

Connecticut Debate Association

November 16, 2013

Amity High School and New Canaan High School

Resolved: The United States should imprison only those who commit violent crimes.

Violent crime in the United States

From Wikipedia, the free encyclopedia

The Federal Bureau of Investigation's Uniform Crime Report (FBI UCR) counts four categories of crime as violent crimes: murder and non-negligent manslaughter, forcible rape, robbery, and aggravated assault.^[14]...

According to figures from the Bureau of Justice Statistics (BJS), the rate of violent crime victimization in the United States declined by more than two thirds between the years 1994 and 2009. In 2009, there were 16.9 victimizations per 1000 persons aged 12 and over. 7.9% of sentenced prisoners in federal prisons on September 30, 2009 were convicted of violent crimes. 52.4% of sentenced prisoners in state prisons at the end of 2008 were in for violent crimes.^[17] 21.6% of convicted inmates in jails in 2002 (latest available data by type of offense) were in for violent crimes.^[18]

Community sentence (Redirected from Non-custodial sentence)

From Wikipedia, the free encyclopedia

Community sentence or alternative sentencing or non-custodial sentence is a collective name in criminal justice for all the different ways, in which courts can punish someone, convicted of committing an offence, other than the custodial sentence (serving a prison term).

Traditionally, the theory of retributive justice is based on the ideas of retaliation (punishment), which is valuable in itself, and also provides deterrent. Before the police, sentences of execution or imprisonment were thought pretty efficient at this, while at the same time removing the threat criminals pose to the public (protection). Alternative sentences add to these goals, trying to reform the offender (rehabilitation), and put right what he did (reparation).

Traditionally, victims of a crime only played a small part in the criminal justice process, as this breaching the rules of the society. The restorative approach to justice approach often makes it a part of a sentence for the offender to apologize, compensate the damage they have caused or repair it with their own labour.

The shift towards alternative sentencing means that some offenders avoid imprisonment with its many unwanted consequences. This is beneficial for the society, as it may prevent them from getting into the so-called the revolving door syndrome, the inability of a person to go back to normal life after leaving a prison, becoming a career criminal. Furthermore, there are hopes that this could alleviate prison overcrowding and reduce the cost of punishment.

Instead of depriving those who commit less dangerous offences (such as summary offences) of their freedom, the courts put some limitations on them and give them some duties. The list of components that make up a community sentence is of course different in individual countries, and will be combined individually by the court. Non-custodial sentences can include:

- unpaid work (this can be called community payback or community service)
 - house arrest
 - curfew
 - suspended sentence (that means that breaking the law during a sentence may lead to imprisonment)
 - wearing an electronic tag
 - mandatory treatments and programmes (drug or alcohol treatment, psychological help, back to work programmes,)
 - fine
 - apology to the victim
 - specific court orders and injunctions (not to drink alcohol, not to go to certain pubs, meet certain people)
 - regular reporting to someone (offender manager, probation)
 - judicial corporal punishment [1]
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One nation, behind bars

The Economist, Aug 17th 2013, Leader (editorial)

Eric Holder's ideas for locking up fewer Americans are welcome, but do not go far enough

AS DRUG dealers go, Ricky Minor was hardly a kingpin. Police found 1.2 grams of methamphetamine in his home—enough to keep a heavy user high for a day. They also found matches, acetone and cold medicine, so the Drug Enforcement Administration guessed that he could have made another 192 grams of the stuff. Mr Minor, a cash-strapped addict, pleaded guilty. He had never been to prison before, but he had convictions for selling small quantities of marijuana and cocaine, shouting at a neighbour who had poisoned his dog, shoving a police officer and driving while intoxicated. He was condemned to life in prison without any chance of parole. The judge said the sentence was wildly excessive, but under mandatory-minimum sentencing laws, he had to impose it.

This week Eric Holder, Barack Obama's attorney-general, declared that America has an “unnecessarily large prison population” (see [article](#)). That is putting it mildly. The Land of the Free has 5% of the world's population, but 25% of its prisoners. In all, about 2.2m Americans fester behind bars: one in every 107 adults. Minor crimes are punished severely, serious ones ferociously. The cost is staggering: \$80 billion a year, or \$35,000 per inmate; not to mention “human and moral costs that are impossible to calculate”, as Mr Holder put it. America's prisons are often harsher than those in other rich countries (see [article](#)), as the protests against solitary confinement in California illustrate (see [article](#)).

