
European treatment and transition management of high risk offenders

Justice Cooperation Network(JCN) - September 4, 2014

Legislation

High-Risk Offenders in the United States:
Imprisonment as the Dominant Response?

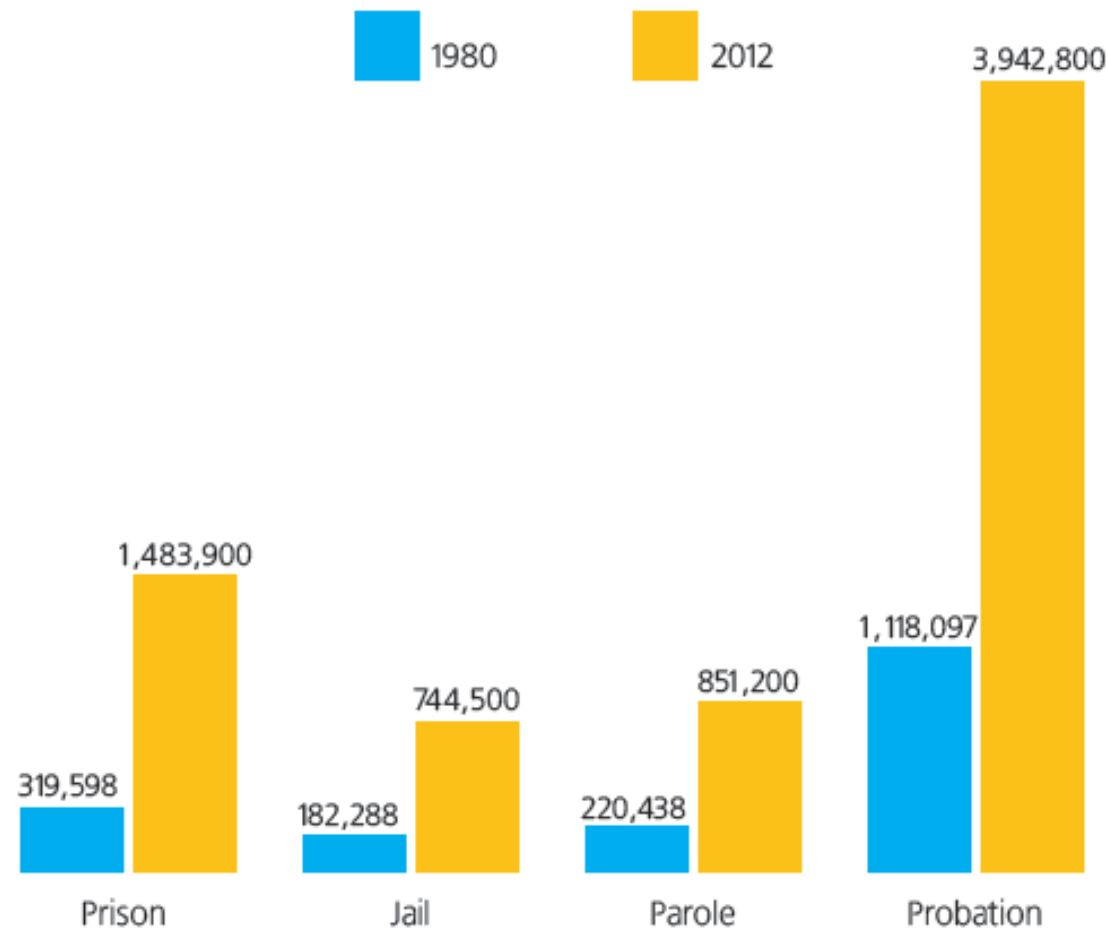
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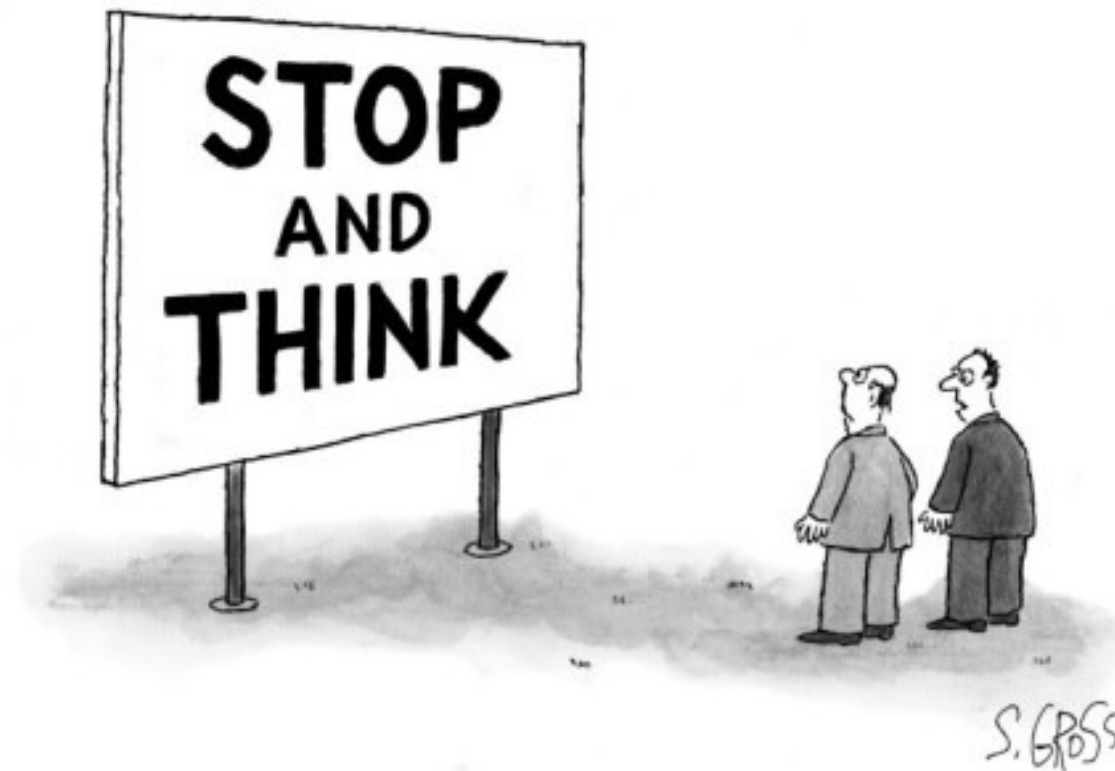
Mass Incarceration in the United States

