of prisoners.105 The Sunlight Foundation, a non-profit that tracks money in politics, subsequently noted that Kavanagh’s biggest campaign donor was, in fact, The GEO Group.106 It has also donated to former Arizona Governor Jan Brewer, who signed SB 1070 into law.107 (Kavanagh defended himself by suggesting that it is common for lawmakers to receive donations from individuals and groups that share the same policy goals and ideas.108)

Drug Arrests

Arizona has some of the more punitive drug laws in the country. With the exception of legalized medicinal marijuana—a policy change enacted by voters in

105 Ibid.
108 Ibid.
2010—the possession, use, production, transportation, and sale of most drugs is considered a felony. Possessing or selling any amount of non-medical marijuana is classified as a felony, with penalties increasing in proportion to the amount of the substance in question.\textsuperscript{109} For example, an offense involving more than four pounds of marijuana constitutes a Class 2 felony, which can mean a sentence of anywhere from 3.75 years (possession) to 12.5 years (sale).\textsuperscript{110} Offenses involving more-dangerous drugs can lead to a maximum of 20 years in prison.\textsuperscript{111} Multiple infractions can produce even more time behind bars.\textsuperscript{112}

The FBI notes that drug arrests in Arizona grew from 28,613 in 2000 to 35,722 in 2005, then decreased dramatically to 27,273 by 2012.\textsuperscript{113} An ACLU report showed that over 55\% of Arizona arrests in 2010 were for marijuana possession.\textsuperscript{114} Although the state passed Proposition 203 that same year, making medicinal marijuana legal, overall drug arrests were already decreasing, so it is not clear that the law had an impact on the arrest rate.\textsuperscript{115}

\textbf{Republican Party Control}

To observe the effect, if any, that the partisan makeup of the state legislature and party of the governorship have on crime rates, I will begin after the 2004 election.

\textsuperscript{114} "The War on Marijuana in Black and White: Billions of Dollars Wasted on Racially Biased Arrests," American Civil Liberties Union, June 2013.
Data for private-prison lobbying expenditures and campaign donations is first available for 2003, so beginning in 2004 may allow us to witness any effect that such financial activities had on both the kind of legislators elected and the type of legislation they passed. Since 2004, Republicans have controlled both chambers of the state legislature.\textsuperscript{116} One interesting note, though, is that Arizona had a Democratic governor, Janet Napolitano, from 2002 to 2009. It was only after she stepped down to become United States secretary of homeland security that she was replaced by Republican Jan Brewer.\textsuperscript{117} In 2014, Doug Ducey, also a Republican, was elected to succeed Brewer.\textsuperscript{118}

While Brewer was responsible for signing SB 1070 into law, it was Napolitano who was in office for a large part of the private-prison expansion in Arizona. Napolitano was generally cool toward the idea of private prisons undertaking responsibilities that she thought belonged to the state government. She threatened to veto multiple bills that would have added more beds to private facilities and even carried out the threat in some instances.\textsuperscript{119} However, she most often tried to strike compromises with the legislature, which allowed the prison industry’s presence to grow incrementally.\textsuperscript{120}

\textbf{Incarceration Rate}

\textsuperscript{120} Caroline Isaacs, “Private Prisons: The Public’s Problem,” American Friends Service Committee, February 2012.
Prior to 2004, Arizona’s prison population slowly and steadily increased each year, as was the case with several other states. However, from 2003 to 2004, the state prison population actually decreased from 11,957 to 11,343.121 During that same time period—which, notably, was right after the deal struck with the private prisons—the rate of imprisonment at private facilities nearly doubled.122 Over the ensuing years, the state-prison rates fluctuated annually: some years increasing, other years decreasing. Private prisons, however, grew every year from 2004 to 2009.123

In 2010, states across the country saw a decrease in prison population, including Arizona. A Pew Center report that year suggested one reason for the decline was that states were getting smarter and more efficient in how they spent tax dollars and had thus enacted reforms to reduce prison populations.124 However, the report cautioned (with good reason) against extrapolating too much from a one-year change. Indeed, in 2011, the number of inmates in private prisons across the country rose by over 3,000.125 While that population has since remained relatively stable, the number of beds in these facilities is expected to grow.126 This could lead to similar lobbying efforts by the prison corporations to ensure their bed quotas are met.

122 Ibid.
123 Ibid.
126 Supra, note 97.
According to a groundbreaking report from *The Times-Picayune*, New Orleans’s preeminent newspaper, Louisiana’s booming private-prison industry has led the state to become the “world’s prison capital.”\(^{127}\) This exposé confirmed the financial-incentive theory, demonstrating how wardens from rural private facilities will sometimes request shipments of prisoners from urban areas, as though they were a commodity, in order to fill bed space (as empty beds would otherwise lead to losses in earnings and profit).\(^{128}\) Louisiana is also a recipient state, meaning when other states have an excess of prisoners, prisoners are sent to a state like Louisiana to fill open cells.

The paper provided a visualization (see Figure 4) of how the cycle of mass imprisonment works: each prisoner costs around $24.39 a day, most of which goes toward feeding and housing the prisoner and paying the guards’ salaries. Anything left over is considered profit for the CEO/sheriff. Because none of this money goes toward rehabilitation programs, prisoners are at higher risk of committing another crime after their release.

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\(^{128}\) Ibid.
HOW WE BECAME NO. 1

1. KEEPING LOCAL PRISONS FILLED FOR PROFIT

In Louisiana, local prisons are not just used for people awaiting trial. Many parishes are in the lucrative business of housing prisoners serving state time. With the exception of St. Tammany, the parishes shaded in red house hundreds of prisoners from other parts of the state. St. Tammany’s state-sponsored inmates are mostly from within the parish.

2. PAROLE IS HARD TO COME BY

Louisiana is one of six states where all life sentences are granted without parole, and those up for parole have had a harder time getting it under Gov. Blanco and Jindal.

3. LOCAL PRISON ECOSYSTEMS

Sheriffs track inmates like herds, shipping a few to a pair up north who has empty beds.

4. HARSH SENTENCING LAWS

Louisiana toughs on criminals in most other states, including Texas, which also has a high incarceration rate.

Drug Arrests

Louisiana’s drug laws are among the toughest in the nation. While possessing only an ounce of marijuana could land an individual in jail for up to six months, the penalties stiffen as the amount increases. For example, possessing more than 14 grams of marijuana can land a Louisianan in prison for up to six months. For those with 60–2,000 pounds, there is a mandatory minimum of five years (up to 30 years); 2,000–10,000, a minimum of 10 years (up to 40 years); and more than 10,000 can yield a minimum sentence of 25 years (also up to 40 years).\textsuperscript{129} Distributing or cultivating for first-time offenders carries a mandatory minimum sentence of five years (up to 30 years) and, for second-time offenders, a minimum of 10 years (up to 60 years).\textsuperscript{130} Anyone caught selling (any amount) to minors can receive between 45 and 90 years.\textsuperscript{131}

According to the ACLU, arrests for simple marijuana possession accounted for 46% of all drug-related arrests in 2010.\textsuperscript{132} The state could, however, be making strides, albeit small ones, toward reversing this trend. An October 2014 poll conducted by Public Policy Polling showed that Louisiana residents are changing their attitudes toward marijuana laws: a full 78% of respondents opposed sentences of more than six months for possession charges, and 71% opposed lifetime sentences

\textsuperscript{131} Ibid.
\textsuperscript{132} Supra, note 114.
for repeat offenders. Moreover, 68% supported reforms that would legalize marijuana for medicinal purposes, while a plurality (43%) said that they would be more likely to vote for a candidate for public office who would vote to reduce possession penalties. Time will tell if these attitudes translate into policy change.

Republican Party Control

The Louisiana State Legislature was controlled by the Democratic Party from as far back as the Civil Rights Era until 2010, when Republicans made a clean sweep of both chambers. Additionally, although Louisiana was governed by Republican Bobby Jindal from 2008 to 2016, the state was governed by Democrat Kathleen Blanco from 2004 to 2008. In fact, during the early 1990s, when privatization laws were taking root in the Bayou State, it was being governed by another Democrat, Edwin Edwards.

This is a perfect example of how “tough-on-crime” thinking can be seen in both parties. Although much of the privatization phenomenon has occurred under Jindal, Democrats held the governorship in the formative years of this new paradigm. This reaffirms the idea that Democratic officials—perhaps more so in the South, where Democrats have historically been cut from conservative cloth—have been just as likely as Republicans to support prison privatization.

134 Ibid.
135 Supra, note 116.
Incarceration Rate

Prison rates in Louisiana increased every year between 1990 and 2002, dipped slightly in 2003, and then increased again until around 2009, when, as in Arizona and several other states, it slightly dropped (though Louisiana still leads the nation in its rate of imprisonment at 847 per 100,000). Since 1990, private-prison rates have more or less stayed the same, fluctuating between 2,900 and 3,100, though they, too, experienced a dip around 2009. Consistent again with Arizona, the number of prisoners in private facilities went back up after 2009, from 2,956 to 3,158.

Colorado

Private Prisons

Colorado presents an interesting case study in prison privatization. Since 2009, crime rates and, subsequently, imprisonment rates have been decreasing in tandem. Incarceration rates were dwindling so much that the state began closing some of its prisons. In fact, the state has projected the closure of between two and 10 more facilities, including private prisons, depending on the size of the prison and contingent on the continued decline in demand.

This news led CCA to respond with its own plans. In 2012, in order to prevent the closure of its own facilities, the company managed to strike a deal with the legislature and governor’s office stipulating that there must be a quota of prisoners in its

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137 Supra, note 76.
138 Supra, note 121.
139 Supra, note 76.
prisons at all times. Critics of the deal believed that this was a much costlier way to house prisoners—as opposed to keeping them in state-run facilities—and charged that the deal would force taxpayers to cover the cost of housing inmates in new private facilities and existing ones as well as keep public prisons operating.

