



SPECIAL ISSUE ON SENTENCING AND CORRECTIONS IN THE STATES

❏ REDUCING AMERICA'S CORRECTIONAL POPULATIONS: A STRATEGIC PLAN

James Austin
JFA Institute

❏ Abstract

It has been 40 years (1969) since a decline in the nation's prison population has been reported. In 1969 our crime rate was 3,680 per 100,000 population and our incarceration rate was 97 per 100,000. Today the crime rate is 3,667 (the same as 1969) but our incarceration rate is about five times higher, at 508 per 100,000. With the soaring costs of corrections and a stagnant economy, policy makers are searching for ways to lower their investment in corrections. The only ways to lower correctional populations are to reduce the number of admissions and the lengths of stay in prison or through probation and parole. It is highly unlikely that such a reduction can be achieved by reducing recidivism rates, which have remained unchanged for at least 25 years and are unlikely to change. Rather, the solution lies in simply returning to the same sentencing and correctional policies that existed a few decades ago when our crime rate was what it is today. This paper outlines the proven methods that have been used in other jurisdictions (both currently and historically) and can be used to significantly reduce the entire correctional system.

Support for this paper was provided by the Research and Evaluation Division of the National Institute of Corrections as part of the Norval Morris project. A copy of the full report submitted by the author is available at www.nicic.org/Norval. The contents of this article reflect the views of the author and do not necessarily reflect the official views of the National Institute of Corrections. The author would like to acknowledge the assistance of Todd Clear, John Irwin, Candance McCoy, Alan Mobley, Barbara Owens and Josh Page, who helped draft sections of the report and provided an excellent critique of the entire document.

As state, local and the federal governments face increased concerns about the size and costs of their criminal justice agencies, there is a growing interest in lowering the number of people in prison, jail, or being supervised on probation and parole. Often these concerns are expressed more in ideological rather than scientific terms. This is not to diminish the intentions of those who either advocate or reject efforts to lower correctional populations. Rather, my concern is that few people seem to understand dynamics and attributes of these four major correctional populations. Such an understanding would help one develop a detailed roadmap on how correctional systems can be reduced.

This paper begins with the position that it is possible and desirable to return to a level of punishment more proportional to accepted international and historical standards that existed in this country some 20 years ago. At that time, the entire correctional system numbered some 3.7 million, which is about one half the current size of 7.3 million people. The paper draws heavily from a report entitled “Unlocking America,” which was released in November 2007 and was authored by several criminologists, including the author of this paper.¹ That report makes the argument that the current state and federal prison populations could be significantly reduced by reorienting current sentencing and correctional policies that are either being used in certain jurisdictions and/or have been successfully used in the past. At the root of the recommendations for reducing the prison population is the conclusion that our current form and range of punishments are disproportionate to the harm that has been inflicted. Moreover, current efforts to punish those who commit such crimes are not cost-effective. At the end of this paper a simulation of the proposed reforms are presented to illustrate the effects of such reforms on both the national correctional population and on selected states over an eight-year time frame. It should be emphasized that well-intentioned efforts to lower recidivism rates by providing greater levels of rehabilitative-type services, while desirable, will have only a minimal impact on overall recidivism rates and little impact on prison populations.

Since the “Unlocking America” report was released, there has been some indication that states are beginning to reevaluate their current correctional policies. No doubt this reevaluation has been largely fueled by the growing fiscal economic crisis, which intensified in the latter part of 2008. While some may see this current situation as a crisis, it also represents a rare opportunity to change a system of punishment and control that we can no longer afford and that delivers diminishing returns on public safety. Hopefully, this paper will provide a set of options that, if implemented, would produce a smaller, more humane and cost-effective correctional system.

¹ The authors of that report were James Austin, Todd Clear, Troy Duster, David F. Greenberg, John Irwin, Candace McCoy, Alan Mobley, Barbara Owen, and Joshua Page.

☒ Historic and Current Trends in the U.S. Correctional Populations

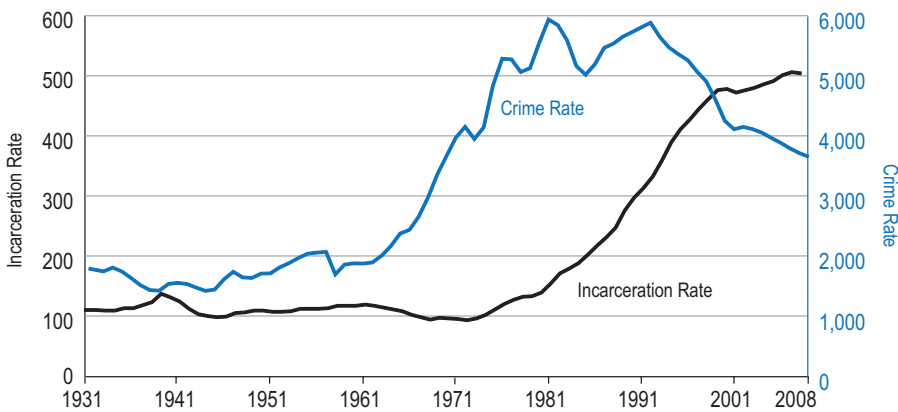
Beginning in the 1970s, the United States embarked on a three-decade-long shift in its sentencing and penal policies. This shift in policy was rooted in the belief that one of the best ways to confront what was perceived as a growing crime rate was to radically 1) increase the number of persons being sentenced to prison, and 2) extend their period of incarceration. Over the next 30 years, sentencing laws were reformed, criminal justice priorities altered, and most importantly, some two million prison and jail beds were constructed and opened.

Prior to 1970, there had been, at best, modest changes in the rate of incarceration. Indeed, there had been some reductions in periods of war, when large numbers of males had been drafted to serve in WWII, the Korean War, and the Vietnam War (see Figure 1). But these fluctuations were relatively mild compared to what has occurred since 1970, after which the prison population grew from less than 200,000 to nearly 1.6 million by 2008.²

Despite these historic increases, the prison population continues to rise in most states, albeit at a slower pace. A summary of the individual state and federal prison population projections available in 2008 showed that the national prison population would reach approximately 1.8 million prisoners by the year 2011 under current criminal justice trends and policies.³

☒ Figure 1

U.S. UCR Crime Trends and Sentenced Prisoners in Federal and State Institutions per 100,000 Population, 1931–2008



² <http://www.ojp.gov/bjs/prisons.htm>

³ http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/State-based_policy/PSPP_prison_projections_0207.pdf

It should also be noted that it is not just the state and federal prison systems that have experienced such growth. The three other major components of the correctional system have also been growing at a rapid pace. Table 1 shows the relative changes in all four correctional populations dating back to 1980. The jail population, while not as large as the prison population, has grown at about the same rate. Probation, which is the largest population, has grown by 282%, followed by parole with a 276% increase.

This paper is designed to accomplish three major goals. First, in order to develop a plan to significantly reduce the size of the current correctional system, it is necessary to objectively assess those factors that produced the dramatic increases. It will be shown that these historic increases did not happen by accident. Rather, they are the product or purposive action of state and federal policy makers as well as the external trends that have little to do with criminal justice practices or the law.

Second, there is a need to establish a change in sentencing philosophy or ideology that will serve to justify and guide the proposed reduction in the correctional system. Such a philosophy must resonate with the public and our elected officials. It is not that difficult to make recommendations that, if adopted, would cut the correctional population by 50%, to where it was some two decades ago. But, such reforms will go unheeded unless there are credible sentencing and correctional philosophies that serve as the basis for the recommendations.

