

---

# *Federal Policies and Mass Incarceration in America*

Lisa Ly

---

## ABSTRACT

In “the land of the free,” there are 1.6 million people incarcerated in prison or jail as of 2023 (World Prison Brief n.d.). The United States system of mass incarceration disproportionately impacts communities of color and inflicts personal, social, and economic harm on incarcerated individuals. This paper examines the history of previous federal policies and funding that influenced the criminal justice system and how these legislative actions resulted in the era of mass incarceration in the US. This paper concludes that allocating federal funding to support reentry programs, establish universal voting rights, and increase monitoring of reform efforts, along with a coordinated policy response from state lawmakers, will propel lasting change in the criminal justice system.



**LISA LY** is a second-year Master of Public Policy candidate at the Trachtenberg School. Her research interest includes social and urban policies and how different policies shape the systems of social provision in the United States. Lisa graduated summa cum laude and received her B.A. in Criminal Justice from the University of Nevada, Las Vegas, where she also published her honors thesis, which examined racial profiling of civilians in the practice of stop-and-frisk in New York City. When she is not studying or working as a UX researcher at the Washington Post, Lisa loves to binge-watch k-dramas and anime.

## ACKNOWLEDGEMENTS

The author would like to extend her gratitude and appreciation to her Associate Editor, Anisha Sahni, and Faculty Reviewer, Professor Kathy Newcomer, for their thoughtful and constructive feedback during the editorial process. The author is grateful to Editor-in-Chief Evan Linett and Managing Editor Kody Keckler for their valuable insights and frequent support. She also thanks Professor Steve Redburn for his guidance in the original writing of the paper. Finally, she thanks her wonderful mom and sister for their endless love and encouragement throughout her graduate studies and continued academic journey.

## INTRODUCTION

Mass incarceration is one of the most pressing civil rights issues in America. As a world leader, the US has one of the highest prison populations in the world, with the total incarceration rate peaking in 2008 at 2.3 million (Vera Institute of Justice n.d.; World Prison Brief n.d.). US federal policy influences the incarceration rate. For example, some policies and budgets implemented through the Department of Justice (DOJ) incentivize state and local governments to adopt punitive criminal justice policies and build more state prisons. Punitive and discriminatory enforcement practices and laws contribute to the rise of mass incarceration, especially for people of color. Since the 1960s, federal funding for law enforcement and prison construction has accompanied and encouraged more stringent sentencing and increased incarceration (Alexander 2010, 76-77, 134; Eisen and Stroud 2021).

This paper examines how federal policies have incentivized growth in the state prison systems and their effect on mass incarceration in the US. First, it describes how federal laws and funding have influenced state criminal justice systems over the last six decades. It proceeds to highlight how people of color have been disproportionately affected. Third, it discusses the negative results of mass incarceration. The paper then discusses the 2022 and 2023 federal budgets and describes how policymakers are currently using the federal budget to further promote criminal justice reform and advance decarceration in state prisons. This analysis concludes with a suggestion of the policy changes needed to reduce mass incarceration and address its negative impact on American society. Federal and state policymakers should take action to decrease prison admissions via fewer new prison commitments, provide further funding for reentry programs, and establish universal voting rights for all American citizens, including incarcerated individuals.

## HOW FEDERAL LEGISLATION AND FUNDING HAVE INFLUENCED THE CRIMINAL JUSTICE SYSTEM

The US has the second largest prison population in the world after China (World Prison Brief n.d.). Since 1970, the number of people in the US incarcerated has increased by 800 percent (Duke 2009, 17). The federal government, via federal funding for state-level law enforcement and prison construction, has played a primary role in the nation's carceral landscape.

### *THE 1960S AND THE JOHNSON ADMINISTRATION (1963-1969)*

Federal funding first shaped the American criminal justice system during President Lyndon B. Johnson's *Law on Crime* in the 1960s. Violent street crime in the US rose dramatically in the 1960s. These crimes included drug-related murders, armed robberies, and violent assaults (President's Commission on Law Enforcement and Administration of Justice 1967). The rise in crime rates ultimately led Johnson to call for a "War on Crime" which contributed to the "Law-and-Order" era of the 1960s and 1970s (Delaney et al. 2018; Thompson 2010, 732). The Johnson Administration's focus on crime control as a federal priority laid the groundwork for vital changes in the policing and criminal justice systems.

Southern officials, segregationists, and law enforcement first utilized the term "law-and-order" in the late 1950s in opposition to the Civil Rights Movement. These officials blamed the Movement's boycotts, marches, sit-ins, and general civil disobedience within the Black community as the cause of crimes in America (Alexander 2010, 40-41). A series of riots after Martin Luther King Jr.'s assassination fueled "fears of Black crimes" (Alexander 2010, 41). By the late 1960s, the call for more "law-and-order" became a political signal and presented a crime reduction approach focused on enforcing harsher punishments and penalties for

## Featured Articles

convicted individuals (Alexander 2010, 40-42). In 1968, Congress passed the Omnibus Crime Control and Safe Streets Act (OCCSSA) as part of the Johnson Administration's "War on Crime" campaign to tackle what the president declared as "a time of violence and tragedy" (Delaney et al. 2018; Johnson 1967; Thompson 2010, 730). The law provided FBI-led training for state and local law enforcement and more than \$400 million in funding for local law enforcement, including block grants, discretionary grants, and prison construction. OCCSSA also provided funding for criminal penalties and grants for drug law enforcement programs (Public Law 90-351). This funding resulted in states constructing more prisons and enabled longer sentences with less parole for convicted individuals.