Because this deal was struck so recently, not enough data exists yet to see what effect it has had on Colorado’s overall prison population. The 2012 deal promised CCA at least 3,300 prisoners. While the state’s total prison population decreased between 2012 and 2013, private levels saw an uptick after the deal, and it remained steady near 3,400 over the subsequent months. According to the BJS, by 2013, that number was 3,898. This makes clear that CCA has reasserted its influence in the

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141 Ibid.
142 Ibid.
143 Ibid.
144 Supra, notes 121 and 125.
145 Supra, note 121.
state's prison industry. For the purposes of this study, though, the question over the coming years will be whether this makes any difference in Colorado's overall prison population, if crime and demand for prison beds continue to decrease.

**Drug Arrests**

Colorado is an ideal case study for observing the impact of drug laws, as voters chose to legalize marijuana for recreational purposes in a 2012 ballot measure. This should lead to a significant change in incarceration rates, as a full 60.7% of all drug-related arrests in Colorado in 2010 were for marijuana possession.\(^{146}\) The passage of Amendment 64 meant that people in Colorado are now allowed to possess up to one ounce, or 28 grams, of marijuana without fear of being arrested or prosecuted.\(^{147}\)

As marijuana has led to high arrest rates in other states, patterns should begin to change in Colorado with this shift in policy. Indeed, according to the Colorado Center on Law and Policy, not only did the law change save the state between $12 million and $40 million in 2013, but the roughly 10,000 arrests and citations given each year over the past decade for marijuana possession are expected to all but vanish (though there are still legal limits on how much a person may possess at any given time).\(^{148}\)

In total, drug infractions had been responsible for more arrests in the state than all incidence of violent crime combined.\(^{149}\) This fact produced a concern by some skeptics of the new law: would legalization lead to a resurgence in crime around the

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\(^{146}\) Supra, note 113.


\(^{149}\) Ibid.
state? The Denver Post noted that, between 2012 and 2013, the number of marijuana cases filed in court dropped an astounding 77%. Moreover, its research showed that, following the legalization victory, prosecutors became less likely to pursue cases for marijuana crimes that are technically still considered illegal, including the possession of more than 12 ounces at one time (dropped by 73%) and possession with intent to distribute (dropped by 70%).

Additionally, contrary to the concerns of some public officials and critics of the marijuana referendum, crime rates did not spike; in fact, according to the Denver Police Department (DPD), in 2013 property crime in the city decreased by 14.6%, while violent crime went down 2.4%. Moreover, DPD statistics show a drastic change in the homicide rate from 2013 to 2014 (when dispensaries were officially allowed to open for business): it fell by more than 30.6%. Although it would imprudent to necessarily assign a causal relationship to this occurrence, it is fair to speculate whether some of the decline in murders might be attributed to the fact that fewer people are forced to use the black market to purchase marijuana. Less business on the black market will have negative business implications for the gangs who had previously trafficked the product. While it will require further research to determine whether a causal relationship is actually present, it is at least evident that legalization efforts did not cause an increase in crime.

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151 “Reported Offenses in the City and County of Denver by Month,” Denver Police Department, accessed November 15, 2014.
152 Ibid.
As the issue relates to imprisonment, in March 2014, the Colorado Court of Appeals ruled that the legalization initiative, Amendment 64, allowed some offenders to appeal citations or arrests made for marijuana possession. A key point of the court’s decision was the fact that it was retroactive, meaning that potentially thousands of people arrested and/or imprisoned for possession could have their convictions overturned. This makes it clear that Colorado's drug policy had, and will likely continue to have, an impact on imprisonment rates in the state.

![Figure 6](image)

Source: “Reported Offenses in the City and County of Denver by Month,” Denver Police Department, accessed November 15, 2014.

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Republican Party Control

Republicans had full control of the Colorado General Assembly from as far back as 1978 until 2004, when Democrats swept both chambers.155 Democrats maintained control through 2010, when they lost the State House, resulting in divided government for the next two years.156 This institutional arrangement may have contributed to, or at least enabled, the drafting of the 2012 private prison deal. In fact, it was two Republicans—State Representative Cheri Gerou and State Senator Kent Lambert—who helped craft the deal with Democratic Governor John Hickenlooper.157

Incarceration Rate

BJS data shows that, from 1978 to 2006, Colorado’s incarceration rate rose in all but two of those years, and, even in those aberrational years, the decrease was minimal.158 The imprisonment rate reached its apex in 2006, at 473 prisoners per 100,000. The decline began between 2007 and 2008, dropping to 472 and continuing that trend every year since.159

As this variable pertains to GOP control of government, Republicans dominated the state legislature from 1978 to 2004, overseeing the dramatic increase in incarceration. Democrats took over in 2004, and just two years later the prison population peaked. Interestingly, Colorado elected only Democratic governors from 1974 to 1998, when it elected its first Republican in over two decades.160

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155 Supra, note 116.
157 Supra, note 140.
158 Supra, note 76.
159 Ibid.
Delaware

Private Prisons

Delaware is one of a handful of states that has not utilized private prisons (as far back as 1999). The others include Illinois, Iowa, Massachusetts, Missouri, Nebraska, New Hampshire, New York, Oregon, and Rhode Island.\footnote{Supra, note 121.}

Drug Arrests

Delaware has some of the least stringent drug-control policies in the country. The state legislature passed a law in 2011 to make medical marijuana legal in the state.\footnote{"Delaware Legalizes Medical Marijuana," Reuters, May 13, 2011.} Even when dealing with recreational marijuana, which is technically illegal, the maximum punishment for a simple possession charge is three months in jail and a fine of $575.\footnote{Del. Health & Safety Code § 4764(b).} Only when the amounts possessed rise drastically in quantity (to 3,000 grams or more) do the charges change from a misdemeanor to a Class B felony, which is accompanied by severe jail time. According to the ACLU, marijuana possession arrests accounted for just under 50\% of all drug-related arrests in the state in 2010.\footnote{Supra, note 114.}

Attitudes toward marijuana, however, have been shifting in Delaware. A poll conducted by Public Policy Polling in early 2014 showed that 68\% of respondents supported easing the misdemeanor penalty for marijuana possession to a modest
$100 fine with no jail time.\textsuperscript{165} In September 2014, a University of Delaware poll found that 56% of the state’s residents supported full legalization.\textsuperscript{166} Democratic State Representative Helene Keeley drafted legislation that would reduce penalties for possession to the equivalent of receiving a traffic ticket, and national activists are looking to make marijuana legal for recreational purposes by as early as 2017.\textsuperscript{167} What remains to be seen is whether these changes coincide with a decrease in the state’s prison population for those who have violated the state’s drug laws.

\textbf{Republican Party Control}

Beginning in 1986, Delaware experienced more than two decades of divided government. It was not until the 2006 elections that Democrats won majorities in both chambers, and they have held those majorities ever since.\textsuperscript{168} Republicans did hold control of the governorship from 1976 until 1992, when Democrats won the office; they have held it ever since.\textsuperscript{169}

\textbf{Incarceration Rate}

According to the BJS, Delaware reached its peak imprisonment rates in 2001, when it was incarcerating 508 citizens per 100,000.\textsuperscript{170} Though that rate has fluctuated...

\footnotesize{\textsuperscript{165} “Delaware Survey Results,” Public Policy Polling, March 18–19, 2014.\
\textsuperscript{167} Jonathan Starkey, “Del. may be on road to legalizing marijuana,” \textit{The News Journal}, December 14, 2014.\
\textsuperscript{168} Supra, note 116.\
\textsuperscript{169} “Delaware: Past Governors Bios,” National Governors Association, accessed November 15, 2014.\
\textsuperscript{170} Supra, note 76.}
ated in subsequent years, it has clearly been trending downward. In 2013, that num-
ber was 442.\textsuperscript{171} Some of this may be due to the relaxing of drug laws in the state as
well as other economic factors, but it will certainly be interesting to see how new drug
policies, such as full legalization, might affect these numbers.

Discussion

This qualitative analysis of incarceration in the United States offers a look at
some of how the less tested variables—private prisons, the latest incarnation of the
War on Drugs, and Republican control of government—have influenced incarceration
rates in disparate states. Here are some of the takeaways from the case studies.

Private prisons may have more influence than the quantitative data sug-
gests. In Arizona, Louisiana, and Colorado, the private-prison industry has played a
key role in shaping criminal-justice policy. In the first two, prison economics have
clearly led to a rise in both the number of harsh laws and the population of their pris-
ons. In Colorado, however, the effects of the government-industry deal have yet to be
seen. When observing overall incarceration rates, those states with stronger private
influence have seen greater levels of imprisonment. The sample size is obviously
small, however, so researchers should not necessarily make broader generalizations
about this fact.

The relationship between drug arrests and prisons may change in the
coming years. Although the War on Drugs led to a spike in incarceration rates over
the past few decades, we are witnessing a shift in thinking on drug policy. To date, 23

\textsuperscript{171} Ibid.
states and the District of Columbia have legalized medicinal marijuana; four of those state and D.C. have completely legalized marijuana; several more have seen movements toward full legalization; and attitudes have been changing nationally toward more sympathetic policies.\textsuperscript{172} It would behoove researchers to continue eyeing the relationship between the two variables to see whether changes in public policy translate to a decrease in levels of imprisonment.

\textbf{While Republicans oversaw some of the more recent spikes in incarceration rates, some Democratic governors are also liable.} In Arizona, Republicans have controlled the state legislature since as far back as 1978, save for one two-year period in which they split power with Democrats.\textsuperscript{173} The state has notably weathered the national downswing in imprisonment rates, instead passing more stringent laws and imprisoning its citizens at a higher rate. Louisiana did not necessarily confirm the hypothesis, as Democrats controlled the legislature during much that state’s rise in prison population. However, this does not disprove the hypothesis either, but rather shows that Democrats in the South were also likely to support similar harsher laws.

In Colorado, Republicans oversaw the state’s rise in incarceration over two decades; after Democrats took over, there was a noticeable decline in that rate. While we cannot extrapolate to declare causation, it is certainly a striking correlation. Finally, Democrats have overseen the state legislature for some time in Delaware, and while there may be other factors that have influenced the state’s low incarceration rate (and non-existent private-prison population), this is one that must be noted.