- Over 2 million people in prison and jail (1.5 million of which are sentenced)
 - 5% of world's population - 25% of the world's prison inmates
 - Incarceration rate:
 - 800% higher than in Germany
 - 1,300% higher than in Japan
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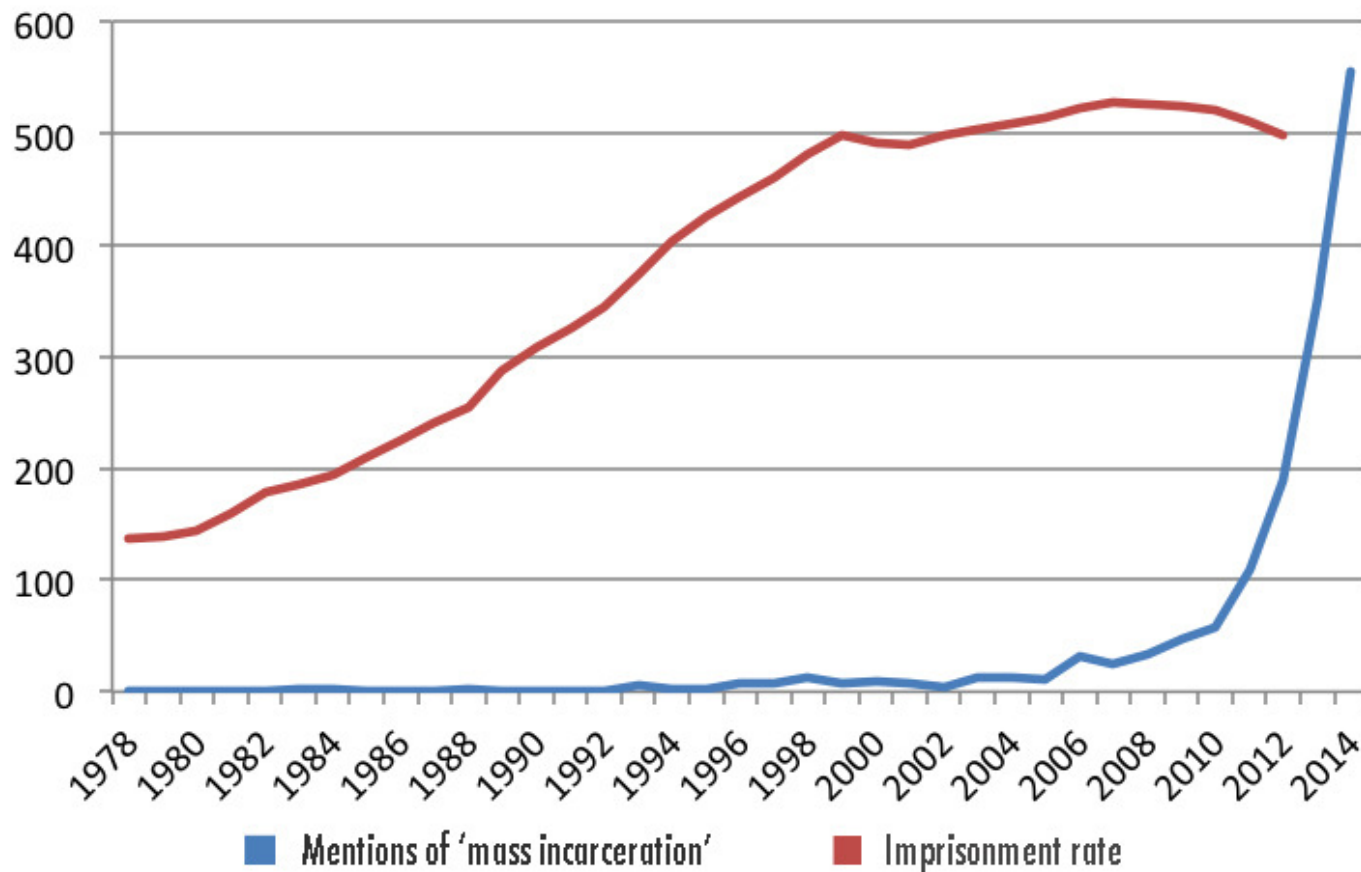
Population Under Control of the U.S. Corrections System, 1980 & 2012