Third, a list of specific reforms is presented that, if implemented, would achieve a reduction in the correctional populations. The reforms themselves are not novel and have been implemented over the years by a variety of states. Rarely have they been applied on a uniform basis by a majority of states. These reforms are then simulated on current national trends to show how the correctional populations

☒ Table 1

Changes in the Adult Correctional Populations, 1980–2008

	1980	1988	2008	% Change 1980 to 2008
Prisons	319,598	607,766	1,518,559	+375%
Probation	1,118,097	2,356,483	4,270,917	+282
Parole	220,438	407,977	828,169	+276
Jails	182,288	341,893	785,556	+331
Total	1,840,421	3,714,119	7,308,201	+297
U.S. population	227 million	245 million	304 million	+34
Reported index crimes	13.4 million	13.9 million	11.4 million	- 15
Index arrest rate per 100,000	1,056	1,124	763	-28

Sources. <http://www.ojp.usdoj.gov/bjs/correct.htm> and <http://www.fbi.gov/ucr/ucr.htm>. Note that the 2008 totals are not the sum of the four correctional populations due to estimating procedures used by the Bureau of Justice Statistics.

would gradually decline over an eight-year time frame. Such a decline would also have to address other issues that would attend such a decline, such as a massive reallocation of the current public correctional workforce, which now numbers nearly 750,000 people, at a cost of some \$70 billion per year.⁴

☒ Understanding the Basis for the Increases in the Correctional Populations

All correctional populations are the result of two key factors—admissions and length of stay (or LOS). A correctional population is the function of the following formula:
 (Admissions x Length of Stay) = Correctional Population

As either, or both, of these two population drivers change, so too will the resulting correctional population. While this is a straightforward formula, it masks the various factors and decisions that produce an admission or an LOS. In order to propose reforms that would lower correctional populations, one must understand these various factors and dynamics that have fueled the historic increases.

Demographics

First, there have been the demographic changes in terms of the number of people living in the United States and their attributes. As shown in Table 1, the U.S. resident population has increased from 227 million to 304 million since 1980, a net change of 34%, but clearly this is insufficient to explain the sharp rise in the correctional populations. The U.S. population is now projected to increase by about 10% over the next decade, with the fastest growth occurring in the population over age 65. Hispanics, who now reflect approximately 15% of the U.S. population, will occupy 19% of the population by 2020.

Crime

The most widely accepted reason for the large increase in the correctional system has been increases in crime. While this may be true for the time period between the 1960s and 1970s, it has not been true since 1980. As shown in Figure 1, Uniform Crime Report (UCR) crime rates were relatively flat for most of the 20th century. It was not until the mid-1960s that serious crimes reported to police began their historic rise. One can note that when plotted against the nation's incarceration rate, the crime rate began to increase prior to any change in the incarceration rate, suggesting that it was not a lowering of the incarceration rate that triggered the crime rate increase. It also suggests that the increasing rate of incarceration was largely a response to increasing crime rates as reported by the FBI.

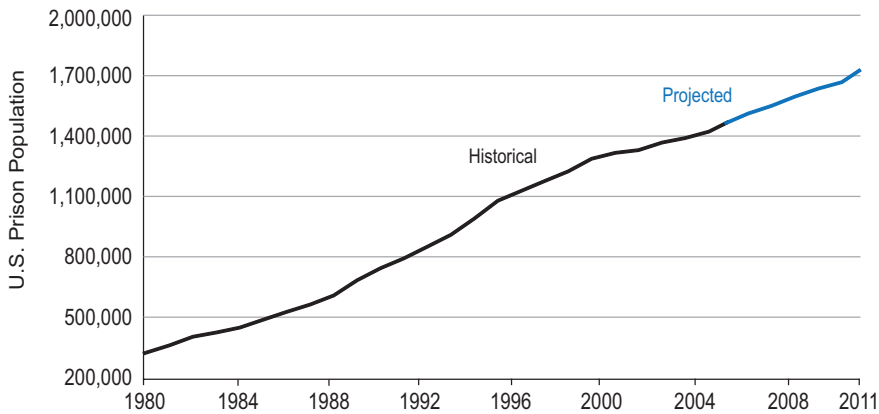
⁴ <http://www.ojp.gov/bjs/glance/tables/exptyptab.htm>

By 1980, the crime rate had reached its peak. The next 10–15 years saw both increases and decreases. But from 1994, the rate steadily declined through 2007. Today the crime rate is equivalent to the rate that existed in 1968, at which time the nation’s prison population was under 200,000, and the incarceration rate was 94 per 100,000, as compared to the rate of 504 per 100,000 in 2008. And, as Figure 2 shows, the nation’s incarceration rate was projected by the states in 2007 to approach 1,800,000 by 2011, or 600 per 100,000 based on a U.S. population of 304 million.

If both the number of crimes and the crime rate are declining, why do the rate of imprisonment and other forms of correctional supervision continue to rise? In the criminal justice system, the demand for correctional supervision begins with the police who make the arrest and thus initiate the jail booking and court processes. Perhaps it has been a dramatic increase in arrests that has caused the large surge in correctional populations.

Figure 2

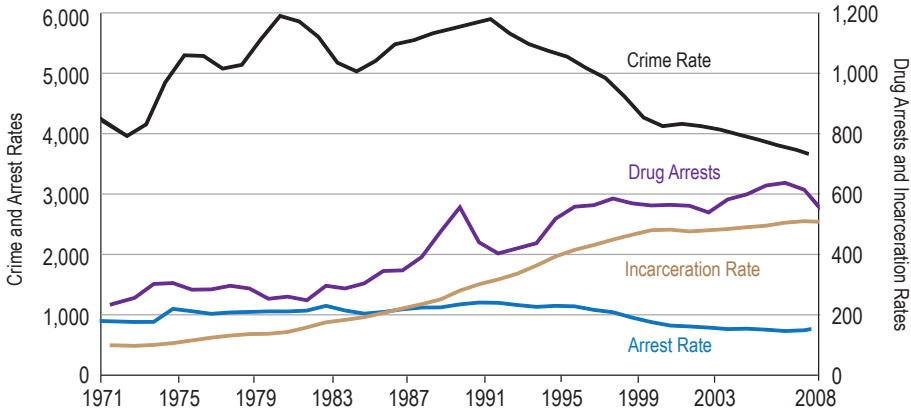
Historical and Projected U.S. Prison Population



The UCR reports do allow for a historic computation of arrests for the UCR index crimes dating back to 1971 (see Figure 3). Contrary to what many may believe, the rate of arrest for a serious crime increased after the early 1970s and has been relatively stable, but with a steady decline that matches the decline in the crime rate. The only exception to this trend is the steadily escalating increase in the rate of drug arrests. So, with the exception of the drug arrests, it seems that additional arrests have had some impact on the number of people being booked into the jails and cases being forwarded to the courts for case dispositions and sentencing. But they do not explain why the correctional populations have continued to rapidly expand, even as the rate of arrests has declined.

Figure 3

Crime, Arrest, and Incarceration Rates per 100,000 Population



The next criminal justice component to examine is the courts themselves. These data are more problematic, since national data have only been available from the Bureau of Justice Statistics (BJS) since 1982. Moreover, the detail of the data varies from year to year, meaning that historical data are only available for certain information. The court data are actually based on two reporting series from BJS. One is an annual report that summarizes the results of “large urban courts,” while the other covers all of the state criminal courts. Table 2 shows the trends in the state court data from BJS on the number of felony convictions and the rates of those dispositions from 1988 and 2004.

Table 2

State Court Felony Convictions and Dispositions, 1988–2004

Year	Felony Convictions	Disposition Rates		
		Prison	Jail	Probation
1988	667,400	44%	25%	31%
1990	829,300	46	25	29
1992	893,600	44	26	30
1994	872,200	45	26	29
1996	998,000	38	31	31
1998	927,700	44	24	32
2000	924,700	40	28	32
2002	1,051,000	41	28	31
2004	1,078,920	40	30	29

Source. *Felony Sentences in State Courts, 2004*. Washington, DC: U.S. Department of Justice.

Table 3 shows more detailed data for the time frame between 1994 and 2004, and adds the number of index crimes reported, arrests, and the size of the prison population. While the data for these two tables vary somewhat, the overall findings are as follows:

- The number of felony convictions has increased at a rate higher than the increase in arrests.
- The likelihood of an arrest leading to a conviction for violent crimes increased between 1994 and 2004 (from 23% to 31% in 2004).
- There has been little, if any, change in court disposition rates.
- Prison sentence lengths have actually declined.
- Despite the decline in sentence lengths, the prison population increased by 55%.