\textsuperscript{173} Supra, note 116.
Broad generalizations should not necessarily be taken from the studies, as they are too few in number to offer any viable analysis of causation. However, these examples present an idea of how private prisons, drug laws, and Republican control of government interact with incarceration rates in the United States. This research helps lay the groundwork for part of my final chapter, which examines the consequences of mass incarceration and discusses potential policy prescriptions.
III. The “Why”: Why Mass Incarceration Matters (and What Can Be Done about It)

We have now observed the factors driving mass incarceration in America and how it occurs, and we now face the question: so what? Why should the existence of mass incarceration matter—to communities, families, inmates, and lawmakers? The National Academies of Science, Engineering, and Medicine, in conjunction with the National Research Council (NRC), issued a press release in 2014 declaring the urgent need for the United States to reduce its prison population.174 This followed a data-laden report from the NRC arguing that the costs of our system of imprisonment significantly outweigh the benefits it produces.

Perhaps the “why” is best summarized in the title of an important 2009 report by the Pew Research Center: “One in 31.”175 This is the proportion of adults in prison, on parole, or on probation.176 This doesn’t begin to address the number of juveniles—more than 54,000 in 2013—behind bars.177 It does, however, give us a sense of just how far-reaching the American system of incarceration has become.

Some scholars and authors maintain that incarceration is for the good of both those incarcerated and their communities. Bruce Bayley suggests putting these individuals behind bars serves as its own kind of rehabilitation, as it subjects inmates to

174 “U.S. Should Significantly Reduce Rate of Incarceration,” National Academies of Science, Engineering, and Medicine, April 30, 2014.
“daily monitoring,” although this could be done outside the confines of a penitentiary.\footnote{Bruce Bayley, “Why we incarcerate: An introduction,” CorrectionsOne, January 31, 2012.} Siddhartha Bandyopadhyay argues shorter sentences may not do enough to deter potential criminals, and it is therefore important to issue longer sentences for more-serious crimes.\footnote{Siddhartha Bandyopadhyay, “Challenging perspectives on crime and crime policy,” Research Excellence Framework, 2014.}

Several others, however, have written about the negative consequences of our culture of imprisonment. This chapter will observe the effects of mass incarceration through multiple lenses. First, I will look at the impact it has on families and communities—specifically, poor and minority communities, as they are the ones routinely affected by our criminal-justice system.\footnote{Ashley Nellis, Judy Greene, and Marc Mauer, “Reducing Racial Disparity in the Criminal Justice System,” The Sentencing Project, 2008; Christopher Hartney and Linh Vuong, “Created Equal: Racial and Ethnic Disparities in the U.S. Criminal Justice System,” National Council on Crime and Delinquency, March 2009.} Second, I will discuss the effect it has on the inmates, both during their time behind bars and upon their release back into society. This includes a look at the economic and political issues they face as well as problems of mental health. Third, the U.S. spent $80 billion on incarceration in 2010 alone (far outpacing spending growth for housing, transportation, and higher education\footnote{“Smart on Crime: Reforming the Criminal Justice System for the 21st Century,” U.S. Department of Justice, August 2013; “Who Pays?” Ella Baker Center for Human Rights, September 2015.}); I will thus observe the fiscal issues our levels of imprisonment have wrought for government officials. I will conclude the chapter by discussing policy measures that may help to reverse mass incarceration in the United States:

- Decriminalizing all drugs and instead offering necessary treatment
- Ending incarceration by law for most low-level offenses
- Reforming sentencing practices from the “tough-on-crime” era
Shifting more resources to community policing
• Revisiting the entire concept of private prisons
• “Banning the box”
• Doing away with restrictive voting policies for former inmates
• Allocating sufficient resources to prisoner reentry programs in an effort to reduce recidivism

Part 1: The Consequences

Impact on Families and Communities

New York Times reporter Shaila Dewan wrote of what she called “collateral consequences,” a term she associated with the Department of Justice’s (DOJ) reluctance to bring charges against corporate wrongdoers. The idea is that this kind of action could engender unforeseen consequences. Dewan then asks, “Why [don’t we] give more consideration to collateral consequences when prosecuting individuals?”182 The United States’ criminal-justice system has long been structured in such a way that neglects to consider the long-term ramifications of its laws and their execution.

Families and communities often suffer greatly from the criminal-justice system’s collateral consequences. Some research suggests that communities are affected by higher-than-normal mental-health issues as a result of mass incarceration. A team from Columbia University’s Mailman School of Public Health traced mental-health outcomes of people who lived in areas from which the incarcerated population is

heavily drawn. After controlling for a host of other factors, such as race, personal income, and exposure to trauma, the researchers found that those living in high-exposure areas were far more likely to meet criteria for generalized anxiety disorder and major depressive disorder than those living in low-exposure areas.183 The researchers suggest that constant community supervision—including factors like visibility of parole officers or excessive police presence due to high crime rates—could be a pernicious influence on the mental-health issues of residents.

Research also shows that neighborhoods with higher incarceration rates tend to face higher overall rates of crime.184 As a report from the American Journal of Public Health (AJPH) explains, “When communities are forced to accommodate more inmates than their social networks and systems can support, community norms begin to change, disorder and incivility increase, citizens move out of the area, and crime and violence rates rise.”185 In essence, the burden of reintegrating former convicts into society is so great, communal environments can become even worse over time. This not only does nothing to help those convicts reestablish themselves but also makes it likelier they will return to the prison system.186

Additionally, after learning how to cope with life in prison—an institution in which prisoners often adopt their own informal power hierarchies—former inmates

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will bring that knowledge and apparatus back to their neighborhoods. The AJPH report describes how, when a stressful home environment welcomes back prisoners who have not been rehabilitated, these communities (and particularly the children in them) “become vulnerable to a variety of social ills including crime, drugs, family disorganization, generalized demoralization and unemployment.”\textsuperscript{187} It works as a self-perpetuating cycle of crime and economic distress that is only made worse when prisoners are not prepared to reenter society.

The 2014 NRC report discusses a prominent hypothesis about this relationship between incarceration and crime, which argues that incarceration has a strong causal influence on crime rates, even when crime is considered independent of other social-ecological factors. At the core of this argument is the idea that when communities boast high levels of imprisonment it weakens family and communal stability—or “the forces of informal social control”—and results in even more crime.\textsuperscript{188} For instance, men are incarcerated at overwhelmingly higher rates than women.\textsuperscript{189} In many states, it is difficult for ex-convicts to find work, and many men consequently face chronic unemployment upon their release from prison. As the report explains, “Where there are fewer males, especially employed males, per female, rates of family disruption are higher.”\textsuperscript{190}

\textsuperscript{187} Supra, note 185.
\textsuperscript{190} Supra, note 188, 289.
Clearly, families bear much of the brunt of these communal consequences. In March 2014, the Ella Baker Center for Human Rights, Forward Together, and Research Action Design collaborated to produce a report called “Who Pays?” The report details the many struggles that families face when a member enters the criminal-justice system. First, incarcerated family members who may have brought an income to the family are no longer able to do so, leaving the family without that financial aid and often struggling to make ends meet. Additionally, families have the added cost of staying in touch with the incarcerated member, whether that entails traveling to the facility or phone calls, which can be expensive. Moreover, the various court fees and fines associated with imprisonment can cripple a family. The report found that the average cost of these fees totaled $13,607, which, for inmates already making less than $15,000 annually, is almost an entire year’s income.

Second, the report states that, because many communities are ill-equipped to deal with individuals who have been recently released from prison (largely due to smaller budget allocations for reentry services), this burden often falls on their families. This ranges from housing and employment to health-care needs. (As this chapter will later discuss, many of these problems are due to the systemic discrimination that inmates face upon their release.) Third, as has been mentioned, incarceration also tears at the social fabric of a family by “separating people from their support systems, disrupting continuity of families, and causing lifelong health impacts that impede

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192 “Regulating the prison phone industry,” Prison Policy Initiative, accessed October 14, 2015, http://www.prisonpolicy.org/phones. This adds another layer to the problem, as families that cannot afford prolonged telephone conversations may face the eventuality of kids growing up rarely able to only communicate with one parent, if at all.
families from thriving.”

Arditti et al. specify a range of other issues that family members can face, including emotional stress, parenting strain, work-family conflict, and social stigma.

Perhaps most notably, children in these families are adversely affected when a parent is imprisoned. In a catch-22, many incarcerated individuals owe child-support payments but, once behind bars, have no job or other means of paying it. As the “Who Pays?” report explains, “[for] many formerly incarcerated parents, they must choose [between] child support payments or paying for rent and other basic necessities.”

Moreover, the report finds that one-third of respondents risked re-incarceration for their inability to make payments, which only serves to exacerbate the cycle of separation, debt, and family tensions.

Another study in the journal *Demography* finds that parental imprisonment increases the risk for race and class inequality of the incarcerated individual’s offspring. The study concludes that incarcerating a parent “has emerged as a...form of childhood disadvantage.”

One example of this relative disadvantage is that children of incarcerated parents have experienced something their peers have not: having a parent go to prison, which can be a traumatic event.

