“What Prison Reforms Have Proven Most Effective?

Depends What We Want Our Prisons to Do”

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A Quest Paper by Don Clemmer

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Introduction

When the average person in the United States in the year 2024 creates a mental picture of a prisoner, an incarcerated person, in his or her mind, a particular profile generally floats into view: This incarcerated person is probably male, Black, serving a long sentence for an offense involving drugs and/or violent crime, as well as someone whose early life lacked qualities such as economic security, a two-parent home, quality education, and prospects for a future life of advancement.

This profile is one stereotype that is largely borne out by facts. Black people in the United States are incarcerated at a rate six times higher than white people (1). Seventy percent of federal inmates have a high school diploma or less, with individuals of “lower educational attainment” receiving longer sentences and 42 percent of those without a high school diploma serving sentences for drug trafficking (2). And low-income people make up three fifths of the U.S. prison population (3).

Another facet of this profile is that this individual is not an isolated case, but is in fact part of a sprawling system, which currently incarcerates some 2 million individuals, the most of any country in the world (4). The term for this particular form of American exceptionalism is mass incarceration.

Such an anomalous development in a country as large and wealthy as the United States would seem ripe for reform. And therefore, the U.S. context is the overwhelming focus of this

paper. However, many prison reforms do not occur in the context of correctional facilities at all, but instead play out in the halls of Congress and state legislatures, as well as in neighborhoods, courtrooms, and other spaces, including literally the air we breathe and the dirt on which we stand. The state of incarceration in the United States, like so many aspects of society, exists downstream primarily from public policy – and again, not exclusively policies relating explicitly to law enforcement or corrections.

When looking at any such reforms and whether they have been effective, one immediately occurring question must be: effective at what? Answers could range from "improving the quality of life in correctional facilities" to "reducing recidivism rates." But there are other, less rosy ways in which prison reforms can be effective.

In this sense, one can argue that the current realities of incarceration in the United States are the result of a decades-long series of reforms that are, in fact, performing exactly the function they were intended to serve and which also evoke some of the most shameful chapters in the country's history. This status quo, which finds its roots in movements of the 1970s to the 1990s, has received pushback in more recent decades in the form of increased education and drug treatment opportunities for incarcerated people, sentencing reform, laws assisting citizens returning to society after incarceration, and even executive actions enacted at the federal level.

Subsequent trendlines, which show mass incarceration gradually decreasing but nowhere near its pre-1970s historical mean, offer what could be characterized as a modest course correction. However, other, more robust and sweeping proposals, offer creative and constructive ways for how a society such as the United States might reimagine criminal justice. These proposals, touted domestically by the prison abolition movement and internationally with the alternative approaches to crime and punishment, offer glimpses of restorative justice practices

that strive for actual correction, reform, and even reconciliation, rather than a purely carceral approach.

Some Quick Background

Before engaging with the present-day realities of U.S. prisons and the decades leading up to them, one must first acknowledge the foundational sociological work in the field of corrections, which for a long time consisted of the research of a single person: one Donald Clemmer. Clemmer served as director of the Department for Corrections of the District of Columbia Government (5), and his extensive research into life in U.S. prisons during the Great Depression years offered a baseline survey of these cultural realities. His book, "The Prison Community," covers facets of prison life including "Cultural Antecedents of the Prisoners," "Composition of the Penal Population," "Organization of the Penitentiary," "Social Groups in the Prison Community," "The Social Implications of Leisure Time," "Sexual Patterns in the Prison Community," and "The Social Significance of Labor" (6).

In his surveys, Clemmer found numbers of Black prisoners to hover somewhere between 22 and 28 percent (7), compared to a more contemporary figure of 37 percent (8). It's worth noting that the duration of Clemmer's research fell within a time that the U.S. prison population remained generally stable over a long period, in this instance gradually growing from about 140,000 people to 180,000 over the course of the 1930s (9).

In terms of reforms, a contemporary assessment of Clemmer's work—such as the foreword by Donald R. Cressey to the 1958 edition of "The Prison Community"—notes that, "While some prison conditions have changed in the past [25] years, the fundamental aspects of prison life described by Clemmer have continued. Sentences are shorter, food and sanitary conditions are better, emphasis has been placed on 'rehabilitation' or 'treatment' of inmates,

amenities of various kinds—such as radios and canteen privileges—have been introduced, and restrictive legislation has curtailed the amount and kind of work inmates can do" (10).

These effective reforms described in this assessment were evident in a development such as the decision to shut down Alcatraz, the island prison in San Francisco Bay, just five years later, in 1963. The facility's conditions and operations overall evinced a "brutality" no longer in keeping with trends in corrections (11).