### *THE 1970S-1980S AND THE NIXON AND REAGAN ADMINISTRATIONS*

The election and presidency of Johnson's successor, President Richard Nixon, also continued the "law-and-order" period in the US. During the 1968 presidential election, then Presidential candidate Nixon and his Democratic opponent centered their campaigns on "law-and-order." President Nixon's campaign platforms included promises to reduce street crime and bring order to civil rights activism (Alexander 2010, 46; Delaney et al. 2018). In 1971, the administration officially launched the "War on Drugs" campaign in which Nixon cited drug abuse as 'public enemy number one' (Alexander 2010, 47). Despite this, President Nixon's former aide later confirmed that this campaign was a crusade against "Black people and hippies" (Alexander 2010, 43-44). Delaney et al. (2018) cite that the "War on Drugs" campaign that President Nixon championed was the beginning of the era of mass incarceration.

Incarceration rates increased due to the expansion of the "War on Drugs" campaign under President Ronald Reagan (Alexander 2010, 5-7, 76). Congress passed legislation, such as the Anti-Drug Abuse Act of 1986 and its expansion in 1988, establishing mandatory minimum penalties for drug possession and trafficking, which included marijuana and crack cocaine (Public Law 99-570; Public Law 100-690). For the possession of five grams or more of crack cocaine, an individual could receive an indictment between a five-year mandatory minimum and a 20-year maximum sentence (Public Law 100-690). Marijuana and crack cocaine have long been associated with the Black community, along with stereotypes of "crack dealers" and "crack babies" (Alexander 2010, 5, 51, 59, 124). Crack cocaine only began to spread through impoverished Black communities after Reagan's campaign. The increased negative publicity against the use of crack cocaine and marijuana led to the drastic increase in federal funding for the "War on Drugs" campaign and the policies that followed (Alexander 2010, 76-77, 134). These sentencing laws flooded the prison system with individuals convicted of low-level and nonviolent drug offenses.

President Reagan's tenure saw the prison population nearly double from 329,000 to 627,000. In August 1991, the US Sentencing Commission, which sets the rules for federal sentencing, released a report on the impact of mandatory sentences. The findings indicated that race played a factor in mandatory sentencing. People of color or "non-whites," were more likely to receive longer sentences than their white counterparts because of race-based discrimination (Sentencing Commission 1991, ii). Instead of focusing on rehabilitation for drug users or reforming the mandatory minimum sentences, funding for policing increased, as did the racial disparities in sentencing and expansion of the criminal justice system.

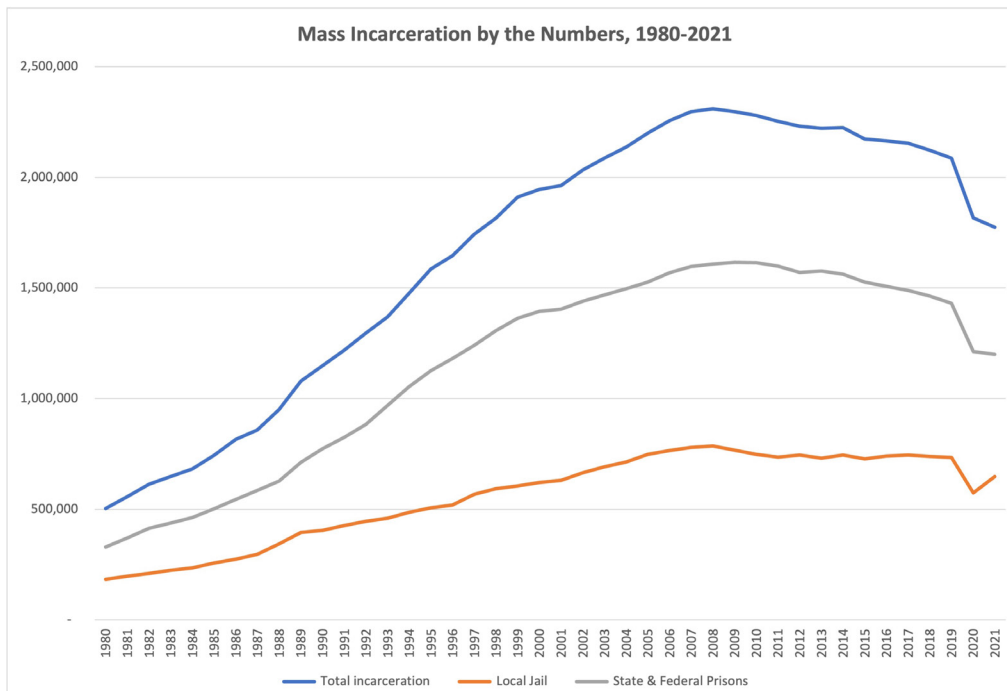
### *THE 1990S AND THE CLINTON ADMINISTRATION*

By the 1990s, violent and property crime rates began declining; however, in 1994, Congress passed what historians regard as the most significant federal crime bill ever passed (Levitt 2004, 163). The Violent Crime Control and Law Enforcement Act, also known as the 1994 Crime Bill, incentivized states to build more prisons and promoted harsher criminal sentences, including for terrorism, crimes against women, and certain felonies such as drug-trafficking and drunk driving. The bill, co-drafted and sponsored by then-Senator Joe Biden,

included an \$8.7 billion incentive for states to enact truth-in-sentencing laws, which require offenders to serve at least 85 percent of their sentence before becoming eligible for parole or early release (Public Law 103-322).