The study also briefly touches on another consideration: how does the imprisonment of a parent influence the chances of his or her children interacting with the

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193 Supra, note 191, 9.
195 Supra, note 191, 16–17.
criminal-justice system in adulthood? As the authors conclude, “By promoting incarceration among the children of the prison boom, parental imprisonment may have the potential to lay the foundation for an enduring form of inequality in which the imprisonment of the disadvantaged is transmitted from one generation to the next.” ¹⁹⁷

However, as the NRC report states, the absence of a parent may not necessarily correspond with problems for a child. The quality of the relationship between the child and parent before an incarceration is likely to influence the condition of the child after the parent is taken away. For instance, some fathers may have been largely absent from their children’s lives even prior to arrest or conviction. If a father was abusive, one could argue a child’s situation may even improve after the parent is imprisoned. Still, the report notes that, “among fathers who previously experience frequent contact with their children, incarceration almost always proved to be detrimental—breaking bonds in terms of physical closeness and financial contributions, and eroding relationships that may already have been fragile.” ¹⁹⁸

One particular group that suffers greatly from mass incarceration is the black community. The United States once had the opportunity to address various issues plaguing black families—high rates of divorce and separation, out-of-wedlock births, single-parenthood, poverty, and crime—head on. In 1965, Senator Daniel Patrick

¹⁹⁷ Ibid., 277.
¹⁹⁸ Supra, note 188, 269.
Moynihan produced a report entitled “The Negro Family: The Case for National Action,” often informally referred to as the Moynihan Report.\textsuperscript{199} The senator addressed the aforementioned issues with a call to action, advocating for increased social investment to stem the issues of poverty and crime, which would then presumably influence family problems. Instead, however, our public policy “turned…in a punitive direction, massively expanding the role of the criminal-justice system.”\textsuperscript{200}

Today, not only do blacks face a discriminatory criminal-justice system, but also, because they experience incarceration at a greater rate than any other race, the community at large suffers long-term consequences. The United States’ prison population, which is 33.3% white, 45.6% black, and 17% Hispanic, does not remotely reflect an overall population that is 75.1% white, 12.3% black, and 11.8% Hispanic.\textsuperscript{201} As the National Association for the Advancement of Colored People (NAACP) notes, in raw numbers, blacks now constitute almost one million of the roughly 2.2 million individuals in the United States prison system; although whites use illicit drugs at five times the rate of blacks, blacks are arrested at 10 times the rate of whites for drug offenses; and, if blacks and Hispanics were incarcerated at the same rate as whites, the overall prison population would drop by 50%.\textsuperscript{202} Within the black community,

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{200} Bruce Western and Christopher Wildeman, “The Black Family and Mass Incarceration,” The AN- NALS of the American Academy of Political and Social Science 621, no. 1 (2009): 222.
\end{itemize}
\end{footnotesize}
specifically, one in every 12 men is incarcerated, a ratio that becomes one in every eight when observing those without a high-school diploma or GED.203

These facts translate into numerous social costs for black families and individuals. As Western and Wildeman note, “Through incarceration, many [non-college black men in their mid-thirties] were separated from their wives, girlfriends, and children.”204 The effects of these high incarceration rates may be showing up in overall black unemployment numbers. As of September 2015, the black unemployment rate is 9.1%, compared to just 4.2% for whites.205 Possibly even more disturbing is the state of black youth unemployment: as of August 2015, this figure was an astonishing 31.7%.206 And, when including those youth who are underemployed or looking for work, some estimates have that number jumping to as high as 51.3%.207

Further consequences of this reality are explored in great depth by two esteemed authors. The first is Michelle Alexander, who observed black incarceration in her tome, The New Jim Crow. The title of her book more or less summarizes her view of the American prison system: it has created a subtler version of the old Jim Crow laws that plagued the South for nearly a century. Alexander contends that we now live in an era of colorblindness, in which it is no longer socially acceptable “to use

204 Supra, note 196, 233.
race, explicitly, as an excuse for discrimination, exclusion or social contempt.” Rather, we now use the criminal-justice system to associate African Americans with criminality and then engage in the same prejudiced practices from decades ago. She maintains that, by assigning the label “felon” to blacks, the system can then legally resort to old forms of discrimination, such as employment and housing discrimination, revocation of the right to vote, and exclusion from jury service. Instead of ending racism in America, she argues, “[We] have merely redesigned it.”

Alexander provides several examples to corroborate her case. She notes that current felon-disenfranchisement laws bar 13% of black men from being able to vote, which makes mass incarceration a potent tool for voter suppression. Likewise, ex-offenders are ineligible for numerous social services, including welfare and food stamps, which allows working-age black men to be subjected to legalized discrimination for the rest of their lives. She notes that in Chicago, for example, a full 80% of these men had criminal records in 2002. In essence, Alexander argues that public policy, whether consciously or subconsciously, has created a new caste system through incarceration that has left African Americans as permanent second-class citizens.

The second author is Ta-Nehisi Coates, a contributor to The Atlantic magazine. In a multi-chapter work for the periodical entitled “The Black Family in the Age of Mass Incarceration,” Coates takes Alexander’s work a step further, saying the problem of black incarceration stems from how society has decided to view the African

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American population. He looks at public-policy attempts to address the disproportionate imprisonment of blacks and claims that the Moynihan Report helped engender this wrong-headed view of the black community. The report placed blame for poor circumstances for black families on single black mothers and a “tangle of pathology” affecting black youth.209 According to Coates, “When you start looking at people like that—somehow different [or] unusually self-damaging from other poor people in this country—then it becomes very easy to be open to solutions that are different, that you wouldn’t use for other people, you know, who are struggling.”210

Coates notes that, since the founding of the United States, the country has seen black people as “somehow different,” and one of the places this is most evident is in the area of crime.211 Essentially, if blacks are viewed as criminals or predators, it makes the rest of society more inclined to choose prison as the primary social-service program rather than produce better social-service prescriptions, not unlike those proposed by Moynihan. As Coates phrases it, “One does not build a safety net for a race of predators. One builds a cage.”212 And, when safety nets are eschewed for the seeming convenience of a prison cell, the cycle of recidivism and crumbling communities is sure to continue.

*Impact on Inmates*

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211 Ibid.
212 Supra, note 209.
In addition to communities and families, maybe the most obvious actors impacted by mass incarceration are the inmates themselves. These effects are typically witnessed in three major categories: mental-health issues, economic constraints, and political constraints. Each of these issues makes it likelier that a former prisoner will recidivate; the latter two create a system of prejudice that makes it incredibly difficult for ex-convicts to ever become fully equal to the rest of society.

In order to assess the impact of incarceration on the mental health of inmates, let us first look to a *New Yorker* profile of a young man named Kalief Browder.213 When he was just 17 years old, Browder and his friend were picked up by police for allegedly stealing a backpack. Because he had had prior run-ins with police, Browder was already on probation. So, when the pair went before the judge for an initial hearing, Browder’s friend was free to go home while he awaited trial; Browder, however, was forced to wait in jail. The amount set for his bail was too much for his family to afford, and Browder was thus moved from the county precinct to the Rikers Island prison, known for housing some of the country’s most hardened criminals. Male adolescents are housed in the Robert N. Davoren Center (RNDC). An August 2014 report by the United States Attorney for the Southern District in New York described the conditions of RNDC as a place with a “deep-seated culture of violence...[as] a result of staff use of excessive force and inmate violence, adolescents have sustained a striking number of serious injuries, including broken jaws, broken orbital bones, broken noses, long bone fractures, and lacerations requiring sutures.”214

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214 “CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island,” U.S. Department of Justice, August 4, 2014.
Outside of the prison, problems were just as bad for Browder. A 2013 *New York Times* investigation found the Bronx Criminal Court system was “mired in delays,” “crippled,” and in “the bottom ranks of the most backlogged of the big-city courts in the country.”\(^{215}\) This would ultimately translate into a three-year stay at Rikers Island for Browder. During his time there, Browder, who by all accounts was completely out of his element, suffered multiple beatings by other inmates and officers, which were thoroughly documented by *The New Yorker*.\(^{216}\) Tormented and unsure of how he could continue “to live in this place,” he eventually (unsuccessfully) attempted suicide while in solitary confinement. After three years, at his 31st court appearance, the judge decided that his case could no longer proceed, as the accuser had returned to his home country of Mexico. Browder was subsequently released to his family.

The traumatic impact of Browder’s incarceration was evident fairly soon after his return home. Because he had spent the vast majority of the past 17 months in solitary confinement, he had trouble assimilating back into life in the United States’ largest city. He often spent his free time alone in his bedroom with the door closed, pacing, as he did in his prison cell. He eventually resorted to multiple suicide attempts, the last of which was on June 6, 2015, in which he successfully took his life.

Mental illness and the criminal-justice system have been a toxic combination for decades. At the turn of the 20th century, when it was revealed that mentally ill people were being kept in inhumane conditions in prisons, activists like Dorothea Dix


led a reform movement, which led to the building of state mental-health facilities. These institutions were gradually subjected to overcrowding and deteriorating conditions, and, after suffering criticism by both fiscal conservatives and civil-rights activists, they were eventually shut down. Mentally ill patients eventually found themselves behind bars once again.217

Beyond this issue, though, prisons have come under heavy scrutiny for the mental-health issues that plague prisoners both during and after their incarceration. According to a 2014 DOJ report, roughly 7.2% of all inmates in the years 2011–2012 “reported experiencing one or more incidents of sexual victimization by another inmate or facility staff in the past 12 months.”218 Dr. Benjamin Ginsberg notes that 20% of male inmates are subjected to sexual assault during their time in prison. As he details, “Aggressive and strong inmates commonly exploit weaker inmates without much interference from prison authorities or, in some instances, with their collusion. A new inmate must either fight his attackers, seek segregation from the general prison population, or seek a position of subservience to another inmate or group of inmates capable of protecting him.”219 Ginsberg continues to say that inmates who are successfully attacked once risk being seen as an easy target and are at risk for

future attacks. Furthermore, fights and assaults are also common, both among inmates and between inmates and guards.\

This kind of climate can negatively impact the mental health of inmates. As the Department of Health and Human Services reports, some former inmates, such as Browder, succumb to social withdrawal and isolation upon their release from prison. Others have also had problems with anxiety, depression, and PTSD. The 2014 NRC report notes that those recently released from prison are at greater risk of suicide, dying of a drug overdose, and “returning to the same patterns of...criminal behavior” they engaged in before their incarceration. In addition to these myriad problems, communities are ill-equipped to help address prisoners’ mental-health issues upon reentry. Many states have passed laws simply terminating an individual’s Medicaid insurance upon imprisonment instead of suspending it. The impact of the Affordable Care Act on this issue should be closely watched in the coming years.

Relationally, time behind bars can also alter the mentality of a prisoner, which can be unrelated to mental health. In other words, prisoners may change their behavior and actions as a way to cope with their environment in jail or prison, which can have lasting effects beyond their sentence. A 2006 study by Chen and Shapiro tried to

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223 Supra, note 188, 227.
isolate prison conditions and observe their effect vis-à-vis post-release criminal behavior. Indeed, they found that “harsher prison conditions cause higher rates of [such] behavior, behavior which is also measurably more violent.”