For decades American politicians have assumed that mass incarceration works, wooing voters with ever-tougher sentencing laws. The dramatic fall in crime since the 1990s has persuaded many that they were right. Locking up the worst criminals while they are young, fit and dangerous clearly makes America safer. But keeping sad cases like Mr Minor incarcerated past pensionable age serves little purpose. Prison has diminishing returns, and America long ago passed the point where jailing more people makes sense. As Mr Holder said, the system is “both ineffective and unsustainable”. Not before time, he has proposed some ways to reform it.

First, federal prosecutors will no longer charge “low-level, non-violent” drug suspects with offences that carry “draconian” mandatory-minimum sentences. These are often triggered by the weight of drugs involved; by not disclosing this fact, prosecutors will let judges decide what punishment might fit the unique circumstances of each case. Second, elderly prisoners who have served much of their sentence and pose no great threat will be released earlier. Third, more offenders will be given drug treatment or community service instead of prison. Finally, Mr Holder will try to remove some of the obstacles that stop ex-convicts from finding jobs.

Federal prisons, which Mr Holder controls, hold only 10% of America's prisoners; the rest are in state or county lock-ups over which he has little authority. Nonetheless, his reforms are important, and should be applauded. For one thing, the federal-prison population has grown by an alarming 800% since 1980. For another, Mr Holder's reforms complement action in the states, 17 of which reduced the number of people they locked up between 2000 and 2010 while still reducing crime. The boldest reformers have been conservative states such as Texas. Now that Mr Obama's man has pitched in, penal reform could perhaps become a bipartisan crusade, uniting budget hawks with bleeding hearts.

Be bolder, Holder

Since so many of America's prisoners are drug offenders, legalising drugs would help a lot. Even if they balk at that, both the federal government and the more punitive states should make more use of cheap, effective alternatives to prison, such as electronic tagging. Lawmakers should scrap mandatory-minimum laws and let judges judge. In general, shorter sentences are better; they deter nearly as much as long ones and cost far less. Some of the money saved could be spent on better detection, which really does deter. The aim should be reducing crime, not taking revenge. Mr Holder's ideas have met with little opposition: he could have gone much further.

California Is Facing More Woes in Prisons

By [JENNIFER MEDINA](#), The New York Times, Published: July 14, 2013

The California Institute for Men in Chino in 2010. California has been ordered by the federal courts to release nearly 10,000 inmates and move 2,600 others.

LOS ANGELES — Just six months after declaring “[the prison crisis is over in California](#),” Gov. Jerry Brown is facing dire predictions about the future of the state's prison system, one of the largest in the nation.

A widespread inmate hunger strike in protest of California's policy of solitary confinement was approaching its second week on Sunday. The federal courts have demanded the release of nearly 10,000 inmates and the transfer of 2,600 others who are at risk of contracting a deadly disease in the state's overcrowded prisons.

State lawmakers have called for an investigation into a new report that nearly 150 women behind bars were coerced into being sterilized over the last decade. And last week, a federal judge ruled that prisoners were not receiving adequate medical care.

“It is like a tinderbox, and all you had to do is light a match,” said Jules Lobel, the president of the Center for Constitutional Rights and the lead lawyer in a federal lawsuit over solitary confinement. “They see the state has shown no willingness to change, even when the high court orders it. They have decided to circle the wagons and keep the system that exists today as intact as possible.”

In many ways, California prison system officials have been among the most reluctant to adopt systemic changes, experts say, doing so only when forced by the federal courts. Even then, lawyers and advocates for prisoners say, the changes have come slowly and unevenly.

Mr. Brown, a Democrat, has aggressively fought several federal court orders in the two years since the United States Supreme Court ruled that conditions and overcrowding in the system amounted to a violation of the Eighth Amendment — cruel and unusual punishment. Since then, federal judges overseeing the case have repeatedly declared that the state was not making changes quickly enough, and that conditions in the prisons remained appalling — that the state had been “deliberately indifferent.”