Before 1994, all 50 states had passed at least one mandatory minimum sentencing law. The 1994 Crime Bill encouraged states and local governments, through federal funding, to have harsher law enforcement practices, including more punitive sentencing (Cullen 2018; Public Law 103-322). According to Michelle Alexander (2010) via *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, the number of incarcerated individuals in America was “unprecedented,” with “one-fourth of African American men” a part of the criminal justice system (136). Incarceration rates tripled from 500,000 in 1980 to 1.5 million in 1994 (Brown et al. 1996; Vera Institute of Justice n.d.). By the time President Bill Clinton left office in 2001, an estimated 6.5 million people were a part of the criminal justice system, with approximately 2 million individuals incarcerated (see figure 1) and 4.5 million on either probation or parole (Feldman et al. 2001, 2).

**Figure 1: Mass incarceration in the US, 1980-2021.**

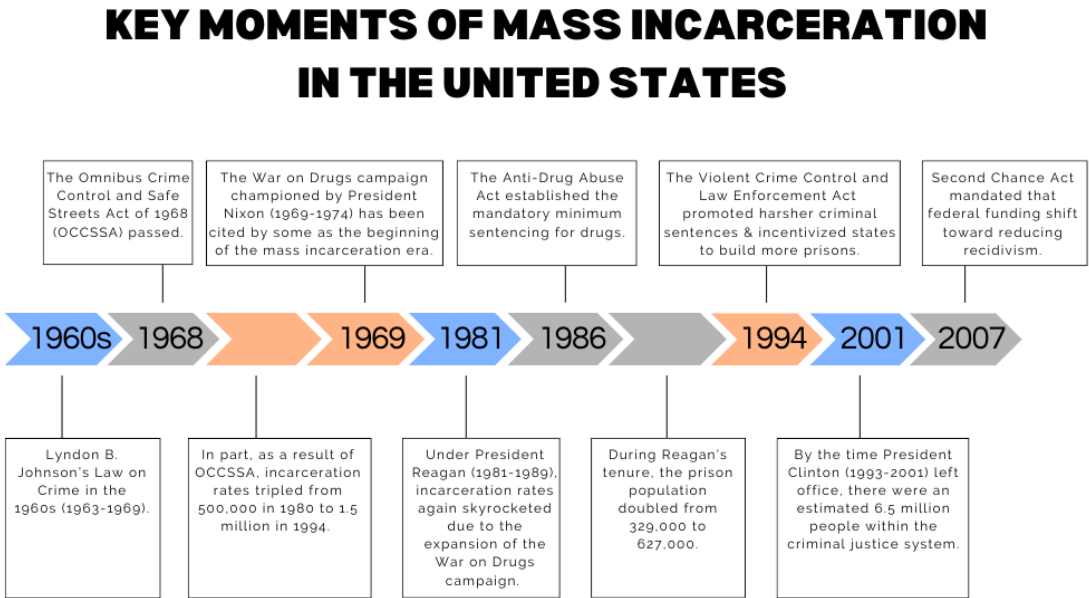


Source: Vera Institute of Justice (n.d.). Note that “people under the jurisdiction of state and federal prisons who are held in local jails are excluded from ‘Total incarceration’ to avoid double counting. Prison population counts are for the end of year; local jail counts are for the last weekday in June, except in 2021 which is for the end of March.”

### IMPLICATIONS OF THE HISTORY OF FEDERAL BUDGETS AND MASS INCARCERATION

Since the 1960s, federal funding through the Department of Justice has encouraged state and local governments to adopt more punitive criminal justice policies through several

**Figure 2: Key Moments Affecting Mass Incarceration in the US (1960s-2007)**



Source: Figure prepared by the author

different mechanisms (see figure 2). Block grants, like those authorized in OCCSSA, public safety and community policing grants, and truth-in-sentencing incentive grants under the 1994 Crime Bill incentivized states to increase arrests, prosecutions, and incarceration rates as part of the call for more stringent crime control (Eisen and Stroud 2021).

### *IMPLICATIONS OF THE HISTORY OF FEDERAL BUDGETS AND MASS INCARCERATION: LAW ENFORCEMENT AND PRISON CONSTRUCTION*

As budgets for law enforcement skyrocketed, so did prison and jail populations. With the 1994 Crime Bill, the federal government exacerbated mass incarceration by encouraging states to incarcerate more people for longer periods of time. This bill resulted in the federal government distributing \$9.7 billion in funding for state prisons and \$6.1 billion for crime prevention programs, with 100,000 new police officers hired nationwide (Department of Justice 2020). The bill also established the Office of Community-Oriented Policing Services (COPS) to provide funding and assistance to state and local law enforcement agencies to help hire police officers (COPS Office Public Affairs 2022; Department of Justice 2020). Since 1994, COPS has provided more than \$14 billion in federal funding to support community policing. It awarded grants to more than 13,000 state, local, and Tribal law enforcement agencies to fund the hiring and redeployment of more than 136,000 officers (COPS Office Public Affairs 2022).

Federal funding of law enforcement and our criminal legal system has dramatically outpaced that of community and social services such as healthcare, housing, education, and crime prevention programs since the 1980s (Fernandez 2020). In 1997, just three years after the 1994 Crime Bill, the criminal justice system had cost taxpayers more than \$70 billion annually and employed more than two million people (Feldman et al. 2001, 2). In

addition, convictions for nonviolent drug law offenses increased from 50,000 in 1980 to over 400,000 by 1997 (Cullen 2018; Drug Policy Alliance 2022). Despite the history of drastic law enforcement funding and crime control initiatives, in 2018, out of the 10.3 million arrests, only five percent were for severe offenses, including murder, rape, and aggravated assault (Fernandez 2020), the remainder for minor offenses such as traffic violations, drug possession, unlawful assembly, and mental health crises (Fernandez 2020). The criminal justice system is heavily funded and focused mostly on minor offenses. Furthermore, federal funding for law enforcement and prison construction incentivized over-policing, surveillance, and racial profiling of impoverished communities, specifically in Black neighborhoods (Alexander 2010, 75-77, 120-124).