This latter statistic suggests that although sentence lengths have declined, the length of incarceration must have been increasing. In states with indeterminate sentencing structures, this could be caused by a reduction in the parole grant rates by the state's parole board. In states with determinate sentencing structures, as well as indeterminate sentencing states, the longer length of incarceration could be caused by truth-in-sentencing reforms or other limitations on the amount of good time a prisoner can receive to move up either their parole eligibility date or maximum release date.

☒ Table 3

State Criminal Court Sentencing Trends, 1992–2004

Indicator	1992	2004	% Change
State prison population	802,241	1,244,311	55%
Reported crime	14,438,191	10,319,386	-29
Arrests	7,316,610	8,526,688	17
Felony convictions	893,630	1,078,920	21
Drug cases	280,232	362,850	29
% Convicted	68%	68%	0%
Felony convictions	54	59	9
Misdemeanor convictions	14	9	-36
Disposition rates			
Prison	44%	40%	-9%
Jail	26	30	15
Community supervision	30	28	-7
Fine	2	2	0
Average sentence lengths			
Prison	79 mo	57 mo	-29%
Probation	47 mo	37 mo	-21
Percent life sentences	0.7%	0.8%	+15

Source. All of the data presented here are from the Bureau of Justice Statistics Web site data collections available at <http://bjs.ojp.usdoj.gov>.

The only national source of the “length of stay” (LOS) or period of incarceration comes from the BJS Corrections Reporting program, which is now based on 41 states, the Federal Bureau of Prisons (BOP), and the California Youth Authority. Table 4 compares the 2005 data, based on 41 states, with the data from 38 states in 1993. While it does not reflect all of the state prison systems, it does provide for some trend data over time. As shown in Table 4, the LOS significantly increased by 38%, from an average of 21 months in 1993 to 29 months by 2005. Such a percentage increase in LOS directly produces the same 40% increase in prison population. For example, if a state admits 10,000 people per year and has an LOS of two years, that will produce a 20,000 prison population. If the LOS is increased to three years (a 50% increase in LOS) with the same 10,000 prison admissions, the prison population also increases 50% to 30,000 people.

It should also be noted that the lengths of stay shown in Table 4 actually underestimate the total period of imprisonment. Virtually all people who are admitted to prison experience several months of confinement in the local jails awaiting the disposition of their cases. This time in pretrial status also contributes significantly to the jail population. In most states, this period of pretrial detention is “credited” to the prisoner’s sentence. In general, the amount of “jail credits” is in the range of 3–7 months. For example, California reports an average of seven months in “jail credits” for persons sentenced to prison, which are deducted from the person’s time-to-serve estimate.⁵ Further, many prisoners released on parole violate the terms of parole and are reincarcerated again for technical violations. These people often serve another 12–24 months in prison before being re-released. Finally, if one includes the period of parole supervision in Table 4, those that are

☒ Table 4

Sentence Lengths, Time Served, and Length of Parole Supervision for Released Prisoners, 1993–2003

Length of Supervision	1993	2005	Change
Sentence length			
Median	48 mo	36 mo	- 12 mo
Mean	66	59	-7
Average time served			
Median	12	16	+4
Mean	21	29	+8
Average parole supervision	19	26	+9
Average total time under supervision	40	55	+15

Source. Bureau of Justice Statistics. *Prison Statistics*. Available at <http://www.ojp.usdoj.gov/bjs/prisons.htm>.

⁵ http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Projections/S09Pub.pdf

released and make it through parole without a violation will spend about five years either in jail, prison, or under parole supervision.

The most recent aggregate admission and release data from BJS show an increasing number of new court admissions and parole violators at a pace that exceeds the growth in the state prison population—24% to 22% versus 12% in the state prison population. The total number of releases is not quite keeping pace with the number of admissions, which thus explains the continued growth in the state prison populations (Table 5).

The category called “new court commitments” also includes those people whose probation status has been revoked by the court, often for technical violations. While national data do not exist on the percentage of new court commitments that are technical probation violators, data from some states—Texas, Nevada, and Michigan—suggest that as much as one half of the new court commitments are just probation violators. Thus a large number of the prison admission stream consists of either probation or parole violators. So, as the probation and parole populations increase, there will be a growing number of these people sent to prison unless the rate of probation and parole violations declines. In essence, the system begins to feed on itself.

☒ Table 5

State Prison Admissions and Releases 2000–2008

Year	Total State Prison Admissions	New Court Commitments	Parole Violators	State Prison Releases	State Prison Populations
2000	581,487	350,431	203,569	569,599	1,245,845
2001	593,838	365,714	215,450	590,256	1,180,155
2002	612,938	392,661	207,961	587,837	1,209,331
2003	634,149	399,843	209,753	612,185	1,222,135
2004	646,830	411,300	219,033	625,578	1,243,745
2005	676,952	421,426	232,229	650,478	1,261,980
2006	692,303	441,606	239,495	665,553	1,377,645
2007	689,257	435,733	248,923	676,991	1,398,627
2008	685,470	428,830	248,317	683,106	1,409,166
%Change	+20%	+24%	+22%	+19%	+12%

Source. Bureau of Justice Statistics. (December 2009). *Prisoners 2008* (NCJ 228417). Washington, DC: U.S. Department of Justice.

Finally, one should note the progressive racial attributes of the criminal justice process. It is not possible to assess this phenomenon based on Hispanic origin, but data are available for blacks and whites from the point of arrest through release from prison. As shown in Table 6, there is a consistent increase in the proportion of blacks from the point of arrest through sentencing. It is also noteworthy that the racial differences in sentence length and length of imprisonment persist even when controlling for the nature of the crime the person was convicted of (Table 7).

Table 6

Racial Proportions of U.S. Residents, Arrests, Convictions, Prisoners, and Length of Stay

Racial Group	U.S. Population	Offender Population	Arrested Population	Convicted Population	Prison or Jail Dispositions	Average Prison Sentence	Average Length of Stay
White	75%	69%	70%	59%	41%	61 mo	26 mo
Black	12%	22%	28%	38%	42%	68 mo	32 mo

Sources. Bureau of Justice Statistics. *2006 Victimization Data Tables* (cv0640.cvs); Bureau of Justice Statistics. (2008). *Felony Sentences in State Courts, 2003*. Washington, DC: U.S. Department of Justice; Federal Bureau of Investigation. (2008). *Crime in the United States, 2007*. Washington, DC: U.S. Department of Justice.

Table 7

Sentence Length and Time Served in Prison by Race

Offense Group	White		Black	
	Sentence	Time Served	Sentence	Time Served
All offenses	59 mo	26 mo	66 mo	33 mo
Violent	79	46	93	56
Property	50	20	50	24
Drug	59	18	61	25
Public order	45	18	45	24

Source. Bureau of Justice Statistics Corrections Reporting Program 2005.

Summary

To summarize, the large increases in the state prison and other correctional populations were the result of both an increase in the number of admissions—both new court admissions and the parole violators—and a significant increase in the average length of stay. In order to reduce the correctional population, these trends must be reversed.

1. Prison, jail, and probation admissions have increased substantially, which was *initially* the result of a growing general population and growth in the reported crime and arrest rates.
2. Since the mid-1990s, the number of crimes and the crime and arrest rates per 100,000 population has substantially *declined*.
3. Despite these declines in crime and arrests, the number of persons being sentenced by the courts and being revoked for parole violations have continued to escalate even though prison disposition rates have not increased.

4. About two thirds of the prison admissions consist of persons who have had their probation or parole status revoked, often for technical violations.
5. In essence, the entire correctional system is feeding on itself. The larger parole and probation populations create more violations, which in turn feeds the prison system.
6. Sentence lengths have declined, but the length of stay (LOS) has increased by over 40% due to more conservative parole board decisions and/or the passage of numerous laws restricting good time or release eligibility.
7. There is a consistent increase in the proportion of blacks represented in the arrest, conviction, prison, and jail populations. Blacks also have longer sentence lengths and lengths of stay when controlling for the nature of the convicted crime

☒ The Guiding Philosophy of Proportionality of Punishment

The previous pages have outlined the data showing what has driven and what continues to drive the growing correctional populations. Reversing these trends will require a redefinition and acceptance, by the public, of the primary objectives of the correctional system. In particular, it will be necessary to reduce the various amount of punishment now being handed out by the criminal justice system, which takes the form of imprisonment and community supervision.