For many prisoners, punishment does not end after they serve their prison sentence or complete their probation or parole. Former inmates often face major economic constraints upon release, an experience that has been given many names, including “civil death” and “invisible punishment.” These disadvantages are broad and far-reaching. For example, many prisoners have trouble finding employment, and this poses a major problem: studies show that prisoners who can find (and keep) a job upon leaving prison are less likely to recidivate.

One of the ways this problem occurs is through the very first step of looking for a new job: applying. Many employers include a box for applicants to check indicating whether they have been previously convicted of a felony. In many instances, this simple check mark is enough to preclude applicants from even initial consideration. Still, there are other potential roadblocks after this stage. It has become less costly and easier for employers to conduct criminal background checks, and while it

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is still illegal in some jurisdictions to discriminate against an applicant based solely on a criminal record, individuals rejected on these grounds have a hard time seeking redress in the courts.\textsuperscript{228} Convicted felons are simply prohibited by federal law from working in certain jobs, such as the armed forces or airport security.\textsuperscript{229}

Beyond a steady job, former inmates face other forms of economic discrimination. Some individuals are prohibited from accessing public housing, and if they do not have a job, they may have no way of affording housing of their own. According to a report by the Annie E. Casey Foundation, public-housing authorities “can deny admission even for very old crimes, minor crimes, misdemeanors, and pending criminal charges.”\textsuperscript{230} Without a roof over their head, it becomes difficult for ex-offenders to assimilate back into society. They are also barred in many states from receiving public benefits, such as welfare and food stamps, which can be crucial to helping an individual become self-sustaining again (though some states have begun lifting restrictions on these programs).\textsuperscript{231}

The NRC report notes other means of economic discrimination against former inmates. Many states will revoke driver’s licenses for those convicted of drug offenses. This becomes a major roadblock, as many individuals need a means of transportation to get to work. Additionally, ex-offenders often have to forfeit some or all of their pension or disability benefits. Still others can be denied student loans and other

\textsuperscript{228} Supra, note 188.
\textsuperscript{230} Ibid., 52.
\textsuperscript{231} Ibid.
forms of public assistance, all of which make it difficult for inmates to reintegrate themselves back into their communities.\textsuperscript{232}

Those formerly incarcerated also face two major civic and political consequences. First, many states revoke the voting rights of these individuals. Depending on the state, this punishment can extend to everyone from prisoners alone to anyone with a prior conviction.

\textbf{Figure 7}

![Map of Felony Disenfranchisement Restrictions by State, 2014](image)

The Sentencing Project estimates that nearly six million people are currently disenfranchised due to these laws, which translated to roughly 2.4\% of the voting-age population (or about 1 in 40 adults) in 2014.\textsuperscript{233} This figure has risen over the years,

\textsuperscript{232} Supra, note 188.
corresponding with the increase in incarceration. Moreover, the NRC report notes, “One of every 13 African Americans of voting age...is disenfranchised. This rate is about three times greater than the disenfranchisement rate for non-African Americans.”

The other major political constraint that former prisoners face is with the judicial system itself. In many states, the system that once decided the fate of these ex-offenders subsequently disallows them from serving in that same process as a member of a jury. Unfortunately, current data on this phenomenon is very limited. One study observed that, as of 2003, “thirteen million people, including about thirty percent of black men, [were] banned for life from jury service because they [were] felons,” noting that 31 states and the federal government follow this practice of lifetime exclusion for felons.

The Equal Justice Initiative (EJI) produced a case-study analysis in 2010 of eight Southern states and found that racial discrimination in jury selection was pervasive. Among its many findings, the EJI noted that prosecutors routinely use peremptory strikes to remove African American jurors from the pool and, in a few cases, found that district attorneys’ offices were training their prosecutors to remove blacks from selection while masking any hint of racial bias. These implicit moves, along

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235 Supra, note 188, 308.
with the aforementioned explicit, state-sanctioned bans on jury service, compound
the problem of African American underrepresentation on juries.

*Impact on Governments and Policy Matters*

One last actor negatively impacted by mass incarceration is the government,
especially when concerning matters of public policy. According to Pew's “One in 31”
report, states with higher levels of imprisonment become exposed to the law of di-
minishing returns. As the report explains, “It certainly pays to remove the most pro-
lific offenders from the streets. But once they are locked up, more incarceration grabs
the second and third and tenth tier offenders who are less likely to commit as many
crimes. So gradually, the crime-prevention payoff declines.”238 Moreover, by incarcer-
ating individuals from these lower tiers, states create an entirely new class of offend-
ers who are upon their release subject to the multiple issues I have thus far discussed.

One of the most glaring policy issues facing governments is the impact of in-
carceration on budgets. In a case-study analysis of 40 states, the Vera Institute of Jus-
tice found that the total cost of operating prisons ($39 billion) exceeded the amount
allocated in state budgets for corrections ($33.5 billion).239 The outside costs varied
by state—ranging from 1% in Arizona to 34% in Connecticut—and almost entirely
included worker pay and benefits as well as facility maintenance. Ergo, the more pris-
ons a state houses and the more staff it must employ, the greater the costs will be to
the taxpayers.

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238 Supra, note 175.
ers,” Vera Institute of Justice, January 2012.
In addition to the excess costs facing governments to preserve their prison systems, they must also deal with disparities in policy priorities. According to the 2014 NRC report, “budgetary allocations for corrections have outpaced budget increases for nearly all other key government services, including education, transportation, and public assistance.” In most states, spending on corrections is the third-highest category of the general fund, behind only Medicaid and education. The report notes that the criminal-justice system is increasingly becoming one of the main providers of general health care, substance-abuse treatment, mental health, job training, education, and other means of support for society’s most disadvantaged members.

Part 2: The Proposals

Clearly the United States’ system of mass incarceration has produced countless problems, which in recent years have grabbed the attention of lawmakers at every level of government. Indeed, some states and even the federal government have begun changing public policy to reflect a newfound attitude toward the American criminal-justice system. One key development that may boost this push for reform is the current political environment. While the two major parties have become more polarized in recent years, criminal-justice reform is one issue on which there is a surprising amount of consensus—at least surrounding the idea that reform is, in fact, needed.

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240 Supra, note 188, 314.
While many Democrats have largely been in favor of revisiting the “tough-on-crime” laws of the 1990s, Republicans have begun pressing this issue, too. As I discussed in Chapter 1, the GOP has long been identified as the “law-and-order” party. However, as a recent New America report explains, the conservative shift toward reforming the prison system actually started long ago. Charles Colson, once a member of the Nixon administration, served time in a federal prison and, during his stay there, became a born-again Christian.

Upon his release, Colson began pushing for prison reform, using his credibility as a social conservative to reach those like him who may have otherwise been skeptical. As the report explains, “From this position of unquestioned credibility, Colson was able to reframe the way evangelicals thought about prisons and the inmates inside them. Where the reigning ideology cast criminals as incorrigible and claimed that ‘nothing works’ to rehabilitate offenders, Colson argued that true Christianity required faith in redemption. Where that ideology called for long sentences and bare-bones prisons, Colson denounced the dehumanizing impact of these punitive measures.”

By pushing this cause through his ministry, Colson forced evangelicals to interact with prisoners face to face, exposing them to the realities of prison conditions and “creating relationships that defied stereotypes.” He also continued cultivating

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243 Ibid.
relationships with Republican politicians around the country, which helped lead to a shift in thinking among conservative lawmakers that is now permeating the party.244

Nowhere has this coalescing of ideologies perhaps been more visible than outside the halls of legislatures. Much of this push has been aided by major interest groups, including the liberal-leaning Center for American Progress and ACLU as well as the conservative-leaning Koch Industries and FreedomWorks, all of which are members of a group called the Coalition for Public Safety.245 The idea for the group was conceived by the John and Laura Arnold Foundation, which offers grants to organizations doing research on reforming the American criminal-justice system.246 The fact that this coalition has such a strong base of support may allow it to reach out to lawmakers of both parties as a credible voice on this issue.

Because of this widespread political consensus, many political and policy professionals believe a window for reform has been opened. However, policy-making is a messy process, and a presidential system of government with heavy checks and balances makes it difficult to routinely pass sweeping programs. Proponents of criminal-justice reform abound, yet there are different ideas on exactly what kind of reform should be passed.247 In fact, Senate Judiciary Committee Chairman Chuck Grassley had to be cajoled into even acknowledging a need for reform, and his reticence was evident in the fact that the Senate’s bill to address mandatory minimums not only fell

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far short of the House’s companion bill but also included increases in some sentences for crimes related to gun possession and domestic abuse.\textsuperscript{248}

The Obama administration has tried to address parts of the issue on its own. One minor action the president has taken is to release prisoners under his own authority; nearly 90 sentences have been commuted, while due to the actions of the United States Sentencing Commission he was able to release another 6,000.\textsuperscript{249} He has directed Attorney General Loretta Lynch to begin an investigation into solitary-confinement practices in American prisons.\textsuperscript{250} The president also instructed federal agencies to no longer require applicants to check a box indicating whether they have a criminal record, something that often poses a major obstacle to employment for former inmates.\textsuperscript{251} However, his ability to create reform on his own is limited. For more systemic changes, such as sentencing reform, he must rely on Congress.

Some political impediments could also lie ahead for state legislators, who may face pushback from the private-prison lobby and prison-guard unions. Reforming (or even abolishing) private prisons has become easier in recent years after it became evident that they cost far too much.\textsuperscript{252} However, the industry still has a vested financial interest in issues of criminal justice. Prison guards also have an interest in maintaining the status quo on incarceration because any reforms that lessen the number

\textsuperscript{248} Russell Berman, “Can the Senate Reform Criminal Justice?” \textit{The Atlantic}, October 2, 2015.
\textsuperscript{251} Gregory Korte, “Obama tells federal agencies to ‘ban the box’ on federal job applications,” \textit{USA Today}, November 3, 2015.
\textsuperscript{252} “Part II: Arizona For-Profit Prison Costs Rose 14%; Now Guarantee 100% Occupancy,” \textit{Tucson Citizen}, August 3, 2012.
of people behind bars may necessarily result in a need to close some prison facilities. The closure of such facilities would also lead to job losses, and, for some small towns in America, a prison may be the major economic driver. Legislators from such districts will likely have to deal with this reality when voting on any reform measure.