## THE IMPACTS OF MASS INCARCERATION

### *RACIAL DISPARITIES IN THE CRIMINAL JUSTICE SYSTEM*

The policies that perpetuate mass incarceration through federal funding have intersectional implications. Punitive criminal justice policies have disproportionately impacted communities of color already marginalized by poverty, discrimination, and inadequate resources (Cullen 2018; Delaney et al. 2018). Under sentencing laws, Black and Hispanic individuals tend to be punished more harshly than white individuals (Nellis 2021). As incarceration rates between 1960 and 2001 grew, the racial composition of the prison population became increasingly skewed toward people of color. According to the American Civil Liberties Union (2022), “one in every three Black boys” may be incarcerated in their lifetime. Overall, state prisons incarcerate Black Americans at nearly five times the rate of their white counterparts. Mass incarceration has insidious effects on marginalized communities (Nellis 2021). A higher level of imprisonment in communities is associated with higher crime rates and neighborhood deterioration, consequently producing greater racial disparities.

### *BARRIERS TO REENTRY*

Federal policies that fund and facilitate state-level incarceration led to discrimination against millions of Americans based on their criminal records. For many individuals, having a previous criminal record prohibits them from returning to a stable life post-incarceration. A study conducted from 2010 to 2014 by the Bureau of Justice Statistics (2021) revealed that 33 percent of formerly incarcerated individuals did not find employment four years post-release. Furthermore, among the five million formerly incarcerated individuals as of 2018, there was “an unemployment rate of 27 percent, which is higher than the total unemployment rate in America at the time and any historical period” (Couloute and Kopf 2018).

Aside from creating difficulties in gaining employment and finding housing, imprisonment also reduces lifetime earnings and negatively affects families. A criminal record can create obstacles to higher education, as well as to obtaining immigration or residential status (Alexander 2010, 145-149; Burke et al. 2022; Wegman 2014). A misdemeanor conviction alone creates challenges in obtaining a driver’s license, buying insurance policies, or applying for loans (Alexander 2010, 147-148). Having felony convictions restricts people from voting and, in some states, can lead to denial of federal public benefits, including federal loans, grants, welfare, unemployment benefits, cash assistance, and food assistance (Alexander 2010, 152-153, 156-157; Center for Law and Social Policy 2022; Wegman 2014). The challenges of reentry and community reintegration show the necessity of adequate government funding to address this problem. Having a viable source of support for formerly incarcerated individuals and their families could mean a difference in recidivism rates in many communities across the country.



## *DISENFRANCHISEMENT*

Federal funding impacts disenfranchisement—the denial of voting rights of American citizens. According to The Sentencing Project, in 2022, there were 4.6 million Americans disenfranchised due to felony laws prohibiting those in prison from voting (Uggen et al. 2022). When electoral district lines are drawn in prison gerrymandering, current and incarcerated individuals are counted, even though they do not have the right to vote (Muhitch and Ghandnoosh 2021). Some states can take advantage of the large prison population disproportionately made up of Black and Latinx people in reapportionment and redistricting during the official Census count. Despite this loophole, the Census Bureau (2018) did not change this policy during the 2020 Census. In refusing to change its policy, the Census Bureau made it clear that incarcerated individuals are still not regarded as people with the right to representation.

Eleven states—Alabama, Arizona, Delaware, Florida, Iowa, Kentucky, Mississippi, Nebraska, Tennessee, Virginia, and Wyoming—have the most restrictive voting rights laws. In these eleven states, incarcerated individuals lose their voting rights even after incarceration, including after they complete probation or parole. Formerly incarcerated individuals in these states “make up over 58 percent of the entire disenfranchised population” (Chung and Muhitch 2021). In the US, only Maine, Vermont, the District of Columbia, and Puerto Rico do not restrict the voting rights of those in prison or anyone with a past felony conviction (Alexander 2010, 153; Uggen et al. 2022). Since 2016, many state voter restoration reforms have led to a “nearly 15 percent decline in the disenfranchised population” (Chung and Muhitch 2021).

Because incarceration disproportionately impacts communities of color, so do its influences on disenfranchisement. Nationally, “one of every 16 Black adults is disenfranchised;” Black Americans above 18 years old are “four times as likely to lose their voting rights than the rest of the adult population” (Chung and Muhitch 2021). As mass incarceration and criminalization rates increased, the number of disenfranchised people also dramatically increased from an estimated 1.2 million in 1976 to 4.6 million by 2022 (Uggen et al. 2022). Disenfranchisement disproportionately affects the Black community and continues to punish formerly incarcerated individuals by taking away one of the most basic promises of the United States democracy: the right to vote.

## RECENT EFFORTS TOWARD CRIMINAL JUSTICE REFORM

### *REDUCING RECIDIVISM RATES AND IMPROVING REENTRY SUCCESS*

Over the last two decades, the federal government attempted to reform the criminal justice system. In 2007, the Second Chance Act (Public Law 110-199) mandated that funding shift toward reducing recidivism and improving outcomes for people returning to their communities from state and federal prisons, jails, and juvenile facilities. The bill authorized federal grants for reentry programs for previously incarcerated adults and juveniles. Another viable source to support those previously incarcerated is the Justice Reinvestment Initiative (JRI), which was created using a grant from the Department of Justice (DOJ) and launched in 2010 (Council of State Governments Justice Center n.d.). The JRI is a partnership between states, the Bureau of Justice Assistance, the Council of State Governments Justice Center, and The Pew Charitable Trusts to collect and analyze data to reduce recidivism rates and reallocate funding from the criminal justice system to community-based programs and services (Council of State Governments Justice Center n.d.). In 2021, the JRI received more than \$17.7 million in grant funding from the DOJ to implement data-driven strategies to improve public safety, decrease crime, and facilitate appropriate sentencing (Department of Justice 2021a). The Second Chance Act and the JRI are two reform efforts that improve



the criminal justice system, bringing the country one step closer to ending the era of mass incarceration.