There is now a growing consensus that many punishments are not proportionate to the crimes being committed. This disproportional level in punishment fuels the prison population and produces widespread injustice. A growing body of research shows that the burgeoning use of incarceration generates racial and social inequality. Moreover, it damages children, families, and communities, with limited impact on the original objective: public safety.

The United States is spending approximately \$215 billion a year for the criminal justice system, of which almost \$70 billion is spent on corrections.⁶ Conversely, the total economic loss to victims of “street crime” in 2006, as reported by the U.S. Department of Justice, was an estimated \$18.4 billion (Bureau of Justice Statistics, 2008).⁷

⁶ <http://www.ojp.usdoj.gov/bjs/glance/tables/exptyptab.htm>

⁷ There are a few researchers who argue that the so-called “social costs” of crime should be included in direct and measurable victim costs. Such costs are hypothetical and are based on a limited number of publicly revealed civil judgments that rarely occur. Moreover, such costs are not used by government agencies to estimate the costs of their criminal justice agencies. For a review of this issue, see Austin, (forthcoming); Cohen, (1988); Miller, Cohen, & Wiersema, 1996.

Table 8 illustrates the vast disparity between the economic losses associated with four common crimes and the amount spent to incarcerate the offenders. For example, the median loss associated with a robbery reported to the police is \$100. The typical prison sentence for robbery in the United States is 97 months, or about eight years, of which the typical time served is 55 months. Together with the time spent in jail pretrial, the average robbery offender is incarcerated for 60 months at a cost of approximately \$113,000.

Another example of the disproportional level of punishment is the widespread use of state imprisonment for technical probation and parole violators. These are behaviors for which persons can only be incarcerated in a state or federal prison system if they are on probation or parole status. This is not to diminish the problem of non-compliance with imposed conditions of probation or parole supervision. Nevertheless, it raises the question of why we rely on many months or years of imprisonment for behaviors that by any definition are not dangerous or even criminal.

One of Norval Morris's key recommendations was to develop proportionate sanctions that are "*between prison and probation*" (Tonry & Morris, 1988). Such intermediate punishments should help people understand and take responsibility for the harm they cause, as well as mandate that lawbreakers make amends to victims and the communities that they damage.⁸

Table 8

Economic Loss to Victims and Costs of Incarceration

Type of Crime	Median Victim Loss	Prison Sentence (mo)	Pretrial Time (mo)	Prison Time Served (mo)	Total Time (mo)	Incarceration Costs*
Robbery	\$100	97	5	55	60	\$115,000
Burglary	\$280	69	5	30	35	\$64,100
Larceny theft	\$100	43	5	19	24	\$42,200
Auto theft	\$2,500	41	5	19	22	\$42,200
Drug possession	\$0	55	5	19	24	\$46,000

Sources. Rand, M., & Catalano, S. (2007). *Criminal Victimization, 2006*. Washington, DC: Bureau of Justice Statistics. Available at <http://www.ojp.usdoj.gov/bjs>; Bureau of Justice Statistics National Corrections Reporting Program. Accessed on December 28, 2008, at <http://www.ojp.usdoj.gov/bjs/dtdata.htm#ncrp>.

*Incarceration costs based on an average annual incarceration cost of \$23,000.

⁸ These punishments may include restitution to victims through apology and paid compensation, restitution to communities through work, and active participation in treatment programs. On the issue of treatment and rehabilitation, research shows that such programs are most effective only targeted at "high risk" people who voluntarily enter such programs. Thus, mandating participation in such programs, especially for people who may not require such services, is counterproductive.

Along these lines, the general principle that would have to be adopted by the courts would be that imprisonment should be reserved for people who inflict the greatest harms. More precisely, these are the crimes of murder, manslaughter, robbery, assault, rape, child abuse, and kidnapping. This is not to say people who commit such crimes must all be sentenced to prison. There are varying degrees of harm associated with such offenses. The National Crime Victimization Survey, for example, shows that the majority of robberies and assaults result in little physical and financial harm to victims, and many people convicted of such crimes are now being placed on probation.

Probation, fines, short jail sentences, and restitution would be punishments largely reserved for those who have caused little financial, psychological, or physical harm, but whose actions are nevertheless blameworthy. Specifically, these would be for people who have committed and continue to commit property, public disorder, drug, DUI, corporate, and related financial crimes.⁹ The use of such non-prison sanctions would also be applied to people who continually and habitually fail to comply with the conditions of probation or parole.

Finally, the current fiscal crisis being at the state and federal levels has convinced policy makers that excessive criminal justice and penal policies are no longer affordable. Such fiscal pressures are only likely to escalate in the face of the U.S. recession. Thus, state and local governments are faced with the reality that they must reduce their criminal justice and correctional costs whether they want to or not.

☒ The Science of Decarceration and Depopulation – What Works?

Underlying the recommendations for reducing not only the prison but also the other major correctional populations are studies showing that less punishment is either as effective as or more effective than larger dosages of incarceration and community supervision. Much of this research focuses on variations in the use of the prison disposition and/or the length of imprisonment. But there is a growing number of studies that suggest that reductions in the use of parole and probation are also justified.

Rates of Imprisonment and Crime Rates

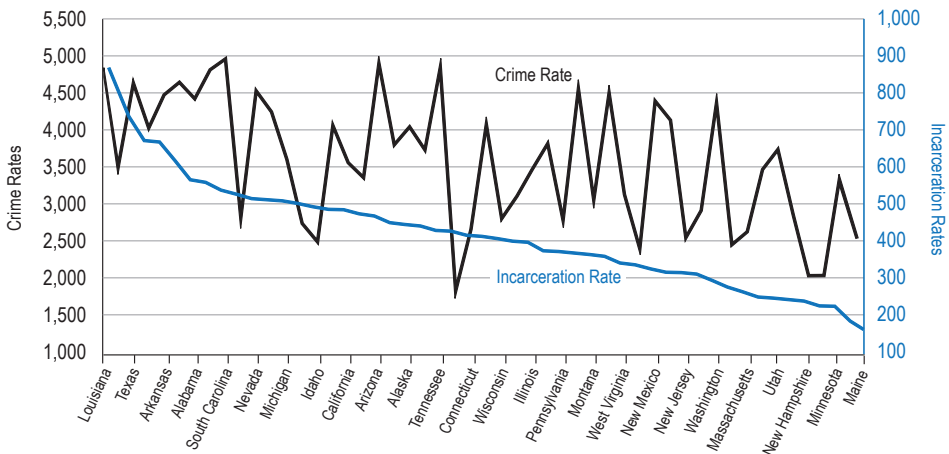
A smaller prison population would not, by itself, cause an increase in crime rates. As shown in Figure 4, there is a strong positive correlation between crime rates and incarceration rates. In general, states with *higher* rates of imprisonment

⁹ People who commit so called “white collar” crime should pay massive restitution, do extensive community service, and possibly serve house arrest. In short, they should pay their victims and the community (rather than the taxpayers paying to house them in expensive prisons).

tend to have *higher* crime rates and, conversely, states with *lower* incarceration rates tend to have *lower* crime rates. As will be shown below, moderately lowering the prison population and incarceration rate does not result in higher or lower crime rates. Recent studies based on individual states and counties have estimated the crime reduction impact of prison growth to be small or nonexistent (Western, 2006; Lynch & Sabol, 1997; Stemen, 2007).

Figure 4

Prison and Crime Rates by State, 2007



Increasing imprisonment can also result in the “churning” of large segments of the largely young male population in and out of prison, which serves to disrupt the community and family structure that would otherwise produce low crime rates (Rose & Clear, 2003; Clear, 2007). Thus, if a state wishes to reduce its crime rate, it will need to look at factors other than imprisonment. That is, the best way to lower crime rates is *not* to increase imprisonment rates.