Cressey's survey also came at a time when the number of people incarcerated in the U.S. barely exceeded what it had been at the time of the original publication of Clemmer's book. This would not have been the case had he been writing on the book's seventieth, sixtieth, or even fiftieth anniversary, due to the onset of mass incarceration (12).

The Road to Mass Incarceration

Over a span of 50 years, the United States has embarked on an unparalleled experiment in human confinement. The statistics, recounted here in brief, are as boggling as they are discouraging and damning:

- a 500 percent increase in prison population over the course of 40 years (13),
- a rate of 355 imprisoned people per 100,000 U.S. residents (14),
- 203,000 life sentences – 1 in 7 people in the system (15),
- 55,000 of those serving life without parole (16),
- and a massively overrepresented Black:white ratio, despite the Black population of the country comprising only 13 percent of the overall population, compared to the white population's 75 percent (17).

Just as Clemmer surveyed the prison landscape of his time, this section will seek to answer the question of inimitable U.S. musician and pop philosopher David Byrne: “How did [we] get here?”

In four words: Get tough on crime.

In a sharp pivot from the emphasis on rehabilitation and humane conditions that flowered in the decades immediately following Clemmer’s work, the latter 20th Century saw a cascade of punitive policy measures that, per the Brennan Center for Justice, “resulted in dramatic increases in the nation’s arrest and incarceration rates. These responses include both states and the federal government enacting more draconian laws that significantly lengthened sentences in addition to passing laws adding new crimes to the books. One early example of these harsh measures: New York State’s Rockefeller Drug Laws imposed 15-year mandatory minimums for possession of marijuana and other drugs. Laws like these put unprecedented numbers of people in prison for nonviolent crimes” (18).

Racial inequities have accompanied these measures from end to end. Over-policing and targeted enforcement of Black communities (19), sentencing disparities—such as the notorious crack vs. powder cocaine gap—between Black and white people (20), and the aforementioned overrepresentation of Black people in the U.S. prison population are a few examples. These policies take on an intergenerational, almost self-perpetuating quality when taking into account the negative impacts that having an incarcerated parent have on the lives of kids, making them more susceptible to antisocial behavior, low educational attainment, economic insecurity, and juvenile arrest and incarceration (21).

When people manage to serve out their sentences and reenter society, the nasty tendrils of this system follow them beyond the prison walls. Obstacles to housing, voting, and stable

employment—basics that allow people to participate productively within society—are often out of reach for convicted felons. The United States has one of the highest recidivism rates in the world, with 76 percent of returning citizens rearrested within five years, compared to a rate of, say, 20 percent for Norway (22). The incredible uphill climb faced by returning citizens emerging from a corrections system that has little interest in actual correcting is perhaps best summarized by a 2014 headline in the satirical newspaper The Onion: "15 Years In Environment Of Constant Fear Somehow Fails To Rehabilitate Prisoner."

Another challenge that exacerbates mass incarceration: economics – or rather, capitalism. The feeding and housing of 2 million people, coupled with the upkeep of infrastructure, is a behemoth of an expenditure. A response to this need in keeping with the prevailing neoliberal sensibilities of the last 30+ years has been to outsource this expense to private contractors: Enter for-profit prisons, which in 2022 housed over 90,000 Americans, some 8 percent of the federal prison population (23).

The most problematic aspect of for-profit prisons is that they create a financial incentive for incarceration – in a county with a well-documented propensity for locking people away. They also require cost-cutting measures to ensure a profit. A corporate interest in the number of incarcerated persons staying high—and sentencing policy being calibrated to promote sending more people to prison, and for lengthier amounts of time—is ripe for abuse, and for-profit prison companies have spent millions of dollars in both direct lobbying and campaign contributions to the officeholders who would determine both these policies and how contracts are awarded (24).

Recognizing the problematic nature of prison profiteering, President Barack Obama ended the use of for-profit prisons at the federal level, only to have Attorney General Jeff Sessions rescind this move early in the first Trump administration (25). Similarly, President Joe

Biden signed an executive order ending the use of private prisons, but exempt from this order were immigrant detention centers operated by for-profit companies (26). As of 2023, over 90 percent of people held in these centers were in facilities operated by private companies (27).

Another commercial angle to incarceration came to new light in early 2024 with the publication of a series by the Associated Press on the role of prison labor in the supply chains of major food providers including Walmart and McDonald's. Per the AP:

> *"The goods these prisoners produce wind up in the supply chains of a dizzying array of products found in most American kitchens, from Frosted Flakes cereal and Ball Park hot dogs to Gold Medal flour, Coca-Cola and Riceland rice. They are on the shelves of virtually every supermarket in the country, including Kroger, Target, Aldi and Whole Foods. And some goods are exported, including to countries that have had products blocked from entering the U.S. for using forced or prison labor.*
>
> *"Many of the companies buying directly from prisons are violating their own policies against the use of such labor. But it's completely legal. ..."* (28).