### *DECARCERATION PROCESS*

Despite reform efforts at the federal and state levels, the overall pace of decarceration is slow. Findings by the Sentencing Project indicate it will take “75 years to reduce the prison population by half” based on the rate of change from 2009 to 2016 (Schrantz et al. 2018). Recent actions by the courts and local and state governments to reduce the incarcerated population showed how crucial it is for all levels of government to work together to address mass incarceration. For example, in *Brown v. Plata* (2011), the US Supreme Court upheld the decision requiring California to reduce its prison overcrowding to 137.5 percent of its “design capacity” within two years. As a result of the decision, California alone reduced 36 percent of the country’s incarcerated population (Schrantz et al. 2018). Other states also continued to decrease their incarcerated population between 2020 and 2021. Washington state’s total prison population declined “14 percent in 2021,” with an approximate “18 percent decline in 2020.” New York also saw similar declines at “10.8 percent in 2021” and “20.8 percent in 2020” (Kang-Brown 2022, 2). The decline in incarceration rates in California, Washington, and New York suggests that states can promote the decarceration rate in their prisons, perhaps even further, with the help of federal funding.

### *CRIMINAL JUSTICE REFORM EFFORT FUNDING IN THE FY 2022 AND 2023 FEDERAL BUDGETS*

One of the top priorities of the Biden Administration is to pursue criminal justice reform (White House 2022). The President’s 2022 Budget included \$1.6 billion in discretionary resources specifically for criminal justice reform efforts, a \$669.3 million increase from the Fiscal Year (FY) 2021 Enacted level. These resources will address the inequities within the criminal justice system and reduce prison populations (Department of Justice 2022a, 4). The FY 2022 Budget included federal funding for non-law enforcement strategies for reducing violence. For example, the budget allocated \$200 million to fund the Community Violence Intervention initiative within the DOJ (Office of Management and Budget 2021). The program supports new efforts to expand evidence-based strategies to reduce violence through tools other than incarceration, such as assisting local communities in developing comprehensive violence prevention and reduction programs and creating partnerships between community residents, law enforcement, and local government agencies.

In the FY 2021-22 Budget, the DOJ requested a total of \$35.3 billion, with \$30.8 billion for federal programs and grants and \$4.5 billion for the state, local, and Tribal assistance programs (Department of Justice 2022a, 4). The DOJ Budget is “delineated by five categories,” with law enforcement (46.6 percent) comprising approximately half of the budget, followed by 26.8 percent for prisons and detention, and 12.7 percent for grants (Department of Justice 2022a, 3). According to the DOJ, the goals of this funding were to reform the criminal justice system, support effective reentry programs, address violent crime and gun violence, and invest in community policing (Department of Justice 2022a). The Department also awarded almost \$57 million in grant funding to state and local governments for criminal justice reform and racial equity in the criminal justice system (Department of Justice 2022). While it is hopeful to see reform efforts through federal funding, allocating more than half of the DOJ budget to law enforcement, prisons, and detention seems to conflict with the administration’s priorities.

The Biden Administration and the DOJ have requested more funding for law enforcement and crime prevention programs in the current fiscal year (Department of Justice 2021, 134-135; Department of Justice 2022a; Department of Justice 2022b; White House 2022, 3). In

## Featured Articles

the Budget of the Government FY 2023, the DOJ received \$3.2 billion in discretionary funding for state and local grants and \$30 billion in mandatory resources for law enforcement, crime prevention, and community violence intervention (Office of Management and Budget 2022, 34). Furthermore, in August 2022, the President unveiled his Safer America Plan, which includes plans to invest in “community policing and crime prevention” (White House 2022a). In his plan, President Biden requested nearly \$13 billion to hire 100,000 police officers across the country over the next five years (White House 2022a). This funding will go to the Office of Community-Oriented Policing Services (COPS), previously established by the 1994 Crime Bill. In addition, the DOJ’s FY 2023 Discretionary Budget gave COPS \$2.8 billion in discretionary and mandatory resources (Department of Justice 2022b, 3).

The Biden Administration’s funding for COPS is reminiscent of the 1994 Crime Bill and its part in mass incarceration in America. Then-Senator Biden was a key proponent of the 1994 Crime Bill; ironically, it also included a provision to hire 100,000 new police officers nationwide (Department of Justice 2020). President Biden played a role in fueling mass incarceration and exacerbating racial disparity in the criminal justice system. The Safer America Plan is contradictory to the Administration’s priorities to pursue criminal justice reform.

## POLICY CHANGES

Adequate policy and funding are critical to achieving state prison reforms and reducing mass incarceration. Mandates without sufficient funding can delay reforms, hamper their full potential, or prevent implementation. To advance decarceration in state prisons and promote further criminal justice reform, the federal government can take action toward decreasing prison admissions through fewer new prison commitments, providing additional funding for reentry programs, and establishing universal voting rights for all American citizens, including incarcerated individuals.