Whatever the obstacles to criminal-justice reform, a growing consensus is emerging that the status quo is no longer acceptable. Although not everyone may agree on the root causes of incarceration or the optimal way to address the nation’s high imprisonment levels, these conversations are necessary. I thus offer my own list of possible policy prescriptions.

**Decriminalize All Drugs and Instead Offer Necessary Treatment.** At face value this idea may sound extreme and untenable to some, since my proposal is not limited to just marijuana but rather extends to all drugs. What would this do? It means those caught using or possessing drugs would no longer be treated as criminals; instead, most drug use would be regarded as a public-health problem, and abusers of hard drugs would be given treatment rather than jail time. For lesser drugs, whose use would no longer be prosecuted, it would free up police resources to focus on crimes that negatively affect public safety.

An example of this can be seen in the state of Georgia, where in 2012 Republican Governor Nathan Deal oversaw the passage of HB 1176, which sought to move
“[more] violent offenders...toward drug courts and rehabilitation where that is possible.”\textsuperscript{253} Similarly, former Texas Governor Rick Perry successfully pushed for sending more first-time drug offenders to drug courts instead of jail. As Perry explained, “We added drug courts to more counties, increased funding, and expanded the types of crimes that allow a defendant to enter drug courts.”\textsuperscript{254}

Congress passed a law addressing the legal aspect of this issue, the Fair Sentencing Act of 2010.\textsuperscript{255} This bill took a first step toward rectifying indefensible disparities in sentencing between crack and powder cocaine. Prior to 2010, the sentencing ratio was 100 to one, meaning those committing offenses with crack—the majority of whom are African American—were forced to serve far longer sentences than those caught with powder cocaine.\textsuperscript{256} This contributed to the idea that the War on Drugs carried a racist element, as prison sentences for drug offenses were disproportionately skewed toward the black community. The Fair Sentencing Act decreased this ratio to 18 to one, which, while far from perfect, is still progress.

Several states have also made progress on this issue by choosing to either decriminalize or fully legalize marijuana.\textsuperscript{257} According to the BJS, marijuana is the drug for which most people are arrested.\textsuperscript{258} Indeed, in states with legal marijuana, arrest rates have plummeted. In Colorado, marijuana possession and cultivation charges

\textsuperscript{254} “Solutions: American Leaders Speak Out on Criminal Justice,” Brennan Center for Justice, 2015, 90.
\textsuperscript{258} “Drug law violations and enforcement,” Bureau of Justice Statistics, accessed October 14, 2015.
have each dropped almost 80%, while distribution charges are down a full 97%. (Notably, distribution arrests for African Americans fell from 87 per 100,000 to 25 per 100,000 in 2014.) In Washington State, violent crime has decreased, the state has reaped major fiscal benefits, and youth marijuana use has not increased. Moreover, filings for low-level marijuana offenses have fallen 98%, and marijuana-related convictions have dropped 81%.

Drug offenders make up almost half of the federal prison population, and decriminalizing drugs could be an effective first step toward reducing the incarcerated population and getting substance abusers the help they need. However, while the mentality behind the War on Drugs may have been a catalyst for the “tough-on-crime” movement, addressing the issue of non-violent drug offenders only solves a small part of the United States’ imprisonment problem. The federal prison population constitutes less than 20% of the country’s total prison population, and most arrests at the state level are for violent crime (although some of this violence must be attributed to the War on Drugs). So, while addressing the issue of drug arrests still has an important place in the prison-reform conversation, it is only one step of the process.

260 Ibid.
**End Incarceration by Law for Most Low-Level Offenses.** Beyond just less incarceration for drug-law violations, reform must center on the idea that imprisonment should not be the measure of first resort for low-level offenders. A perfect example of this is Kalief Browder, who ultimately served three years in one of the country’s most violent prisons for the (alleged) minor infraction of stealing a backpack. Not only does imprisonment usually have a disproportionately negative impact on inmates, but it also costs governments money to keep these individuals behind bars.

The Brennan Center for Justice offers a few ways to address these issues. First, criminal laws should be changed to “remove prison as an option for most low-level, non-violent, or non-serious crimes, except in extraordinary circumstances.”264 Many low-level offenders do not belong beside hardened criminals, and placing them in such an environment is only likely to produce counterproductive consequences. Alternative punishments or solutions might include probation, community service, or electronic monitoring. Second, treatment should be the “standard response” to helping those with mental-health or drug-addiction issues. Putting such individuals in a prison environment may very well exacerbate their problems.

Finally, we must reform the bail process so that decisions on pre-trial detention are based on dangerousness, not wealth. This proposal perhaps makes the most intuitive sense, and some states, such as New Jersey, have already undertaken this proposal. As New Jersey Governor Chris Christie explains, “[The bail system left] in its wake thousands of broken families created by low-income individuals, who are

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non-violent, are no threat to our society, but are stuck in jail awaiting trial. These
individuals often lose their jobs and their homes because of this.” 265 If a defendant is
not a danger to society, there is no reason to keep him or her locked up in a peniten-
tiary. As the system is currently designed in many states, wealthier defendants are
often able to await trial outside of a prison cell, while those who cannot afford bail are
remanded and spend their pre-trial days behind bars. If an individual is not danger-
ous, allow him or her to remain under the supervision of a guardian or law-enforce-
ment officer until a court can rule on their case.

Reform Sentencing Practices from the “Tough-on-Crime” Era. One reason the
prison population has become so astronomically high is that courts have handed
down longer prison sentences. 266 This can be traced back to conscious decisions to
toughen criminal-justice policy. Lawmakers are now rethinking these ideas, and some
have started pushing for reform. 267 Three specific policies that must be a part of this
conversation are mandatory minimums, “three-strikes” laws, and “truth-in-sentenc-
ing” (TIS) laws.

Mandatory minimums, which were designed to give judges less discretion in
sentencing hearings, require that certain offenders must spend at least so many years
behind bars for their transgressions. It is a stingy policy that leaves no room for nu-
ance. For instance, mandatory minimums rarely discriminate between low-level drug

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265 Supra, note 254, 20.
266 Supra, note 188.
dealers and those at the top of the drug trade; in fact, low-level dealers often receive longer sentences than higher-level dealers. Moreover, longer sentences do not necessarily make communities safer; as previously noted, a stay in prison can often lead to an individual becoming more prone to crime upon their release.

The Senate has introduced the Sentencing Reform and Corrections Act of 2015, which would begin addressing this issue by recalibrating sentences for lower-level offenders. A punishment must fit the crime, and arbitrarily setting minimum sentences that leave no room for judicial discretion is often counterproductive.

“Three-strikes” laws target individuals who have previously been convicted of two serious crimes and are being prosecuted for a third time (for any offense). The idea is that violent offenders are removed from society after their third chance. However, it has not always been the case that all (or any) of the three offenses were violent in nature. For instance, in California, a third-time offender was required to spend a minimum of 25 years behind bars. One of the first people to succumb to the state’s new law in 1994 was a homeless schizophrenic named Lester Wallace. Wallace had two non-violent burglaries on his rap sheet and was caught trying to steal a car radio. He received a sentence of 25 years to life and spent his first years in prison with hardened criminals, where he was subjected to both physical and sexual attacks.

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268 “Mandatory sentencing was once America’s law-and-order panacea. Here’s why it’s not working,” Families Against Mandatory Minimums, accessed October 14, 2015.
Some criminologists have argued that these laws are effective in deterring crime. They also note that the main point of contention from opponents of the law is the fact that the third strike need not be a felony or violent crime in order for an individual to be locked up for years. Proponents of the “three-strikes” policy dismiss such concerns, noting these individuals have previously committed two purportedly “serious” crimes.\(^{272}\) However, as has been noted elsewhere, former inmates often return to their old communities where there is little to no economic opportunity. One possible survival mechanism may then be to commit petty theft, often classified as a misdemeanor. Should this action alone merit a sentence length typically saved for more violent crimes, even after long sentences for prior, more-serious crimes have already been served?

California voters have since revisited the original law. In 2012, they passed Proposition 36, a ballot initiative that sought to qualify only violent crimes as a third strike and to release anyone from prison to whom that condition did not apply at their original sentencing.\(^{273}\) According to a *New York Times* report, of the roughly 2,000 individuals serving life sentences who were released due to the new law, only 4.7% have returned to prison—compared to the typical 45% of inmates who recidivate in the state under normal circumstances.\(^{274}\) Clearly, there are smarter ways for states to enforce laws targeting violent offenders without endangering public safety, and California’s model is a great place for others to start.

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TIS laws were created with the intention of forcing convicts to serve out more of the sentence the courts gave them. As a 1999 BJS report notes, “The amount of time offenders serve in prison is almost always shorter than the time they are sentenced to serve by the court.” Most TIS laws required convicts to serve up to 85% of their sentences, which over the long term helps the prison system accumulate a greater number of inmates.275

While some believe this is necessary to make sure violent offenders are unable to reenter society and cause havoc, it is worth pointing out that many states implemented these laws at the expense of parole boards. This means that, if inmates are able to reform their behavior and ready to become productive members of society once more, there is no way for them to seek early release. As The Sentencing Project points out, this extra stay in prisons can cost governments up to almost $2 billion more than if inmates were to serve just 50% of their sentence.276 Although TIS laws may have provided some benefits to the criminal-justice system, there is room for reform, and it should certainly be a part of the broader conversation on reforming sentencing laws.