The judges have twice threatened to hold the governor in contempt if he does not comply with their order to release prisoners. Last week, Mr. Brown appealed to the Supreme Court to stop the order, arguing that the system had already improved drastically and that stopping the release of prisoners was essential for public safety.

Though the current hunger strike is focused on the state’s solitary-confinement policy, which allows inmates with gang associations to be held in isolation cells for decades, advocates and lawyers for the prisoners say that the widespread participation is a clear sign that the inmates are increasingly infuriated by the conditions. Roughly 12,000 inmates went without state-issued meals for four consecutive days, down from 30,000 on the first day but more than double the number who took part in a similar strike two years ago.

Last month, a federal court order demanded that the state move from the Central Valley 2,600 inmates at risk of contracting coccidioidomycosis, or valley fever — a potentially lethal disease. The state had resisted the move, saying it could cause race riots in the prisons. California is also facing a separate federal lawsuit charging that it segregates prisoners by race.

State legislators called for an investigation last week after a news report that prison officials had pressured dozens of women to be sterilized in the last decade. And on Thursday, a federal judge ruled that the state was not providing adequate medical care for inmates — including basics like access to clean water.

Jeffrey Beard, the state corrections commissioner, said that the hunger strike was simply a sign of how powerful the prison gangs are and dismissed the notion that it indicated deeper problems.

“This isn’t something that came from a bunch of other people. It is guided by a few gang leaders who have enormous control,” Mr. Beard said. “It’s an opportunity inmates will often take to raise concerns they have. I don’t think that’s unusual, and I don’t think that it is part of a bigger issue.”

Mr. Beard and Governor Brown have repeatedly argued publicly that medical and mental health care in state prisons have greatly improved. They have also maintained that California is being held to an unfair standard on overcrowding because many prisons around the country double-bunk inmates.

They have made those arguments in court, bringing in expert witnesses who have testified that the state is providing care deemed proper under the United States Constitution.

But the federal courts have found the arguments unconvincing. In a ruling on Thursday calling for an investigation of prison-based mental health facilities, a federal judge cited the “denial of basic necessities, including clean underwear,” along with doctor shortages and treatment delays. And in a footnote, the judge, Lawrence K. Karlton, chided the state for arguing for an end to federal oversight.

“Given the gravity of the evidence in this hearing,” Judge Karlton wrote in the footnote, a motion to terminate the case “takes on the character of a condition in which the defendants have simply divorced themselves from reality.”

Michael Bien, a lead lawyer representing inmates in the lawsuit over mental health care that led to the Supreme Court case, pointed to recent pictures he has placed in evidence showing prisoners sleeping on floors and in crowded dormitories, similar to the conditions the Supreme Court criticized.

In one picture taken earlier this year, prisoners are shown locked in a series of single holding cells for group therapy.

At the California Institute for Men, in San Bernardino County, several prisoners were labeled LOBs — for “lack of beds” — because there was no place to properly house them, Mr. Bien said. While waiting to be processed, they spent months in cells meant for solitary confinement.

“These are mentally ill patients who were literally going crazy,” Mr. Bien said. “It’s a Kafkaesque situation, where they didn’t know why they were there or when they were going to get out.”

Mr. Beard, who once testified as an expert witness against the state, said that since taking over the system late last year, he has continued to see changes in the way the prisons are run.

“I don’t know what the courts are thinking, but I have personally seen the change,” he said in an interview. “Of course I am going to run a constitutional system. I believe we can provide that at the current levels we have, and that we have both the manpower and resources to do so. There are always things we can do better, but we’ve made huge strides.”

Mr. Beard also said that the state was in the process of making changes to the way it runs the solitary-confinement program, but that those changes could be delayed by the hunger strike. Mr. Lobel called that claim disingenuous.

James W. Marquart, a former Texas prison official who has testified for California in the court cases, said that when Texas faced similar federal lawsuits, it “made the changes and got on with it.”

“Everyone believes that California is the leader, but decades ago Texas just said, ‘To heck with it, we have to do what the court says,’ ” Dr. Marquart said. “It’s layer upon layer of problems that you either have to deal with or you are going to get bled dry on the legal fees to fight it to the death.”

U.S. News: Some States Trim Prison Spending

By Jeannette Neumann, The Wall Street Journal, 26 May 2011

Officials in some states are trying to cut their swollen prison costs through early releases and work programs for eligible nonviolent offenders.