States can decrease prison admissions via fewer new prison commitments. These actions include reducing criminal penalties according to crime severity, eliminating mandatory minimum sentencing for drug possession crimes or alternatives to incarceration for drug offenses, and removing mandatory transfer of juveniles to the adult criminal justice system. Connecticut, Michigan, Mississippi, Rhode Island, and South Carolina enacted the same or similar reform efforts to support decarceration. As a result, these states reduced their prison populations by 14 to 25 percent (Schrantz et al. 2018).

In addressing problems that are byproducts of previous federal legislation and punitive and discriminatory enforcement practices, states must define and target specific goals, such as reducing racial disparities in sentencing. Racial disparities persist in the criminal justice system and prison population due to people of color being convicted and incarcerated in vast numbers. For example, while Connecticut, Mississippi, and South Carolina reduced their prison populations, these three states only modestly reduced racial disparity within their correctional facilities (Schrantz et al. 2018, 14, 30, 46).

Beyond reducing the prison population, another challenge faced by many previously incarcerated individuals is a lack of reentry opportunities. Due to insufficient community funding to address state-level release and reentry challenges, rocky transitions back into society have resulted in higher recidivism rates among previously incarcerated individuals. The Justice Reinvestment Initiative (JRI) is a viable source of support for those previously incarcerated and can alleviate challenges in reentry, education and job training, and access to health treatment (Schrantz et al. 2018). While JRI does not directly fund housing services or employment programs, it aids and support to states to develop and implement policies through evidence-based and cost-effective solutions to improve criminal justice challenges.

For example, JRI supports initiatives towards expanding community-based supervision programs, such as probation and parole, which focuses on rehabilitation and treatment rather than punishment (Council of State Governments Justice Center 2021). The DOJ's JRI process engaged 17 states including Connecticut, Michigan, Mississippi, Rhode Island, and South Carolina, and policymakers worked with each state's stakeholders to develop data-driven policy actions to reduce their prison population, reform sentencing guidelines, and support reentry and community reintegration for parolees. As a result, these five states successfully transferred their funding from prisons to local communities and developed strategies for change in criminal justice policy and practice (Council of State Governments Justice Center n.d.; Schrantz et al. 2018).

Disenfranchisement is another byproduct of mass incarceration. One policy solution to this issue is that federal and state governments must establish universal voting rights for all American citizens. In doing so, they can restore the right to vote to current and previously incarcerated individuals. Felony and misdemeanor disenfranchisement has denied fundamental rights and representations guaranteed to all citizens of the US. Establishing universal voting would restore these rights and prevent racial disparities in political participation and representation (Chung and Muhitch 2021). Furthermore, restoring the right to vote for the incarcerated population would represent their voices and expose further issues of institutional racism and abuse that continue to take place in jails, prisons, and the criminal justice system itself.

The future is a policy choice. To end mass incarceration, federal and state governments must recognize the unjust criminal justice system that created vast racial disparities in prison populations and how that system inflicted personal, social, and economic harms on incarcerated individuals, including barriers to reentry and disenfranchisement. To reform these devastating consequences, the process of decarceration can start with a decrease in prison admissions via fewer new prison commitments, provide further funding for reentry programs, and establish universal voting rights for all American citizens, including incarcerated individuals.

## CONCLUSION

Over the last six decades, federal policies and funding have contributed to the number of Americans within the criminal justice system. The federal government incentivized state governments to adopt stringent laws and punitive and discriminatory enforcement practices and to build more state prisons since the 1960s. This paper examined the history of previous federal policies that influenced the criminal justice system and described how these legislative actions resulted in the era of mass incarceration. While the federal government has not made it a goal to encourage states to undo mass incarceration, one of the top priorities of the Biden Administration is to pursue criminal justice reform (White House 2022). However, the Administration, Congress, and the DOJ can make an even more drastic difference by allocating more funding to supporting effective reentry programs rather than allowing this to be an afterthought to law enforcement and prisons and detention fundings.

The era of mass incarceration brought crushing racial, social, and economic consequences to incarcerated and marginalized communities. With adequate funding, it is possible to achieve state prison reforms and put in motion the process of decarceration. Federal and state policymakers should take action to decrease prison admissions via fewer new prison commitments, provide further funding for reentry programs, and establish universal voting rights for all American citizens, including incarcerated individuals. Alternative solutions include expanding the existing policies addressing the implications of mass incarceration, like the Second Chance Act. Federal and state policymakers must take a rigorous approach to monitoring and evaluating criminal justice reform. Further federal funding and a coordinated policy response can incentivize states to progress and propel real change in our prison system.