Moreover, larger prison systems can result in a reduction in access to basic education, vocational training, and drug rehabilitation programs (California Expert Panel on Adult Offender and Recidivism Programming, 2007, pp. 9–11). It is well-known that if prisoners are properly assessed and assigned to well-structured programs, persons who complete those programs have lower recidivism rates.¹⁰ Accordingly, larger and crowded prison systems can impede a state’s ability to reduce recidivism. This is why the first recommendation of the California Expert Panel on

¹⁰ See Expert Panel Report for a full discussion and referencing of such programs.

Adult Offender and Recidivism Reduction Programming to reform the troubled California prison system was to “Reduce overcrowding in its prison facilities and parole offices”(California Expert Panel Report, 2007, p. viii).

The bulk of the evidence points to three conclusions: 1) The effect of imprisonment on crime rates, if there is one, is small; 2) If there is an effect, it diminishes as prison populations expand; and 3) The overwhelming and undisputed negative side effects of incarceration and overcrowding far outweigh the potential, unproven benefits of incarceration.

Professor James Q. Wilson notes that we have reached a tipping point of “diminishing returns” on our investment in prisons (Wilson, 1995). Professor Wilson reports that judges have always been tough on violent offenders and have incarcerated them for relatively long sentences. However, as states expanded incarceration, they dipped “deeper into the bucket of persons eligible for prison, dredging up offenders with shorter and shorter criminal records” (Wilson, 1995, p. 501). Increasing the proportion of convicted criminals sent to prison, like lengthening time served beyond some point, has produced diminishing, marginal returns in crime reductions.

Other former incarceration advocates, such as Professor John DiIulio and former U.S. Attorney General Edward Meese, have called for a repeal of mandatory minimum sentencing and challenged the wisdom of a massive imprisonment policy (Sullum, 1999).

The lesson for states and the federal government is that lowering the rate of imprisonment will have a minimal or even a positive effect on crime rates, and will improve their ability to engage many soon-to-be released prisoners in rehabilitative programming.

Length of Stay and Recidivism Rates

Perhaps one of the strongest arguments for lowering the length of imprisonment, and thus the prison population, as shown in the U.S. Department of Justice recidivism studies for 1994 releases (California dominates the results by virtue of its large numbers) is the lack of a relationship between how long persons are incarcerated and recidivism rates (see Table 9).

Although the recidivism rates appear to decline slightly, those declines are not statistically significant, except for people who serve more than 24 months, and that reduction in recidivism may be due to the maturation of the prisoner—older prisoners have lower recidivism rates. When this study is replicated, controlling for age and other related factors, there is no statistically significant difference in recidivism rates by length of stay.

A recent summary assessment of 12 early release studies by the National Council on Crime and Delinquency found that all of the studies reported that early released inmates had the same or lower recidivism rates compared to those who were not early releases. Further, the state crime rates either declined or remained the same during the period that the early release program or policy was in effect (Guzman, Krisberg, & Tsukida, 2008).

One of the reasons that lowering or increasing the length of stay, or LOS, has little, if any, impact on aggregate crime rates is because released prisoners constitute a small proportion of the pool of people being arrested. There have been two BJS reports and several state studies showing that the percent of crime, or more precisely, arrests, that can be attributed to released prisoners is quite low. BJS estimates that about 5% of the arrests that occurred over a three-year period could be attributed to prisoners released in a given year (see Table 10). Similar estimates have been made in Texas, Michigan, Illinois and California. This body of research shows that shorter periods of incarceration do not aggravate crime rates and that the stream of some 700,000 prison releases has a minimal impact on arrest and crime rates.

☒ Table 9

Three-Year Follow-Up Rate of Rearrest of State Prisoners Released in 1994 by Time Served in Prison

Time Served	Three-Year Rearrest Rates
6 or fewer mo	66.0%
7-12	64.8
13-18	64.2
19-24	65.4
25-30	68.3
31-36	62.6
37-60	63.2
61 or more	54.0

Source. Bureau of Justice Statistics, *Prison Statistics*. Available: <http://www.ojp.usdoj.gov/bjs/prisons.htm>. Accessed August 1, 2006.

☒ Table 10

Percent of Arrests Attributed to Released Prisoners

Arrests in Seven States	Number	Percent
Total arrests in 1994-97	2,994,868	100%
Total arrests of prisoners released in 1994-97	140,543	5
Total arrests of prisoners for violent crimes	36,000	1

Source. Bureau of Justice Statistics. (June 2002). *Recidivism of Prisoners Released in 1994* (Special Report, NCJ 193427). Washington, DC: U.S. Department of Justice.

Probation in Lieu of Prison

There has been less analysis that examines the extent to which probation versus prison has an impact on individual recidivism or, to a larger extent, on a state's crime rate. This is not to say that there has been little research on a wide variety of intermediate sanctions such as boot camps, intensive supervision, electronic monitoring, and halfway houses. This research, as summarized by Sherman et al., found that most of these intermediate sanctions have little positive impact on recidivism rates. However, some of these programs can be cost-effective, if they are used in lieu of incarceration (Sherman et al., 1997).

One often neglected study, by Petersilia and Turner, compared a group of felons who were sentenced to probation with a statistically matched group of offenders who were sentenced to prison. As shown in Table 11, the probationers had substantially lower recidivism rates regardless of the measure used (Petersilia & Turner, 1986).

☒ Table 11

Two-Year Recidivism Rates for California Prisoners and Probationers

Recidivism Measure	Probationers	Prisoners
Rearrested	63%	72%
Returned to jail or prison	31	47
Returned to prison	19	28

Source. Petersilia, J. & Turner, S. (1986). *Prison versus Probation in California: Implications for Crime and Offender Recidivism*. Santa Monica, CA: RAND.

☒ A Blueprint for Reducing Correctional Populations

Just how does one begin the daunting and politically difficult task of lowering the correctional populations? The good news is that the necessary reforms have been adopted in many states either currently or in the past. So, the means for making the desired reduction are available. It should also be noted that changes are neither radical or need take a long time to implement. As will be shown in this section, what are required are relatively modest changes in current practices. This is because relatively small adjustments in the key decision points will have a large cumulative effect over a relatively short period of time.

A good starting point is to observe that currently there are places where lower incarceration rates exist. In 1988, the state and federal incarceration rate was approximately 250 per 100,000 population and reached 509 in 2008.¹¹ But there is a

¹¹ <http://www.ojp.usdoj.gov/bjs/pub/pdf/pim08st.pdf>

tremendous amount of variation in the states' incarceration and crime rates, with a low of 133 per 100,000 in Maine to a high of 858 in Louisiana. Thus, for most states and the federal government, returning to the 1988 incarceration rate will be a long-term process involving systemic policy and legislative changes in law enforcement, prosecutorial practices, sentencing, and correctional policy. If the goal is to reduce not only the state and federal prison populations, but also the attending probation, parole, and jail populations, then other reforms will be required.

So, the shift toward a less punitive and proportional system of penalties need not be a gradual one. A deliberate and well-thought-out strategy to reestablish a new equilibrium for these policies will be required. Yet for *all* states, localities, and the federal government, there is an immediate need to initiate a structured and gradual shift away from current practices and trends.

The reduction in the correctional system must also address crime rates and public safety. Figure 4 showed the strong positive relationship between crime and incarceration rates, suggesting that any strategy to reduce incarceration rates must, at the same time, seek to lower crime rates. But, one should also note that today's crime rates mirror the rates in the 1970s or earlier, when the incarceration rates hovered at the 100 per 100,000 population. If we were to apply that crime to incarceration rate standard to 2007, the nation's state and federal prison population would be approximately only 300,000 prisoners. But even today, the lowest state incarceration rate, in Maine, is well above the 100 per 100,000 incarceration rate, thus showing the difficulty in lowering our national threshold for incarceration.