A decision this week by the U.S. Supreme Court gave California two years to reduce prison overcrowding, highlighting states' struggles to bring down prison populations and expenses.

Total state spending on corrections has quadrupled during the past two decades to \$52 billion a year, making it the second-fastest-growing area of state budgets after Medicaid spending, according to an April study by the Pew Center on the States.

States are trying to reverse that trend. Forty states cut spending on their corrections programs in 2009 and 2010, according to the National Governors Association Center for Best Practices. This year, many states have proposed or have passed additional legislation to curb costs through programs intended to reduce repeat offending or by changing the penalties for nonviolent crimes.

In Vermont, Gov. Peter Shumlin, a Democrat, earlier this month signed into law a bill that allows the corrections department to release nonviolent offenders who have been sentenced to fewer than six months in prison, and place them under home supervision and rehabilitation programs.

"We underestimate the number of nonviolent offenders we have in our systems throughout the country. We're basically treating drug- and alcohol-related addictions as a crime, not as a disease," he said.

Nonviolent offenders, he said, include those who have bounced checks or stolen goods from a store.

Annual corrections costs in Vermont have more than doubled in the past decade to \$140 million in fiscal year 2011, Mr. Shumlin said. "I've got to go where the money is, and it's prisons," he said.

In Alabama, where prisons are operating at 190% of capacity, the state can't afford to build new prisons, said state Finance Director David Perry. The state spends around \$15,000 each year to house an inmate, he said.

Mr. Perry said that a work-release program, where an offender can be required to check in and out of a facility, costs about one-third or less. Bills pending before the Alabama legislature seek to place some nonviolent inmates in such rehabilitation programs.

Some see dangers in states' efforts to reduce overcrowding. A report published Wednesday by the California prison system's independent inspector general said that the state improperly freed more than 450 criminals with a "high risk for violence" last year as part of a parole program to reduce overcrowding and costs.

In a rebuttal letter, the California corrections department's deputy chief of staff said the parole program has "led to significant improvements in public safety as well as cost savings for California's prison system," and took issue with the inspector general's evidence.

Government officials who support rehabilitation programs for nonviolent crimes often face accusations that they aren't tough on crime, leading some to shy away from overhaul efforts.

Mr. Shumlin, the Vermont governor, said he encountered such charges during his campaign last year.

Not all states need to combat overcrowding. North Dakota's prison system is at 100% capacity, far lower than in some states. Leann Bertsch, director of the Department of Corrections and Rehabilitation, attributes that to the agency's longstanding focus on reducing repeat offenses through an emphasis on educational and vocational training during incarceration.

"Keeping people locked up is expensive," Ms. Bertsch said.

Toxic Persons

By Sasha Abramsky, Slate:
Jurisprudence, Oct. 8, 2010

New research shows precisely how the prison-to-poverty cycle does its damage.

Forty years after the United States began its experimentation with mass incarceration policies, the country is increasingly divided economically. In [new research](#) published in the review *Daedalus*, a group of leading criminologists coordinated by the American Academy of Arts and Sciences (which paid me to consult on this project) argued that much of that growing inequality, which *Slate's* [Timothy Noah](#) has chronicled, is linked to the increasingly widespread use of prisons and jails.

It's well-known that the United States imprisons drastically more people than other Western countries. Here are the specifics: We now imprison more people in absolute numbers and per capita than any other country on earth. With 5 percent of the world population, the U.S. hosts upward of 20 percent of its prisoners. This is because the country's incarceration rate has roughly quintupled since the early 1970s. About 2 million Americans currently live behind bars in jails, state prisons, and federal penitentiaries, and many millions more are on parole or probation or have been in the recent past. In 2008, as a part of an "[American Exception](#)" series exploring the U.S. criminal-justice system, *New York Times* reporter Adam Liptak pointed out that overseas criminologists were "mystified and appalled" by the scale of American incarceration. States like California now spend more on locking people up than on funding higher education.