## Featured Articles

## REFERENCES

- 90th Congress. 1968. *Omnibus Crime Control and Safe Streets Act*, P.L. 90-351, 42 U.S.C. § 3711 et seq. <https://www.govinfo.gov/app/details/COMPS-1696>.
- 99th Congress. 1986. *Anti-Drug Abuse Act of 1986*, P.L. 99-570, 100 Stat 3207. <https://www.govinfo.gov/app/details/STATUTE-100/STATUTE-100-Pg3207>.
- 100th Congress. 1988. *Anti-Drug Abuse Act of 1988*, P.L.100-690, 102 Stat 4371-4523. <https://www.govinfo.gov/content/pkg/STATUTE-102/pdf/STATUTE-102-Pg4181.pdf>.
- 103rd Congress. 1994. *Violent Crime Control and Law Enforcement Act of 1994*, P.L. 103-322, 108 Stat 1817. <https://www.govinfo.gov/content/pkg/STATUTE-108/pdf/STATUTE-108-Pg1796.pdf>.
- 110th Congress. 2007. *Second Chance Act of 2007: Community Safety Through Recidivism Prevention*, P.L. 110-199, 122 Stat 657-691. <https://www.govinfo.gov/app/details/PLAW-110publ199>.
- Alexander, Michelle. 2010. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York: The New Press.
- American Civil Liberties Union. 2022. "Mass Incarceration." Accessed October 4, 2022. <https://www.aclu.org/issues/smart-justice/mass-incarceration#:~:text=Despite%20making%20up%20close%20to,outpacing%20population%20growth%20and%20crime>.
- Brown v. Plata. 563 U.S. 493 (2011).
- Brown, Jodi M., Darrell K. Gilliard, Tracy L. Snell, James J. Stephan, and Doris James Wilson. 1996. *Correctional Populations in the United States, 1994*. Washington DC: Bureau of Justice Statistics of the Department of Justice. <https://bjs.ojp.gov/content/pub/pdf/cpius94.pdf>.
- Burke, Georgia, Patti Prunhuber, Trinh Phan, and Sahar Takshi. 2022. "Reducing Barriers to Reentry for Older Adults Leaving Incarceration." *Justice in Aging*, last modified May 2022. <https://justiceinaging.org/wp-content/uploads/2022/05/Reducing-Barriers-to-Reentry-for-Older-Adults-Leaving-Incarceration.pdf>.
- Census Bureau. 2018. "Final 2020 Census Residence Criteria and Residence Situations." *Federal Register*, last modified February 8, 2018. <https://www.federalregister.gov/documents/2018/02/08/2018-02370/final-2020-census-residence-criteria-and-residence-situations#p-46>.
- Center for Law and Social Policy. 2022. "No More Double Punishments: Lifting the Ban on SNAP and TANF for People with Prior Felony Drug Convictions." Last modified April 2022. <https://www.clasp.org/publications/report/brief/no-more-double-punishments/#:~:text=The%20act%20imposes%20a%20lifetime,remove%20or%20modify%20the%20ban>.
- Chung, Jean, and Kevin Muhitch. 2021. "Voting Rights in the Era of Mass Incarceration: A Primer." *Sentencing Project*, last modified July 2021. <https://www.sentencingproject.org/app/uploads/2022/08/Voting-Rights-in-the-Era-of-Mass-Incarceration-A-Primer.pdf>.
- COPS Office Public Affairs. 2022. "Department of Justice Awards Almost \$190 Million in Grants to Support School Safety." Last modified October 14, 2022. <https://cops.usdoj.gov/pressrelease/department-justice-awards-almost-190-million-grants-support-school-safety>.
- Couloute, Lucius, and Daniel Kopf. 2018. "Out of Prison & Out of Work: Unemployment Among Formerly Incarcerated People." *Prison Policy Initiative*, last modified July 2018. <https://www.prisonpolicy.org/reports/outofwork.html>.
- Council of State Governments Justice Center. n.d. "Justice Reinvestment." Accessed October 4, 2022. <https://csjusticecenter.org/projects/justice-reinvestment/>.

- Council of State Governments Justice Center. 2021. "The Justice Reinvestment Initiative Improves Community Supervision." Last modified May 2021. <https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/jri-improves-community-supervision.pdf>.
- Cullen, James. 2018. "The History of Mass Incarceration." Brennan Center For Justice, last modified July 20, 2018. <https://www.brennancenter.org/our-work/analysis-opinion/history-mass-incarceration>.
- Delaney, Ruth, Ram Subramanian, Alison Shames, and Nicholas Tuner. 2018. "American History, Race, and Prison." Vera Institute of Justice, accessed October 4, 2022. <https://www.vera.org/reimagining-prison-web-report/american-history-race-and-prison>.
- Department of Justice. 2020. "1994 Violent Crime Control and Law Enforcement Act." Last modified February 14, 2020. <https://www.ojp.gov/ojp50/1994-violent-crime-control-and-law-enforcement-act#1994-violent-crime-control-and-law-enforcement-act>.
- Department of Justice. 2021. "FY 2022 Performance Budget." Last modified May 2021. <https://www.justice.gov/jmd/page/file/1399261/download>.
- Department of Justice. 2021a. "More Than \$38 Million Awarded to Promote Reforms in the Justice System." Last modified December 22, 2021. <https://bja.ojp.gov/news/more-38-million-awarded-promote-reforms-justice-system>.
- Department of Justice. 2022. "Justice Department Announces Awards to Support Justice System Reforms and Racial Equity." Last modified September 29, 2022. <https://bja.ojp.gov/news/justice-department-announces-awards-support-justice-system-reforms-and-racial-equity>.
- Department of Justice. 2022a. "FY 2022 Budget Request at a Glance." Accessed October 4, 2022. <https://www.justice.gov/jmd/page/file/1398931/download>.
- Department of Justice. 2022b. "FY 2023 Budget Summary." Last modified March 31, 2022. [https://www.justice.gov/d9/pages/attachments/2022/03/31/23\\_budget\\_summary\\_fy\\_23\\_bud\\_sum\\_3.31.22\\_228-2.pdf](https://www.justice.gov/d9/pages/attachments/2022/03/31/23_budget_summary_fy_23_bud_sum_3.31.22_228-2.pdf).
- Drug Policy Alliance. 2022. "A History of The Drug War." Accessed October 4, 2022. <https://drugpolicy.org/issues/brief-history-drug-war>.
- Duke, Steven B. 2009. "Mass Imprisonment, Crime Rates, and the Drug War: A Penological and Humanitarian Disgrace." *Connecticut Public Interest Law Journal* 9(1): 17-36. [https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/cpilj9&id=20&men\\_tab=srchresults](https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/cpilj9&id=20&men_tab=srchresults).
- Eisen, Lauren-Brooke, and Hernandez D. Stroud. 2021. "How the Federal Government Can Incentivize States to Reverse Mass Incarceration." Brennan Center For Justice, last modified July 14, 2021. <https://www.brennancenter.org/our-work/analysis-opinion/how-federal-government-can-incentivize-states-reverse-mass-incarceration>.
- Feldman, Lisa, Vincent Schiraldi, and Jason Ziedenberg. 2001. "Too Little Too Late: President Clinton's Prison Legacy." Justice Policy Institute, last modified February 2001. [http://www.cjcj.org/uploads/cjcj/documents/too\\_little.pdf](http://www.cjcj.org/uploads/cjcj/documents/too_little.pdf).
- Fernandez, Paige. 2020. "Defunding the Police Will Actually Make Us Safer." American Civil Liberties Union, last modified June 11, 2020. <https://www.aclu.org/news/criminal-law-reform/defunding-the-police-will-actually-make-us-safer>.
- Johnson, Lyndon B. 1967. "The President's Address to the Nation on Civil Disorders." Transcript of speech delivered at White House, July 27, 1967. <https://www.presidency.ucsb.edu/node/238062>.
- Kang-Brown, Jacob. 2022. "People in Prison in Winter 2021-22." Vera Institute of Justice, last modified February 2022. [https://www.vera.org/downloads/publications/People\\_in\\_Prison\\_in\\_Winter\\_2021-22.pdf](https://www.vera.org/downloads/publications/People_in_Prison_in_Winter_2021-22.pdf).