**Shift More Resources to Community Policing.** One way to deal with the distrust that has been engendered between minority communities and the police is to

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reemphasize community policing. Simply put, the strength of this two-way relationship is essential for ensuring safe communities and neighborhoods. As the pro-reform group Law Enforcement Leaders to Reduce Crime & Incarceration (LEL) says, “Communities rely on police and prosecutors to protect them from crime and injustice. We, in turn, rely on community support and cooperation in ensuring safety.” Unfortunately, this dynamic has been strained, especially in recent years in the wake of events in Ferguson, Missouri, Baltimore, Maryland, and other cities.278

Many recognize that this is one of the most important (and most straightforward) reforms that must be a part of any conversation on criminal-justice reform. Vice President Joe Biden has talked about this very issue, saying the result of less community policing has been “more separation, less communication, more hostility, and [neighborhoods in which] crime [can] thrive.”279 He suggests reinvesting in police departments and giving them the tools they need to make their presence known (in a positive manner) in communities and neighborhoods and to form relationships with their residents. LEL also recommends that police departments work in tandem with these residents to develop policies that make their areas safer while respecting the rights of the law-abiding citizens who reside there.

Revisit the Entire Concept of Private Prisons. While Chapter 1 showed that private prisons may not necessarily be a strong predictor of incarceration rates, Chapter 2

279 Supra, note 254, 6.
found that they do have pernicious effects on the United States criminal-justice system. Private facilities have distorted justice by actively lobbying for tougher laws in an effort to remain at full capacity. These companies have a financial incentive to keep their prisons full, which explains why, despite their putative desire to lower rates of reentry, there is no discernable reduction in recidivism rates for those in private facilities.\(^{280}\) (And, in fact, the country’s largest prison company, CCA, which calls mass incarceration a “revenue stream,” has objected to funding rehabilitative and reentry programs.\(^{281}\))

Beyond their efficacy (or lack thereof) as a purported tool of justice, private prisons also boast ubiquitous problems internally. As one congressional aide explained, “Conditions are terrible…and people’s rights all too often aren’t respected.”\(^{282}\) These facilities, under the guise of “cost-effectiveness,” often penny-pinch, including on food. One psychiatrist who recently investigated a private prison in Mississippi said inmates were severely underfed and looked “almost emaciated.”\(^{283}\) Other casualties of cost-cutting include lower salaries and benefits for employees (most of whom are non-union), less training for employees, higher rates of violence than in public prisons (likely due to worse-trained and fewer employees), inadequate health-care services for inmates, cramped quarters, and many other issues.\(^{284}\)


\(^{281}\) Supra, note 101; “Nation’s largest private prison firm objects to resolution to fund rehabilitative, reentry programs,” Prison Legal News, January 12, 2015.

\(^{282}\) Interview by author, September 21, 2015.


\(^{284}\) Cody Mason, “Too Good to Be True: Private Prisons in America,” The Sentencing Project, January 2012; “Banking on Bondage: Private Prisons and Mass Incarceration,” American Civil Liberties Union,
Thus, it is time for lawmakers to take a hard look at the private-prison system. With no discernible evidence to support the idea that private industry has been a valuable asset to our criminal-justice system, it is time we ask whether we can afford to continue including it at all. The idea that private prisons should be banned is not outside the mainstream. In fact, two prominent members of Congress—Democratic Senator Cory Booker and independent Senator Bernie Sanders—have proposed abolishing private prisons altogether. Another congressman, Democrat Raúl Grijalva of Arizona, who has supported Sanders’s plan, explained, “Removing motives for pushing pro-incarceration policies from our corrections system...[will] help alleviate our overflowing prison system.” While their proposals, which call for an end to government contracts with private facilities, would only have an impact at the federal level, they could be a model for states to follow.

Private prisons have not proven to be any more efficient than public prisons, and they likewise have not shown they can decrease recidivism rates. In other words, taxpayers are not getting a good return on their investment. It is time to consider strong reform of the private-prison industry, and one option that should not be taken off the table is abolishing them altogether by ending their government contracts.


286 Raúl Grijalva, e-mail message to author October 2, 2015.
"Ban the Box." One of the best ways to reduce recidivism among recently released inmates is to help them develop a stable economic foundation, and an easy way to do this is to help them find work. However, they often run into one major obstacle that prevents them from even getting a job interview: they have to check a box on their application asking whether they have ever had a criminal conviction. One congressional aide described having a criminal record as tantamount to "wearing a scarlet letter." ²⁸⁷ As the 2014 NRC report explains, "[the] stigma of a criminal conviction presents an enormous barrier for black applicants and a considerable barrier for white applicants." ²⁸⁸ Indeed, for black men, checking the box makes their prospects of obtaining a job 40% worse than those of their white counterparts. ²⁸⁹

One way some states have tried to remedy this is by passing so-called "ban-the-box" laws, which prohibit employers from asking job applicants to divulge criminal convictions on their initial applications. It should be made clear, though, that companies are still allowed to run their own background checks; however, the idea behind "banning the box" is that it removes an obstacle standing between many prospective employees and an initial interview. This gives them a chance to bring up any issues on their own terms, rather than having their application discarded without any chance to explain their situation.

Do Away with Restrictive Voting Policies for Former Inmates. One of the most devastating realities facing many former inmates upon their release is the fact that a

²⁸⁷ Interview by author, September 21, 2015.
²⁸⁹ Supra, note 254, 16.
major part of their civic livelihood is no longer available to them: the right to vote. The right to vote is fundamental to American citizenship, as it gives all citizens a voice in government. As former Supreme Court Chief Justice Earl Warren once said, “The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” 290 However, in many states, this right is revoked from those who have been formerly incarcerated. Instead of their punishment ending upon the completion of their sentence, it carries over in their return to society.

If former convicts are to become fully reintegrated with their communities, restoring their voice in government is of the utmost importance. Only two states—Maine and Vermont—place no voting restrictions on felons at all. Thirteen states only prohibit those in prison from voting, while 23 extend that prohibition to those under parole and/or probation. Twelve states never restore these rights. 291 When individuals are sentenced to jail or prison, they pay their debt to society through time served, and that should be the extent of their punishment. If we continue to provide health care and, in some cases, education and job training for incarcerated individuals, none of which are guaranteed rights, then we should certainly ensure they maintain a right to vote. Public policy must trend in the direction of expanding voting rights, not restricting them, and states that currently preclude former felons from voting should revisit those policies.

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Allocate Sufficient Resources to Prisoner Reentry Programs in an Effort to Reduce Recidivism. One issue that is at the center of most criminal-justice policy discussions is that of recidivism rates—the proportion of those released from prison who end up behind bars again. The most recent statistics showed that 67.8% of those released from prison return within three years, either due to committing a new crime or violating the conditions of their release. Governments must do a better job of funding reentry programs to ensure those who leave prison are less likely to return.

Many states have begun addressing this challenge. In Connecticut, Governor Dan Malloy pushed for (and eventually signed into law) a program called the Second Chance Society. In addition to reducing mandatory minimums for drug possession and expediting the parole process for non-violent, victimless offenses, the law allocated funds for several post-incarceration programs, such as education and employment training, mental health treatment, and a housing initiative that helped frequent substance abusers.

In Georgia, Governor Nathan Deal issued an executive order in 2013 creating the Governor's Office of Transition, Support and Reentry, which was tasked with addressing the issue of prisoner reentry into society. In a partnership with other organizations, the agency created the Georgia Prisoner Reentry Initiative (GA-PRI), which aimed to reduce the state's recidivism rate over five years. As a report by the Georgia


Council on Criminal Justice Reform explains, the objectives of GA-PRI were “to improve public safety by reducing crimes committed by former offenders, thereby reducing the number of crime victims, and...to boost success rates of Georgians leaving prison by providing them with a seamless plan of services and supervision.”

Efforts are underway at the federal level, too. In November 2015, the Obama administration announced the formation of adult reentry education grants, which award grant money to various communities in an effort to develop reentry programs (with a focus on education) for the formerly incarcerated. Additionally, the Department of Housing and Urban Development launched a grant program to not only keep former convicts from falling into homelessness but also help them find housing upon their release. The DOJ has also helped fund reentry programs at the state and local level.

Criminal-justice policy is inexorably linked to other domestic realities—the education system, access to health care, economic conditions—and it would be imprudent to assume that the country’s mass incarceration crisis can be fixed without addressing these other issues as well. But some authors like Marie Gottschalk believe that focusing on a “root-causes approach” is too shortsighted an approach to achieving meaningful reform over the next few years. As she says, “If we designate structural

294 Supra, note 253.
295 “President Obama Announces New Actions to Promote Rehabilitation and Reintegration for the Formerly-Incarcerated,” White House Office of the Press Secretary, November 2, 2015.
296 Ibid.
problems the centerpiece of any plan to dismantle the carceral state, we are essentially accepting that the extensive U.S. penal system is here to stay for a very long time.”

Gottschalk suggests that, while reforms focusing on reentry and recidivism are important, the most potent proposals must include prioritizing sentencing reform guided by the principle that prison should be reserved for those who pose the greatest threats to the public. Furthermore, she argues there should be a concerted focus on eliminating the “civil death” that often follows prisoners upon their return to society. Realistically, this kind of reform—which will likely entail “educational, vocational, housing, health, and economic support” for former inmates as well as rehabilitation alternatives to prison—will cost money, making the politics of this kind of reform murky.

As with any major area of public policy, sweeping reform is often incredibly difficult to accomplish, even when there exists widespread support for reform efforts. Moreover, America’s system of government has long operated on incremental change. However, given the bipartisan backing for reform, a window of opportunity may yet exist for the kind of comprehensive approach envisioned by Gottschalk. The preceding list of proposals is far from exhaustive, but it includes ideas that could help drive the discussion on criminal-justice reform in the right direction.

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299 Ibid., 566.
Conclusion

Criminal-justice reform is no longer an issue only discussed by technocrats and a handful of interest groups; in the year 2015, it is part of a national conversation. This study sought to contribute to that conversation by providing the “what,” “how,” and “why” components of mass incarceration. Through quantitative testing, qualitative analysis, and an in-depth look at the consequences of our prison system, I believe this research will be a valuable addition to the literature.