Source: Glaze, L. E. and Herberman, E.J. (2011). Correctional Populations in the United States, 2012. Washington, D.C.: Bureau of Justice Statistics; *Corrections: Key Facts at a Glance*. Washington, D.C.: Bureau of Justice Statistics.



"It sort of makes you stop and think, doesn't it."



US incarceration rate in state and federal prisons (per 100,000)

<http://www.brennancenter.org/blog/just-facts-quantifying-incarceration-conversation>

Drivers of Mass Incarceration

- Change in Sentencing Philosophy:
 - "Nothing Works" (mid-1970's)
 - retribution/proportionality
 - fear/incapacitation
- Changes in Offender Focus:
 - drug offenses
 - violent crime
 - sex offenses
- In short:
 - longer sentences
 - more prison admissions, despite a decline in criminal offending
- Legislation -- state and federal:
 - mandatory minimum sentences
 - sentencing commissions and guidelines
 - 85% rule
 - reduction of "good time"
 - abolition of parole, including adoption and expansion of "life without parole" (LWP)

Life Without Parole (LWP)

- almost 160,000 serve life terms
 - almost 50,000 serve LWP
 - 1 in 9 prison inmates serves a life term
 - U.S. Supreme Court outlaws
 - mandatory LWP for a juvenile
 - LWP for a juvenile offender not convicted of homicide
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LWP in State Courts and Legislatures

- ❑ Sentencing courts may continue to impose sentences that equal LWP
 - ❑ State courts continue to determine retroactivity of the Supreme Court's decisions
 - ❑ Legislative changes have been slow in the states
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Prison and Release