So, to lower the overall incarceration rate will not be one path, but rather 51 paths for the state and federal governments. It will require 51 strategies, each tailored to fit the policy circumstances of the government in question, to return these systems to a more normal level. In this regard, some states have a great deal more work to do than others.

In the analysis that follows, a series of crucial pressure points that have substantial impact on the size of the prison, jail, probation, and parole populations are identified. Using the most current national data, simulations of how adjustments in these pressure points will prompt change in the targeted population will be presented. These simulations are based on current national data, which have been disaggregated by admission type and offense group. In essence, it reflects a micro-simulation model that allows various assumptions to be made. The status quo simulation, modeling the current prison population as of 2007, is shown in Table 12. Because the national data reflect each state's own policy and sentencing structure, each state will have to engage in its own policy analysis of these pressure points to see which changes, when enacted, will provide the most rapid return to a desired level of punishment. The key reforms that will have to be implemented are as follows:

1. Reduce length of stay for sentenced prisoners;
2. Divert technical parole violators from prison and reduce their length of stay;

3. Divert technical probation violators from prison and reduce their length of stay;
4. Divert persons convicted of victimless crimes from prison;
5. Reduce length of stay for persons placed on probation;
6. Reduce length of stay for persons placed on parole;
7. Reduce probation revocation rates;
8. Reduce parole revocation rates; and,
9. Greater use of fines, restitution, and community service in lieu of probation.

☒ Table 12

Current Admission and Length of Stay for State Prison Admissions

State Prison Admissions	Current Admissions and Length of Stay in Months		
	Admits	LOS	Prisoners
Total admissions	684,656	30	1,401,605
New court admissions	351,510		860,321
Violent	91,393	49	373,186
Property	101,938	23	195,381
Drug	112,483	23	215,593
Public disorder	45,696	20	76,161
Technical probation violators	143,792		351,931
Violent	37,386	49	152,659
Property	41,700	23	79,924
Drug	46,013	23	88,192
Public disorder	18,693	20	31,155
Technical parole violators	189,354	12	189,354
U.S. population		303,000,000	
State incarceration rate		463	

Source. Bureau of Justice Statistics. *Corrections Reporting Program and Prisoners 2005*.

1. Reduce the Length of Stay for Sentenced Prisoners

The most direct and significant reform that states and the federal government can undertake that would have an immediate and significant impact is to lower the current length of stay. As shown in Table 13, if the states as a whole were to return to the LOS that existed in 1988, the current state prison population would eventually decline by about 400,000 prisoners.

How long a person remains incarcerated is based on the sentencing structure of that state and often complex sentence calculation rules that can apply. But in general, states can be separated into the two basic categories of determinate and indeterminate sentencing structures. The former is the minority of states, estimated at 15, but does include several major states such as California, Washington,

Table 13

Current Trends versus 1988 Lengths of Stay

State Prison Admissions	Current LOS and Admissions			1988 Length of Stay in Months		
	Admits	LOS	Prisoners	Admits	LOS	Prisoners
Total	684,656		1,401,605	684,656		1,037,930
New court admissions	351,510		860,321	351,510		602,225
Violent	91,393	49	373,186	91,393	34	261,231
Property	101,938	23	195,381	101,938	16	136,767
Drug	112,483	23	215,593	112,483	16	150,915
Public disorder	45,696	20	76,161	45,696	14	53,312
Technical probation violators	143,792		351,931	143,792		246,351
Violent	37,386	49	152,659	37,386	34	106,861
Property	41,700	23	79,924	41,700	16	55,947
Drug	46,013	23	88,192	46,013	16	61,735
Public disorder	18,693	20	31,155	18,693	14	21,808
Technical parole violators	189,354	12	189,354	189,354	12	189,354
U.S. population		303,000,000			303,000,000	
State incarceration rate		463			296	

Arizona, Illinois, Indiana, Ohio, Virginia, and Florida, to name a few, along with the Federal Bureau of Prisons. In these states, prisoners are released once they have completed a certain proportion of their imposed sentence, less any good time they may be allowed to accumulate.

For these determinate states, legislative reform will be required to either ease current sentence ranges, lower truth-in-sentencing and other restrictions on the proportion of time to serve, or allow good time credits for program completion or other forms of satisfactory behavior.

In the indeterminate states, a parole eligibility date is set based on a percentage of the sentence imposed, plus any good time the prisoner may be allowed to receive. In some states, like Michigan, the parole eligibility date cannot be adjusted by the good time credits. Or in some states like Louisiana, there are many restrictions on who is eligible for parole consideration, based on the type of crime the prisoner is convicted of and/or the prisoner's prior record.

In these states, increasing what are referred to as the "parole grant rates" would serve to lower the prison populations – especially in those states that have low grant rates. These are states where the grant rates are below 40%, meaning that most prisoners are not being paroled at either their initial or subsequent parole hearings. There may also be the need to reform other aspects of the parole hearing that are delaying the actual release. For example, some parole boards rely upon a decision called "delayed release," where the prisoner is granted parole, but must remain in prison until a program is completed.

So, to lower the length of stay in a specific state will require a tailored strategy in that state. But, in general, all states will have to repeal some aspects of the current sentencing laws and replace them with less punitive sanctions. The only exceptions to this requirement are the states with parole boards and discretionary release powers.

2. Divert Technical Parole Violators and Reduce Their Length of Stay

The second major reform would serve to greatly restrict the extent to which technical parole violators can be reincarcerated and the length of that reincarceration. Nationally an estimated 250,000 prison admissions are parole violators. Some proportion of that group are parolees who have been convicted of a new felony and have a new or additional sentence to serve. The remainders are people who have violated the terms of their parole supervision, but have not been convicted of a new crime. Importantly, the technical violator can represent a situation in which the parolee has been arrested for a crime, but the prosecutor declines to proceed with the case(s). In such situations, the revocation and subsequent reincarceration is viewed as sufficient punishment, so that prosecution is not warranted.

The other aspect of the parole revocation decision is how long a person will remain incarcerated before being re-released. Because so many people are being revoked each year and their period of reimprisonment is quite lengthy, this decision by the parole board can have a substantial impact on the prison population.

The extent to which parolees are returned to prison varies substantially among the states. The two extremes are Washington State and California. The former prohibits by statute the readmission of a parole violator to prison (they can be held in local jails for up to 60 days), while California has over 90,000 parolee revocations each year—almost 1 out of every 2.5 parole violations occur in California. But the California technical violator spends only an average of three months in custody before being re-released. This compares with other states where the technical violator remains in custody for 1–2 years. Often the time spent on parole, prior to the revocation, is not credited toward the “time served” calculation, meaning that the prisoner must complete all of the remaining time on his/her sentence.

The simulation shown in Table 14 assumes that the number of technical parole violations would be reduced by 80% and the remaining violators would be successfully prosecuted and receive new prison terms. Those who are violated would receive a short period of imprisonment that generally would not exceed 90 days.

3. Divert Technical Probation Violators and Reduce Their Length of Stay

Similar to the technical parole violators, a large proportion of the new court commitment stream consists of persons who were originally sentenced to probation, but have failed the terms of probation and technically their prison term is suspended. The revocations, like the technical parole violators, are people who have not been convicted of a new felony but may have been arrested for a new

Table 14

Current Trends versus 1988 LOS, and Diverted Parole and Probation Violators

State Prison Admissions	Current Length of Stay and Admissions			1988 LOS Plus Diverted Probation & Parole Violators		
	Admits	LOS	Prisoners	Admits	LOS	Prisoners
Total	684,656		1,401,605	502,954		803,948
New court admissions	351,510		860,321	351,510	21	602,225
Violent	91,393	49	373,186	91,393	34	261,231
Property	101,938	23	195,381	101,938	16	136,767
Drug	112,483	23	215,593	112,483	16	150,915
Public disorder	45,696	20	76,161	45,696	14	53,312
Technical probation violators	143,792		351,931	104,105	21	189,889
Violent	37,386	49	152,659	33,647	34	96,175
Property	41,700	23	79,924	31,275	16	41,960
Drug	46,013	23	88,192	34,510	16	46,301
Public Disorder	18,693	20	31,155	4,673	14	5,452
Technical parole violators	189,354	12	189,354	47,339	3	11,835
U.S. population		303,000,000			303,000,000	
State incarceration rate		463			265	

crime. In most cases these are people who have multiple violations that range from positive drug tests, failure to pay supervision fees, failure to report, or have failure in a treatment program.