The story even notes the involvement of Louisiana State Penitentiary, the country's largest maximum-security prison and a former Southern slave plantation. It raises the question: At what other point in history did a large, conspicuously Black populace, deprived of its freedom amidst terrible working conditions, provide a source of free labor that helped drive the U.S. economy? As Saidiya Hartman observed: The U.S. is not experiencing the aftermath of slavery, but "the afterlife of slavery" (29).

A Tangent: The Role of Environmental Lead

In addition to the bitter fruits of mass incarceration yielded by the "get tough on crime" reforms of the latter 20th Century, it must also be noted that this line of policy was also

unnecessary. By the time of the election of crusading New York Mayor Rudy Giuliani and the passage of the 1994 Crime Bill, rates of violent crime in the United States had already peaked and begun their decline, and not only in cities that had elected leaders of Giuliani's ilk. The search for an explanation as to why violent crime would suddenly spike in big cities in the 1960s, peak in the early '90s and then continue to plummet led a handful of researchers around the turn of the millennium to find an unexpected culprit: environmental lead.

In short, sales for leaded gasoline spiked following World War II, peaked in the late '60s, and then dropped precipitously through the '70s and '80s with the introduction of catalytic converters and stricter government regulations. Violent crime rates follow the same curve, offset by 23 years, and the biggest spikes in crime were in large cities—which have the most cars and therefore the highest levels of lead—especially in urban centers. Studies have found that childhood exposure to lead permanently damages the parts of the brain responsible for aggression control, emotional regulation, and verbal reasoning. So children in these areas were more likely to grow up with these issues that made them more prone to crime (30).

This under-sung research matters because of the lesson it raises: Perhaps the greatest step ever taken to curb crime was an accidental one, of removing a harmful environmental factor from the lives of developing kids. This might have been a great success story had our policymakers not already committed themselves to responding to the crime wave before them with heightened enforcement and skyrocketing incarceration.

Countermeasures

Despite the tangled web of mass incarceration spun by U.S. policy over the last half century, some modest gains have occurred to turn the tide. Incarceration in the United States actually peaked in 2009 and has shown a modest decline in the ensuing 15 years. When the

prison population dropped by 2 percent in 2015, it marked the largest decline in 45 years (31). A number of factors have played into this phenomenon of essentially chipping away at an iceberg with icepicks, with varying degrees of efficacy.

First, society has begun to shine a light on the needs of incarcerated people and returning citizens in areas including education and treatment for substance use disorder. However, awareness has not necessarily translated into effective solutions implemented at scale.

While over 80 percent of prisons offered some kind of "'drug or alcohol dependency, counseling, or awareness programs' in 2019, ... [among] people in state prisons with a substance use disorder, only 10 [percent] had received clinical treatment in the form of a residential treatment program, professional counseling, [a] detoxification unit, or MAT" (medically assisted treatment), the last one being the most effective option. Most commonly available are medications for withdrawal symptoms, simply to meet the reality that "[o]ver half a million people entering jails across the country each year are experiencing or at risk of [a] life-threatening medical event" (32).

So while prisons have taken on the widespread perception of being drug treatment centers, a 2024 briefing by the Prison Policy Initiative found that U.S. correctional facilities "were never intended to be—and can never function as—healthcare providers" and therefore continue to prioritize punishment that feeds into cycles of recidivism rather than actual treatment (33).

In the area of educational attainment, many incarcerated people pursue college courses as a way of truly reforming their lives following their release. For years, they could receive federal Pell Grants to pay for them, until the 1994 Crime Bill barred this access, effectively shutting down hundreds of prison education programs. In 2015, partial eligibility was reinstated,

providing Pell Grants to incarcerated students "in about 70 postsecondary prison education programs. The U.S. Department of Education expanded that number to 200 for the 2022-2023 award year" (34). In terms of effectiveness, a 2018 study found that incarcerated people who participate in education programs are 48 percent less likely to be reincarcerated than those who do not (35).

However, Manhattan University professor Andrew Skotnicki, who has taught a course in the Rikers Island correctional facility to a class comprised of both traditional college students and inmates (36), told this author that, while it is inspiring to see incarcerated people make these gains toward rehabilitation via education, the experience also laid bare for him just how steep the walls between prison and privilege actually are. He observed the innumerable ways in which "the meritocracy" instills at every stage of life the little skills and understandings for navigating the world with ease, which are deprived from those in other socioeconomic classes, especially at-risk young people who fall into crime at early age (37).