- Some never come out...
 - death sentences
 - life-without-parole
 - multiple life terms;
term sentences beyond life
 - (unanticipated) death in prison
- But most do...
 - over 600,000 inmates leave prisons per year

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- Probation or Intermediate Sanctions Program (ISP):
 - imposed in lieu of imprisonment
 - variable in program construction
 - risk of net-widening: ISP replacing probation
 - Supervised release:
 - supervision following imprisonment
 - Parole:
 - conditional release
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Supervision Conditions and More

- Standard and individualized conditions during supervision period.
- Special conditions for select offender groups, often mandatory:
 - domestic violence
 - sex offenses
- Collateral sanctions:
 - restrictions on political and civil rights
 - restrictions on welfare and economic rights: employment, housing, educational benefits
 - restrictions on privacy rights

Prison Panopticon

"Presidio-modelo2" by Friman - Own work. Licensed under Creative Commons Attribution-Share Alike 3.0 via Wikimedia Commons
– <http://commons.wikimedia.org/wiki/File:Presidio-modelo2.JPG#mediaviewer/File:Presidio-modelo2.JPG>





Public Surveillance

• "Three Surveillance cameras" by Hustvedt - Own work. Licensed under Creative Commons Attribution-Share Alike 3.0 via Wikimedia Commons - http://commons.wikimedia.org/wiki/File:Three_Surveillance_cameras.jpg#mediaviewer/File:Three_Surveillance_cameras.jpg

Private Panopticon

<http://www.utsandiego.com/news/2013/sep/02/gps-offenders-parole-realignment-law-california/#lb-photo144594>



Impact of Increased Surveillance

- ❑ Increased observation of technical violations
- ❑ Increased observation of new offenses

Leads to...

- ❑ Increased returns to prisons
 - ❑ Increased federal, state, local costs for correctional systems
 - ❑ Decreased services in prison and upon release
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Alternative Approaches

- Alternative Courts:
 - drug courts
 - other offense- or offender-specific courts
 - initially supported through federal grant money
 - assessments indicate decreased recidivism
 - best practice: State funded and supported
 - court challenges: approach fits only uneasily into adversarial model
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Supervision: Effective Models (Decreased Recidivism)

Ineffective (neutral or negative effect on recidivism)

- ❑ lack of treatment
- ❑ net-widening: expanded supervision of low-risk offenders
- ❑ deterrence rather than treatment based
- ❑ ineffectively trained supervisory agents

Effective

- ❑ Effective risk-assessment tools to select only high-risk offenders:
 - * litigation over inclusion of demographic characteristics
- ❑ Integration of intensive treatment for high-risk offenders
- ❑ Need principle: focus treatment on dynamic risk factors
- ❑ Use of cognitive behavioral based innovations
- ❑ Progressive sanctioning regime

Example: Maryland's Proactive Community Supervision

Release of Long-term Inmates

- Release:

- Tensions between legislative mandate, parole board, and judiciary: focus on past crime or on current situation of the offender?
- Reintegration challenges
- Canadian LifeLine Program, adopted in Colorado for long-term violent inmates:
 - Long-term inmates paired with mentors, former long-term inmates themselves
 - Focused curriculum
 - Single parole officer
 - Program success may impact LWP sentences

Legislative Changes Needed

- Sentencing Laws:
 - abolition of LWP
 - retroactive grant of parole eligibility for LWP inmates
 - creation of Sentencing Commissions with research capacity and budget forecasting authority
 - reinstitution/expansion of parole
 - creation and funding of alternative courts
- Limitations on Collateral Sanctions (non-Penal Law)
- Budget/funding Legislation:
 - allocation of resources to probation/parole authorities (training)
 - allocation of research funding
 - allocation of program funding in prisons and beyond
 - Increased mental health and addiction funding (to prevent offending)

Moving Forward

- Research and federally funded pilot programs: re-integration and public safety strategies
 - Public recognition of “mass incarceration” as a problem
 - Reconsideration of underlying punishment philosophies in light of budget pressures
 - Incipient focus on “collateral sanctions” as inhibiting successful re-entry and impeding public safety:
 - “Ban the Box” movement: state, city, local legislation
 - legislative removal of overly broad employment restrictions
 - residential limitations
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