Estimates from some states suggest that about one third of the new court commitments are such cases and that they serve about two years once they are admitted to prison. Often the time spent on probation prior to the revocation is not credited toward the sentence. The simulation, also shown in Table 14, assumed that about 30% of the technical probation violators would be diverted. Those who are not diverted will serve the same lower time in prison as the other new court commitments.

Collectively these first three reforms target the state prison population and would reduce the current prison population by about 600,000 inmates.

4. Divert Persons Convicted of Victimless Crimes from Prison

This reform recognizes that many people are now arrested for what is referred to as victimless crimes, such as drug possession, drug sales, disorderly conduct, drunkenness, drunk driving, prostitution, curfew, vagrancy, loitering, gambling, and a wide variety of motor vehicle violations. They are being incarcerated in our jails, or being placed on years of probation. Once placed on probation, some of these people are susceptible to being sent to prison as a probation violator for continuing such behavior as failing to pay their probation supervision fees, not maintaining employment, not attending treatment, or for many other non-criminal acts.

As the “Unlocking America” report makes clear, such recommendations do not mean that such “victimless” crimes do not often have significant consequences—not only for the safety of the persons themselves, but also their families and the surrounding communities. Further, these cases can be more complicated in that such persons may have another current conviction for a property or violent crime, are wanted for such crimes by other jurisdictions, or have extensive prior records for property and violent crimes.

Table 15 shows the historical trends in the numbers of state prisoners who are incarcerated on any given day, by the primary crime they have been convicted of. It should be noted that for probation and parole technical violators, the primary charge is one they were originally sentenced for and not the technical violation itself.

From a historical perspective, the proportion of prisoners incarcerated on any given day for violent crime has fluctuated, but remains relatively unchanged. The major shift has been in the percentages and numbers of persons convicted for property, drug, and public disorder crimes, which has increased by about 500,000 inmates since 1980. However, the proportion of state prisoners incarcerated for property crimes has declined from 30% to 19%, while the proportion of prisoners sentenced for drug offenses, both sales and possession, has increased from 6% to 20%. Public disorder crimes are a relatively small percentage of the total prisoner population, but it has doubled from 4% to 8%.

One must also look at the federal prisoner population, which has grown faster than any other prison system. Unlike the state prison population, the BOP population did not begin to escalate until the early part of 1980 and only after the Federal Sentencing Guidelines were adopted, which mandated longer sentences for drug crime and that persons serve 85% of the imposed sentence.

Figure 5

BOP Facility Population, 1970–2004

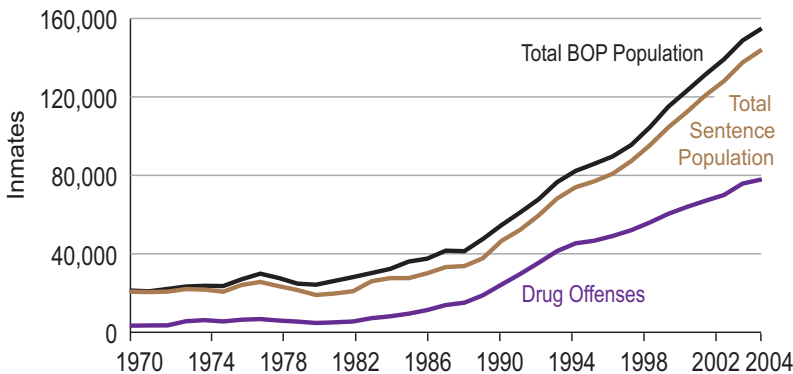


Table 15
Persons in State Prisons by Primary Offense

Year	Violent	Property	Drug	Public Order	Total	% Violent	% Property	% Drug	% Public Order
1980	173,300	89,300	19,000	12,400	294,000	59%	30%	6%	4%
1981	193,300	100,500	21,700	14,600	330,100	59	30	7	4
1982	215,300	114,400	25,300	17,800	372,800	58	31	7	5
1983	214,600	127,100	26,600	24,400	392,700	55	32	7	6
1984	227,300	133,100	31,700	21,900	414,000	55	32	8	5
1985	246,200	140,100	38,900	23,000	448,200	55	31	9	5
1986	258,600	150,200	45,400	28,800	483,000	54	31	9	6
1987	271,300	155,500	57,900	31,300	516,000	53	30	11	6
1988	282,700	161,600	79,100	35,000	558,400	51	29	14	6
1989	293,900	172,700	120,100	39,500	626,200	47	28	19	6
1990	313,600	173,700	148,600	45,500	681,400	46	25	22	7
1991	339,500	180,700	155,200	49,500	724,900	47	25	21	7
1992	369,100	181,600	168,100	56,300	775,100	48	23	22	7
1993	393,500	189,600	177,000	64,000	824,100	48	23	21	8
1994	425,700	207,000	193,500	74,400	900,600	47	23	21	8
1995	459,600	226,600	212,800	86,500	985,500	47	23	22	9
1996	484,800	231,700	216,900	96,000	1,029,400	47	23	21	9
1997	507,800	236,400	222,100	106,200	1,072,500	47	22	21	10
1998	545,200	242,900	236,800	113,900	1,138,800	48	21	21	10
1999	570,000	245,000	251,200	120,600	1,186,800	48	21	21	10
2000	589,100	238,500	251,100	124,600	1,203,300	49	20	21	10
2001	596,100	233,000	246,100	129,900	1,205,100	49	19	20	11
2002	624,900	253,000	265,000	87,500	1,230,400	51	21	22	7
2003	650,400	262,000	250,900	86,400	1,249,700	52	21	20	7
2004	663,700	265,600	249,400	88,900	1,267,600	52	21	20	7
2005	687,700	248,900	253,300	98,700	1,288,600	53	19	20	8

Source: Bureau of Justice Statistics. *Correctional Populations in the United States, 1997; Prisoners in 2005.*

In essence, the BOP has become the dumping ground for drug offenders who are involved, in one way or another, in a federal prosecution for the possession, sale or conspiracy to sell large amounts of marijuana, cocaine, and other illegal drugs. As shown in Figure 5, the 2007 BOP population now exceeds 200,000 people, of which 107,000 (54%), are incarcerated for drug crimes. If one adds the number of state prisoners convicted of drug (253,300) and public disorder (98,700) crimes and the BOP immigration prisoners (about 20,000), the grand total of persons convicted of victimless crimes approaches 478,000.

Diverting some portion of these people from state or federal prison could have a significant impact, but it would also cut into the reductions achieved by recommendations 1–3, since such prisoners are represented in those estimates. For purposes of this paper, it is assumed that approximately 25% of the current stream of drug and public disorder prisoners would be diverted to probation in lieu of prison.

Table 16 summarizes the overall effects of these four major reforms on just the state prison systems. In total, the state prison population would drop about 50%. This decline would not happen all at once. It would depend on such questions as whether new laws were retroactive or applied only to newly sentenced prisoners, and the adoption of new sentencing, parole, and probation policies.