A more direct approach taken by criminal justice advocates to assure smoother integration into society for returning citizens is the advent of "ban the box" laws, which limit when and how in a hiring process employers can inquire about a job candidate's criminal history, i.e. getting rid of the checkbox on the job application that says "convicted of a felony." First enacted in Hawaii in 1998 and followed by Minnesota a decade later, these laws have been "enacted in 33 states and more than 150 cities and counties ... [p]rimarily covering the public sector." This is not a total barring of this information from employers, as routine criminal background checks, also part of a hiring process, would turn up the same information (38). And, if we buy our own rhetoric of "corrections," is it not simply a matter of justice to say that people have paid their debt and deserve to have their mistakes consigned to the past?

It is worth noting that criminal justice reform in the U.S. is one of the few truly bipartisan issues. Among its most vocal proponents on the political right are the Koch brothers, whose network has backed criminal justice reform measures, gang prevention programming, and job training. “We all need to be fully committed to a society in which everybody has an opportunity to make a better life for themselves. That’s what we’re about,” Charles Koch said (39).

Despite this ostensible bipartisanship, true policy progress in criminal justice has largely fallen into the realm of federal executive action. When Obama left office in 2017, he was the first U.S. President since Jimmy Carter to leave office with a smaller federal prison population than when he took office. Obama gets part of the credit with his pardons and commutations, but this was also due to recommendations by the U.S. Sentencing Commission and the Smart on Crime Initiative that judges and federal prosecutors apply more lenient sentences to drug offenders (40).

Since then, the COVID-19 pandemic saw a 16 percent drop in state, federal, and private prison populations in its first year, 157,000 of them in the first six months, simply out of public health necessity (41). And President Biden has continued the push to undo post-War on Drugs incarceration levels, by pardoning all federal nonviolent marijuana offenders in 2022 (42) and moving to have cannabis reclassified from a Schedule 1 drug to a Schedule 3—that is, less dangerous—drug in 2024. “Look folks, no one should be in jail merely for using or possessing marijuana,” Biden said earlier this year (43).

True Alternatives

But beyond adjustments in sentencing guidelines, changes in drug classifications, and other flexes of executive power, what might a truly different approach to criminal justice and corrections look like if enacted in the United States?

One answer lies with the prison abolition movement. This refers to "a loose collection of people and groups who, in many different ways, are calling for deep, structural reforms to how we handle and even think about crime in our country." While approaches and issue foci differ, the movement generally follows three pillars: moratorium (stop building prisons), decarceration (getting people out of prison who should not be there) through reforming drug policy and laws such as three-strike laws and others that impose stiff sentences on petty crimes, and ultimately excarceration (keeping people away from the "prison-industrial complex" in the first place) through decriminalizing things like mental health episodes and homelessness and then actually investing in mental health services, affordable housing, and drug treatment programs (44).

If a model reflective of this vision exists anywhere, it is Norway, the country with the lowest recidivism rate on Earth and whose prison system places an overwhelming emphasis on restorative justice, "rehabilitation as opposed to punishment," to make "better neighbors." This includes prison facilities that are designed comparable to dormitories, complete with amenities that would be associated with life in society, because the goal is for people to successfully reenter it. The maximum sentence is 21 years, reserved for the most heinous crimes, and generally inmates are eligible for weekend parole after serving a third of their term (45).

People old enough to recall the anti-Dukakis Willie Horton ad of the 1988 presidential campaign will understand why such policies might prove career-ending for any U.S. politician daring to support sweeping reforms. (And the transgender care for prisoners ad that helped seal the fate of Vice President Kamala Harris in the 2024 election would seemingly confirm that this tactic is still with us today.) But that doesn't mean everyone in the United States is afraid to try. Officials from North Dakota visited Norwegian prisons and subsequently passed a 2017 bill

reflecting what they had learned. The following year, the state saw a 6.5 percent decrease of its prison population (46).

Conclusion

While the U.S. has begun ever so slightly to turn the tide on its unprecedented state of mass incarceration, history and current indicators show that this system still has a long way to go in terms of breaking decades-long racial disparities and emphasis on punitive measures over rehabilitation. A culture shift in our entire approach is necessary to melt this iceberg, one that will require taking major action on drug and sentencing policy, decoupling prison from profit (whether for major food brands or private prisons themselves), shifting to an emphasis on restorative justice and finding the courage for a long and serious look at how this country relates to race, poverty, addiction, and its concern for the flourishing of all individuals, families, and communities.

Dr. Martin Luther King Jr. offered a challenge when he said, “Power at its best is love implementing the demands of justice, and justice at its best is power correcting everything that stands against love.” If love and justice are to reorder how all of these parts of society interrelate, then it will require an honest, exacting rethinking of how we use our power.

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