## Featured Articles

- Levitt, Steven D. 2004. "Understanding Why Crime Fell in the 1990s: Four Factors that Explain the Decline and Six that Do Not." *Journal of Economic Perspectives* 18(1): 163-190. <https://pricetheory.uchicago.edu/levitt/Papers/LevittUnderstandingWhyCrime2004.pdf>.
- Muhitch, Kevin and Nazgol Ghandnoosh. 2021. "Expanding Voting Rights to All Citizens in the Era of Mass Incarceration." Sentencing Project, last modified March 2021. <https://www.sentencingproject.org/app/uploads/2022/08/Expanding-Voting-Rights-to-All-Citizens-in-the-Era-of-Mass-Incarceration.pdf>.
- Nellis, Ashley. 2021. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." Sentencing Project, last modified October 13, 2021. <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.
- Office of Management and Budget. 2021. "Budget of the U.S. Government Fiscal Year 2022." Accessed October 4, 2022. [https://www.whitehouse.gov/wp-content/uploads/2021/05/budget\\_fy22.pdf](https://www.whitehouse.gov/wp-content/uploads/2021/05/budget_fy22.pdf).
- Office of Management and Budget. 2022. "Budget of the U.S. Government Fiscal Year 2023." Accessed October 4, 2022. [https://www.whitehouse.gov/wp-content/uploads/2022/03/budget\\_fy2023.pdf](https://www.whitehouse.gov/wp-content/uploads/2022/03/budget_fy2023.pdf).
- President's Commission on Law Enforcement and Administration of Justice. 1967. "The Challenge of Crime in a Free Society." Department of Justice. Last modified February 1967. <https://www.ojp.gov/sites/g/files/xyckuh241/files/archives/ncjrs/42.pdf>.
- Schrantz, Dennis, Stephen DeBor, and Marc Mauer. 2018. "Decarceration Strategies: How 5 States Achieved Substantial Prison Population Reductions." Sentencing Project, last modified September 5, 2018. <https://www.sentencingproject.org/app/uploads/2022/08/Decarceration-Strategies.pdf>.
- Sentencing Commission. 1991. "Special Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System (As directed by section 1703 of Public Law 101-647)." Last modified August 1991. [https://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/1991\\_Mand\\_Min\\_Report.pdf](https://www.ussc.gov/sites/default/files/pdf/news/congressional-testimony-and-reports/mandatory-minimum-penalties/1991_Mand_Min_Report.pdf).
- Thompson, Heather Ann. 2010. "Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History." *Journal of American History* 97(3): 703-734. <https://doi.org/10.1093/jahist/97.3.703>.
- Uggen, Christopher, Ryan Larson, Sarah Shannon, and Robert Stewart. 2022. "Locked Out 2022: Estimates of People Denied Voting Rights." Sentencing Project, last modified October 25, 2022. <https://www.sentencingproject.org/reports/locked-out-2022-estimates-of-people-denied-voting-rights/>.
- Vera Institute of Justice. n.d. "Incarceration Statistics." Accessed October 4, 2022. <https://www.vera.org/incarceration-statistics>.
- Wegman, Jesse. 2014. "The Injustice of Marijuana Arrests." *New York Times*, last modified July 28, 2014. <https://www.nytimes.com/2014/07/29/opinion/high-time-the-injustice-of-marijuana-arrests.html>.
- White House. 2022. "Fact Sheet: President Biden's Budget Invests in Reducing Gun Crime to Make Our Communities Safer." Last modified March 28, 2022. <https://www.whitehouse.gov/omb/briefing-room/2022/03/28/fact-sheet-president-bidens-budget-invests-in-reducing-gun-crime-to-make-our-communities-safer/>.
- White House. 2022a. "Fact Sheet: President Biden's Safer America Plan." Last modified August 1, 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/01/fact-sheet-president-bidens-safer-america-plan-2/>.
- World Prison Brief. n.d. "Highest to Lowest - Prison Population Total." *PrisonStudies*, accessed February 6, 2023. [https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field\\_region\\_taxonomy\\_tid=All](https://www.prisonstudies.org/highest-to-lowest/prison-population-total?field_region_taxonomy_tid=All).