In devastating detail in *Daedalus*, the sociologists Bruce Western of Harvard and Becky Pettit of the University of Washington have shown how poverty creates prisoners and how prisons in turn fuel poverty, not just for individuals but for entire demographic groups. Crunching the numbers, they concluded that once a person has been incarcerated, the experience limits their earning power and their ability to climb out of poverty even decades after their release. It's a vicious feedback loop that is affecting an ever-greater percentage of the adult population and shredding part of the fabric of 21st-century American society.

In 1980, one in 10 black high-school dropouts were incarcerated. By 2008, that number was 37 percent. Western and Pettit calculated that if current incarceration trends hold, fully 68 percent of African-American male high school dropouts born from 1975 to 1979 (at the start of the upward trend in incarceration rates) will spend time living in prison at some point in their lives, as the chart below shows.

Then, given the staggering scale of black incarceration, the authors looked at the effect on employment data if prisoners were factored into the unemployment numbers generated by the government. Using that more realistic measure of unemployment, they found that fewer than 30 percent of black male high school dropouts are currently employed. Seventy percent are jobless. Those are the sorts of unemployment figures one associates with failed Third World states rather than the largest, wealthiest economy on earth. And they augur ill for long-term social stability.

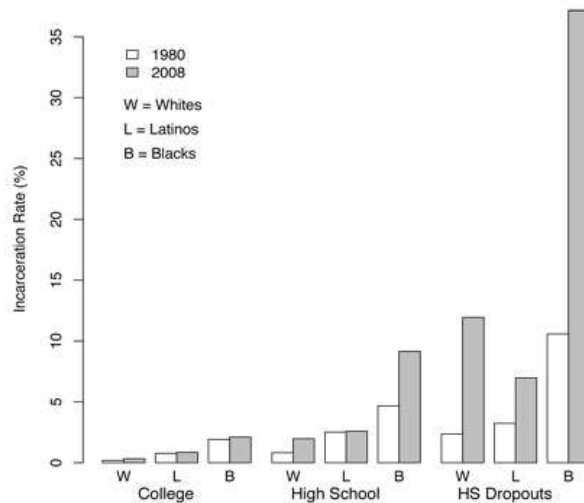
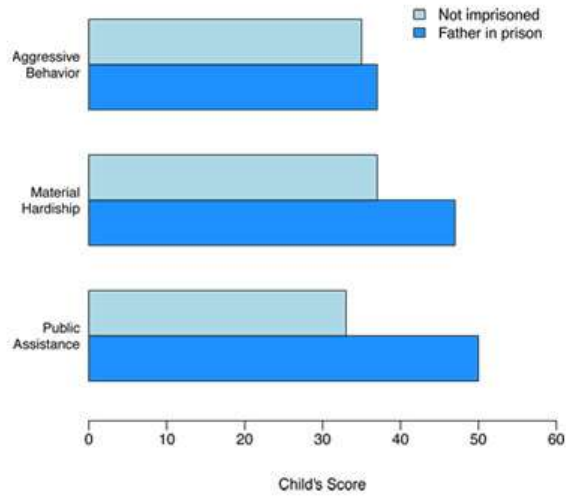


Figure 1. Percentage of men aged 20 to 34 in prison or jail, by race/ethnicity and education, 1980 and 2008. Source: Becky Pettit, Bryan Sykes, and Bruce Western, "Technical Report on revised Population Estimates and NLSY79 Analysis Tables for the Pew Public Safety and Mobility Project," (Harvard University, 2009).

It gets uglier. When high school drop-outs buck the trend by coming out of prison and finding steady work, they overwhelmingly hit a dead end in terms of earnings. Western and Pettit found that after being out of prison for 20 years, less than one-quarter of ex-cons who haven't finished high school were able to rise above the bottom 20 percent of income earners, a far lower percentage than for high-school dropouts who don't go to prison. They conclude that the ex-cons end up passing on their economic handicap, and by extension the propensity of ending up behind bars, to their children and their children's children in turn. As evidence, they cite recent surveys indicating children of prisoners are more likely to live in poverty, to end up on welfare, and to suffer the sorts of serious emotional problems that tend to make holding jobs down more difficult.



University of California at Berkeley professor of law Jonathan Simon writes that these men and women in many ways become the human equivalent of underwater homes bought with subprime mortgages—they are "toxic persons" in the way those homes have been defined as "toxic assets," condemned to failure.