Chapter 1 observed which factors influence incarceration rates. One of the first important findings was the fact that violent crime is no longer a causal predictor of higher imprisonment levels. Although the two variables enjoyed a strong causal link throughout the 1980s and 1990s, crime has dropped to historic lows while levels of imprisonment have skyrocketed. As I have noted, recent research further confirms that this phenomenon is not simply a signal that more incarceration has kept violent criminals off the streets; rather, high prison levels are largely the result of conscious public-policy decisions.

This leads us to perhaps the most important finding in this chapter: Republican control of state government has been a strong, significant determinant of incarceration rates. My research found that, for every one-unit increase in my GOP index, there was a corresponding increase of 13.644 in the rate of imprisonment. While the idea that conservative governments favor tough-on-crime policies is not a novel one, this is one of the first quantitative confirmations offered in the literature. This variable matters because it reiterates the fact that, when parties with strong anti-crime platforms assume power, they are likelier to divert more resources to combat crime,
which often comes at the expense of other expenditures—education, health care, welfare—that may deter crime in their own right.

Finally, Chapter 1 showed that the variable measuring the black population in a state is very significant. This is possibly one of the most relevant findings, as police relations with minority communities have grown tenser in recent years, and African Americans overwhelmingly populate the nation’s prison system. The data in this study show that, in states with a larger proportion of black residents, levels of imprisonment are likely to be higher. As the United States grows more diverse, this trend will certainly be worth following.

Chapter 2 examined how private prisons, the War on Drugs, and Republican control of government influenced incarceration rates in four states. The case studies showed how private-prison corporations exert their influence over state lawmakers in order to house more of the country’s prison population. Some of these contracts require governments to reimburse private facilities for any unused beds, which necessarily makes it worth (at least from a budgetary perspective) incarcerating more citizens.

The chapter also showed that the coming debates over drug policy in America could have a significant impact on incarceration rates. Colorado provided the best example of this. The state voted to legalize marijuana in 2012 and has seen a subsequent plunge in arrests and imprisonments for numerous drug charges. Moreover, contrary

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to the concerns of some, crime did not rise in the wake of this policy change. As more states follow this trend, it will be worth monitoring how it coincides with the number of inmates in jails and prisons.

Lastly, one finding that may somewhat weaken the quantitative results is the fact that Democratic governors have overseen some of the growth in incarceration rates. I use the term “somewhat” because, as I noted in the chapter, in divided government executives of either party often go along with members of the other party to pass some legislation and keep the government moving. Additionally, more moderate Democrats have historically been open to tough-on-crime policies. Indeed, some of the most prominent crime legislation of the 1990s was ushered in by President Bill Clinton. Although this does not disprove the fact that Republican government often leads to higher levels of imprisonment, it does provide another element to the discussion.

The final chapter discussed the consequences of our criminal-justice system as it currently exists. Several actors are impacted by the punitive system of incarceration in the United States. Families and neighborhoods suffer when their members are locked up. Research has shown that communities experiencing high rates of incarceration are at risk for higher-than-normal mental-health issues. They also tend to experience more crime because most former inmates have few, if any, support systems upon their release and often end up returning to a life of crime, affecting everyone around them. Families usually bear the burden of offering some such systems of support, from housing to health-care needs. Additionally, the children of incarcerated individuals can suffer long-term consequences when a parent is imprisoned because
the parent typically has no means of paying child support; this only serves to exacerbate the cycle of separation, debt, and family tensions.

Although prisons are supposed to both punish and rehabilitate, the former is far more emphasized than the latter, and this can have a negative effect on inmates. Many develop mental-health issues as a result of their time in prison, and facilities are often ill-equipped to help them. However, the punishment often does not stop at the prison gates. Former inmates are subjected to a host of discriminatory laws upon their release, which make it harder for them to become reintegrated into society. Some states have begun taking measures to address this problem, and the federal government is considering following suit.

This leads to the last actor that is negatively impacted by mass incarceration: the government. High levels of imprisonment require similarly high levels of funding. As prison populations have increased over the past few decades, governments have started realizing the fiscal consequences of some of their tough-on-crime policies. Some states have discussed ending contracts with private prisons, while others have banned them outright; however, reform efforts cannot stop here. If governments want to see prison levels decrease, they must focus on all three phases of imprisonment: fostering community environments less susceptible to crime, revisiting punitive laws of the past that have created long-term sentences, and allocating resources to reentry programs to reduce recidivism levels.

There is much room for future research on this topic. Private prisons are still a relatively new concept. A handful of them were created in the early 1990s, but data
on imprisonment rates dates back to only 1999, when they became more common. Given some of the recent pushback against private prisons, it will be worth revisiting this variable in coming years (once more data is available) to examine whether it was truly a predictor of high incarceration rates or simply a symptom of the broader prison-industrial complex.

Another variable that may be worth observing is the existence and strength of prison-guard unions. These groups also have a financial incentive in keeping prisons open: the more that close, the more jobs disappear with them. Observing whether these unions contributed to lawmakers could offer another perspective to this conversation.

Lastly, quantitative analyses always leave room for modification and improvement. Although Chapter 1 was comprehensive, there were some data sets I had to omit, simply because reliable data was not immediately available. Future researchers may benefit from developing their own data sets for high-school dropouts and religious fundamentalism, as both have been mentioned in the literature as possible predictors of incarceration rates.

There is a place for incarceration in society; some criminals make their communities more dangerous and deserve to be punished. However, the United States’ current criminal-justice system—and the mass incarceration phenomenon that has resulted from it—is unsustainable. It is difficult to morally justify a system that imprisons non-violent offenders, removes judicial discretion, locks up criminals for longer than their crimes may warrant, and operates with a greater focus on discipline.
over rehabilitation. In several states the formerly incarcerated become second-class citizens upon their release, with many having no access to employment, housing, or the ballot box.

A new criminal-justice paradigm must take root in America. For too long the scales of justice have tilted toward punishment and away from rehabilitation. Prisons should no longer be viewed as warehouses for the poor, mentally ill, and drug-addicted. Drug-abuse violations should be met with sympathy and treatment, not imprisonment; harder felonies should continue be taken seriously but with rehabilitation as the end goal when possible. This new paradigm must also acknowledge that, once an individual’s debt is paid, he or she should be free and able to reintegrate with the rest of society. Communities and families are stronger when every member is able to contribute.

Debates over crime and punishment will surely linger for years and decades to come, but there is a window of opportunity to address America’s system of mass incarceration right now. It is my hope that this research can contribute to these discussions in a productive manner by providing a look at what has led to the country’s high levels of incarceration, how these predictors have influenced prison levels, and the consequences of maintaining the status quo. America must rethink its approach to criminal justice if it truly desires to be “the land of the free.”
References


Curriculum vitae

EDUCATION

Truman State University, Kirksville, MO  
B.A. (Honors) in Political Science  
Minor: Music Performance  
Magna cum Laude  
2013

AWARDS

Best Paper Award, Illinois State University political science research conference  
Spring  
2012

TEACHING EXPERIENCE

Truman State University, Kirksville, MO  
Teaching Assistant – Political Science Methodology  
2012-2013

I advised students on their term papers, assisted with homework, and taught the class on days during which the professor was absent.

PROFESSIONAL EXPERIENCE

The Atlas Project, Washington, DC  
Political Analyst  
July 2014 – Present

I work on the political team as an analyst. We work with the company’s clients in numerous manners: assisting in their use of Atlas’s products and services; doing projects on an ad-hoc basis; and developing state-by-state user’s guide for elections.

United States Congress, Washington, DC  
Legislative Intern  
2009 – 2014

I worked in three different congressional offices during the summers of 2009, 2010, and 2011, and from October 2013 to May 2014. Over that time, I familiarized myself with IQ, Spry, and Voice databases (sorting e-mails, constituent contacts, flag requests, etc.); drafted policy memos; created response letters to constituent inquiries; managed the office when the House was out of session and the regular staff were absent; met with visiting interest groups to convey their concerns to the Member; edited and proofread position papers and formal letters for the legislative director; engaged in extensive policy research; and was temporarily delegated staff assistant duties of during the position’s vacancy (including managing the constituent flag request program.

Coro Kansas City, Kansas City, MO  
Fellow  
2013

I participated in a leadership training program for future community leaders. We completed two community service projects: designing and building a community greenhouse garden, and researching and reporting on International Marketplace for northeast Kansas City neighborhood. I also shadowed community leaders in five different sectors: government (KC mayor’s office), business (Blue Cross Blue Shield), non-

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profit (BikeWalkKC), labor (Heavy Construction Laborers Local 663), and media (multiple locations).

**Missouri House candidate Rebecca McClanahan, Kirksville, MO**

*Campaign Aide*

I assisted with development of a communication plan and campaign messaging; conducted opposition research; and participated in the organization of fundraisers and community events.

**RELATED EXPERIENCE**

**College Democrats of Truman State University, Kirksville, MO**

*Vice President*

2011 – 2013

I organized and executed a community Rock the Vote concert, several voter registration drives, and educational opportunities (including two faculty panel discussions) for the student body. I also periodically wrote columns for the organization's blog.

**Young Democrats of Missouri**

*Chair of the College Federation*

2011 – 2013

I served as liaison between the state chapters and helped revitalize inactive groups.

**Truman State University Student Senate, Kirksville, MO**

*Senator, Speaker*

2011 – 2013

I served as the chair of the Wet Tailgating Research Committee, which drafted a resolution in support wet tailgating and presented it to the university’s senior administration for consideration (it passed the Senate unanimously); organized and executed student body elections for the 2012-2013 school year; and was a representative to the President’s Guiding Coalition for the university vision statement.

**PUBLICATIONS AND PAPERS**

“The Medical Marijuana Act: A Critical Analysis of the Formulation of California’s Medical Marijuana Law”

Presented at Illinois State University research conference, Normal, IL.

Published in *Critique* (Spring 2012 edition), the university’s political science journal.

**MEMBERSHIPS**

- Phi Beta Kappa
- Pi Sigma Alpha – national political science honor fraternity
- Truman State University Alumni Association

**AREAS OF INTEREST**

- Criminal justice policy
- Health care policy
- Education policy
- Social welfare policy