☒ Table 16

Current State Trends versus All Recommended Reforms

State Prison Admissions	Current Length of Stay and Admissions			All Reforms Plus Diversion of Victimless Crimes		
	Admits	LOS	Prisoners	Admits	LOS	Prisoners
Total	684,656		1,401,605	418,109		731,077
New court admissions	351,510		860,321	311,965	21	551,168
Violent	91,393	49	373,186	91,393	34	261,231
Property	101,938	23	195,381	101,938	16	136,767
Drug	112,483	23	215,593	84,362	16	113,186
Public disorder	45,696	20	76,161	34,272	14	39,984
Technical probation violators	143,792		351,931	94,310	21	176,950
Violent	37,386	49	152,659	33,647	34	96,175
Property	41,700	23	79,924	31,275	16	41,960
Drug	46,013	23	88,192	25,883	16	34,726
Public disorder	18,693	20	31,155	3,505	14	4,089
Technical parole violators	189,354	12	189,354	11,835	3	2,959
U.S. population		303,000,000			303,000,000	
State incarceration rate		463			241	

The remaining five reforms, as listed below, are all designed to lower the large probation and parole populations:

- Reduce Length of Stay for Persons Placed on Probation,
- Reduce Length of Stay for Persons Placed on Parole,
- Reduce Probation Revocation Rates,
- Reduce Parole Revocation Rates, and
- Greater Use of Fines, Restitution, and Community Service in Lieu of Probation.

Similar to the data on prison lengths of stay, there is little, if any, evidence that extending or reducing the period of probation or parole supervision has any impact on recidivism. A number of studies in California discovered that 1) there was no relationship between the time on supervision and parole success, and 2) no difference between people placed on parole versus people with no parole supervision on recidivism rates (Jaman, Bennett, & Berecochea, 1974; Star, 1979; Jackson, 1978, 1983). Probation or parole supervision failure is most likely to occur within the first 12 months of supervision; thereafter, supervision is more of a nuisance than a means for assisting people after prison or preventing them from committing another crime.

A 2005 Urban Institute study, among others, revealed that individuals released with no parole supervision return to prison at a significantly lower rate than those released on parole (Solomon, Kachnowski, & Bhati, 2005). Nevada has been experimenting with this policy shift, which has produced positive results. The basic tool is allowing probationers and parolees to earn “good time” credits for each month of satisfactory behavior on supervision. For parolees, the “successful” termination rate has increased from 60% to about 85%. Since the practice was adopted for probationers, the success termination rate increased from 53% to 63%. Washington State has adopted a policy where low-risk parolees received no supervision.

On the use of fines, restitution and community service, these penalties (especially fines) are frequently used today but rarely as the sole sanction. Related to current practices, people are often required to attend and pay for their treatment and the costs of their probation supervision. This reform would alter these practices and eliminate probation as a sanction for many property, public disorder, and drug possession crimes – especially marijuana. Hillsman noted 20 years ago that Western European counties differ from the United States in their use of fines as the sole sanction for a wide array of crimes (Hillsman, 1990).

Table 17 summarizes the likely effects of these reforms. The largest decline would occur by lowering the period of supervision by about one third. Further reductions would be achieved by reducing the placement of people on probation or parole by 25%. In the case of probation, these people would receive other sanctions (fines, restitution, and community service). For people released from prison, the requirement of additional supervision would not be required, but based on risk or the nature of the crime.

Table 18 produces the grand totals for all correctional populations, including the federal prison system and the jails. Modest reductions in the nation’s jail population are noted based on what appears to be a growing trend in a reduced arrest rate, which

Table 17
 Estimated Impact on Parole and Probation Populations of Recommended Reforms

Population	Current LOS and Admissions			New LOS - Only			Plus Diverted Probationer/Parolees		
	Admits	LOS	Population	Admits	LOS	Population	Admits	LOS	Population
Probation	2,362,100	21	4,190,896	2,362,100	14	2,755,783	1,771,575	14	2,066,838
Parole	512,800	17	710,065	512,800	10	427,333	384,600	10	320,500
Totals	2,874,900		4,900,961	2,874,900		3,183,117	2,156,175		2,387,338

Table 18
 Summary of the Eight Recommendations' Impact on Correctional Populations

Correctional Populations	Current Policies		New LOS	New LOS and Diversion		Plus Diverted "Victimless" Crimes	% Change
	Admits	LOS		Admits	LOS		
Grand totals	7,496,425	5,126,628	4,071,866	3,842,879	-49%		
State prisons	1,398,698	1,037,930	803,948	731,077	-48		
Federal prison	199,618	125,000	100,000	100,000	-50		
Probation	4,293,163	2,755,783	2,066,838	2,066,838	-52		
Parole	824,365	427,333	320,500	320,500	-61		
Local jails	780,581	780,581	780,581	624,465	-20		

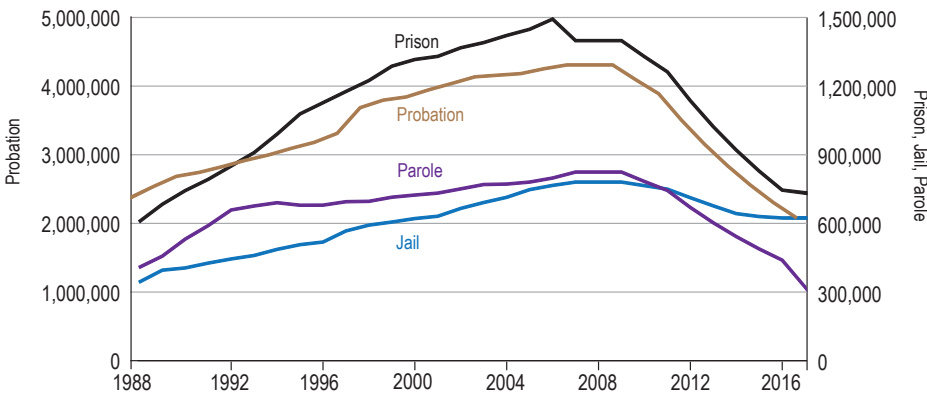
fuels jail bookings. One would expect additional savings in the jail bookings as fewer probationers and parolees are violated and are required to remain in jail until they receive their revocation hearings. The federal prison systems would decline as the 85% truth-in-sentencing laws are relaxed and a greater use of probation would be implemented. With these two additions, the 50% correctional population reduction is achieved.

All of the reforms are “evidence-based” in that they have been shown to be effective in reducing correctional populations without adversely impacting crime or recidivism rates. Indeed, a strong case can be made that with the billions of dollars that would be saved each year by the states, public safety would be greatly enhanced by investing those funds in those communities that each year produces the vast majority of admissions to the correctional systems.

In terms of timing, these reductions would occur gradually over time. Much would depend on how they are implemented and the need for new legislation to reverse or modify current laws. But assuming that such reforms could be implemented within 12 to 24 months, the trajectory of the population reductions would be as represented in Figure 6.

Figure 6

Past and Projected Declines in Correctional Populations, 1988–2016



Concluding Remarks

It has been 40 years (1969) since a decline in the nation’s prison population has been reported. At that time the nation was busy fighting the Vietnam War and drafting hundreds of thousands of young males to serve in the military. In 1969 our crime rate was 3,680 per 100,000 population and our incarceration rate was 97

per 100,000. Today the crime rate is 3,667 (the same as 1969), but our incarceration rate is about five times higher, at 508 per 100,000.

The most recent report by the Bureau of Justice Statistics reported one of the smallest increases in the nation's prison population for 2008. More significantly, BJS noted that 20 states recorded declines in their prison populations. The list of states with declining prison populations and the size of the decreases are likely to grow. Fueled by the soaring costs of corrections and a stagnant economy, policy makers are searching for ways to lower their investments in corrections. The question no longer is can we reduce prison and other correctional populations but how best can this be achieved while keeping the record low crime rates at their current levels?

Mathematically, the only ways to lower correctional populations are to reduce the number of admissions and the lengths of stay in prison or under probation and parole. It is highly unlikely that such a reduction can be achieved by reducing recidivism rates, which have remained unchanged for at least 25 years, and as correctional systems struggle to keep what meager programs they now fund. Rather, the solution lies in simply returning to the same sentencing and correctional policies that existed a few decades ago when our crime rate was what it is today.

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Dr. James Austin is the President of the JFA Institute, a position he has held since 2003. Prior to that, he was the Director of the Institute of Crime, Justice and Corrections at the George Washington University, and Executive Vice President for the National Council on Crime and Delinquency. He began his career in corrections with the Illinois Department of Corrections at Statesville Penitentiary. He received his Ph.D. in sociology from the University of California at Davis.