Last year, for the first time since 1972, the total number of people in prison in America declined. That's a good thing. It suggests that legislators, along with the broader voting public, are finally waking up to the huge, and unsustainable, financial costs that states are absorbing by keeping large numbers of low-end offenders locked up. But the reasons for scaling back the prison system ought not to be framed solely as a cost-cutting measure that's necessary but nasty. As this new research so clearly shows, locking up poor people in historically unprecedented numbers has undermined one of America's most durable, and valuable, traits—social mobility.

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Reform School

By John Pfaff, Slate: Jurisprudence, Feb. 19, 2009

Five myths about prison growth dispelled.

The United States has a prison population like nowhere else. With one out of every 100 adults behind bars, our incarceration rate is the highest in the entire world. Our inmates—1.5 million in prison, with another 800,000 in jail—comprise one-third of the world's total. This is a surprisingly recent development. After barely budging for 50 years, our incarceration rate increased sevenfold (to 738 per 100,000 people) between 1978 and 2008.

The system is now at its breaking point. Federal judges in California just issued a tentative order demanding that the state release nearly 60,000 inmates over the next three years to alleviate intolerable overcrowding. New York state's sentencing commission released a 326-page report calling on the Legislature to cut back on severe drug sentences. And with budgets growing ever-tighter in a collapsing economy, states are beginning to realize that large prison populations are boom-time luxuries they can no longer afford.

Reform is inevitable. But if we are going to rein in our prison populations, we should do so based on facts, not on unfounded perceptions or shocking anecdotes. So let's start by dispelling some of the myths that surround the breathtaking prison growth of the past three decades.

Myth No. 1: Long sentences drive prison population growth. The stories that capture our attention are the low-level crooks who get 25 years for stealing three \$400 golf clubs. But these cases get a lot of press precisely because they are exceptional. And the attention goes to the sentence imposed, not the time actually served, which may be far shorter.

Our data on time served is imperfect at best, but it appears that the time served by the median prisoner is about two years, sometimes much less. It is easy to focus on the people who are serving decades-long sentences for life or life

without parole, but they make up only about 10 percent and 2.5 percent of the total prison population, respectively. The two-year median, meanwhile, holds true both in notoriously punitive states like Michigan and in more lenient ones like Minnesota. Not only is the absolute amount of time served low, in general, but in many states that amount remained flat over much of the 1990s.

So what is actually driving prison population growth? Admissions. Far more offenders who in the past would have received nonprison sentences are being locked up for short stints, driving up the overall population. Stop admitting as many people, and the prison population would shrink rapidly. Cutting back on long sentences is far less likely to have the same meaningful effect.

Myth No. 2: Low-level drug offenders drive prison population growth. It is popular, perhaps almost mandatory, to blame the boom on the War on Drugs. But it is just not true. Only 20 percent of inmates in prisons (as opposed to jails) are locked up for drug offenses, compared with 50 percent for violent crimes and 20 percent for property offenses; most of the drug offenders are in prison for distribution, not possession. Twenty percent is admittedly much larger than approximately 3 percent, which was the fraction of prisoners serving time on drug charges in the 1970s. But if we were to release every prisoner currently serving time for a drug charge, our prison population would drop only from 1.6 million to 1.3 million. That's not much of a decline, compared with the total number of people in prison in the 1970s—about 300,000.

In fact, the war on drugs does play a role in the prisoner increase. But it's an indirect one. State "predicate felony" laws, for example, impose longer sentences on offenders with prior records: A drug conviction may not send someone to prison, but it will make him serve more time for any future crime he commits. This suggests that simply tackling long drug sentences, as reformers in New York state have done, may miss the real problem.

Myth No. 3: Technical parole and probation violations drive prison population growth. Recent advances in drug testing and other forms of monitoring have sparked concern that we are sending more and more parolees back to prison for minor infractions. And as with all the factors discussed here, there is a kernel of truth to this one. In 2005, about one-third of all people admitted to prison were on parole at the time (though not necessarily returning because of a violation). But the rate of parolees returning to prison has been stable for the last decade, suggesting that this doesn't account for recent growth.

More important, changes in the number of people being returned to prison from parole closely follow changes in the number of prisoners being paroled out of prison—and there are always more people going out than going in. In other words, the number of parolees returning to prison is rising only because the number of people out on parole is rising.

Myth No. 4: In the past three decades, we've newly diverged from the rest of the world on punishment. Given that our incarceration rate before the mid-1970s is one-seventh the rate of today, it is easy to think that we're suddenly acting like outliers. But the fact is that American views on punishment have been harsher than Europe's since the birth of this country (although politicians may overestimate the extent to which they must be tough on crime to win elections). More strikingly, if we look back historically at the lockup rate for mental hospitals as well as prisons, we have only just now returned to the combined rates for both kinds of incarceration in the 1950s. In other words, we're not locking up a greater percentage of the population so much as locking people up in prisons rather than mental hospitals. Viewed through this lens, what seems remarkable is not the current era of mass incarceration but the 1960s and '70s, during which we emptied the hospitals without filling the prisons. Any reform agenda that does not acknowledge the ingrained nature of our punitive impulses will surely fail.

Myth No. 5: The incarceration boom has had no effect on crime levels. Sometimes, crime rates have fallen as the prison population has risen (the 1990s and 2000s) or risen as the population fell (the 1960s). At other times, however, the crime rate has risen even as the prison population also rose (the 1970s and '80s). Perhaps, people argue, no real relationship exists between the two.

But this is not the right way to think about the problem. We have to ask what the crime rate would have been *but for* a given number of prisoners, and simple population trends cannot answer this. The best numbers available, controlling for a host of challenging statistical problems, suggest that the growth in prison populations contributed to up to 30 percent of the crime drop during the 1990s.

Thus, reducing prison populations may lead to more crime. But only to a point. Many of the low-level offenders we lock up today do not pose serious threats, so if we let them out first or don't send them to prison to begin with, the effect may be initially slight. Moreover, while prison has helped reduce crime, it's not the most efficient tool we have. A dollar spent on police, for example, is 20 percent more effective than a dollar spent on prisons.

Given that, what's the most cost-effective prison reform strategy? We need to stop admitting many minor offenders, even if they're serving only short sentences. We need to focus less on high-profile drug statutes and more on the ways small-fry drug convictions cause later crimes to result in longer sentences. Once we start admitting fewer people to

prison, we should shift money from prisons to police. If this seems like tinkering, rather than a sweeping fix, that's because it is. See Myth No. 4: Reformers shouldn't waste their breath trying to turn us into Europe.

John Pfaff is an associate professor of law at Fordham Law School.

Sex offenders, parolees and other unmonitored as ankle bracelet alerts go unchecked

The Associated Press, July 28, 2013, **BY DAVID B. CARUSO and NICHOLAS RICCARDI**

Three decades after they were introduced as a crime-fighting tool, electronic ankle bracelets used to track an offender's whereabouts have proliferated so much that officials are struggling to handle an avalanche of monitoring alerts that are often nothing more sinister than a dead battery, lost satellite contact or someone arriving home late from work.

Amid all that white noise, alarms are going unchecked, sometimes on defendants now accused of new crimes.

Some agencies don't have clear protocols on how to handle the multitude of alerts, or don't always follow them. At times, officials took days to act, if they noticed at all, when criminals tampered with their bracelets or broke a curfew.

"I think the perception ... is that these people are being watched 24 hours a day by someone in a command center. That's just not happening," said Rob Bains, director of court services for Florida's Ninth Judicial Circuit Court, which this spring halted its monitoring programs after two people on the devices were accused in separate shootings.

At least 100,000 sex offenders, parolees and people free on bail or probation wear ankle bracelets that can sound an alarm if they leave home without permission, fail to show up for work or linger near a playground or school.

To assess these monitoring programs, The Associated Press queried a sample of corrections, parole and probation agencies across the U.S. for alarms logged in a one-month period and for figures regarding the number of people monitored and the number of officers watching them. The AP also reviewed audits, state and federal reports and studies done of several of these programs, which detailed problems that included officers failing to investigate alarms or take action when offenders racked up multiple violations.

Twenty-one agencies that responded to the AP inquiry logged 256,408 alarms for 26,343 offenders in the month of April alone. It adds up for those doing the monitoring. The 230 parole officers with the Texas Department of Criminal Justice handled 944 alerts per day in April. The Delaware Department of Correction, which has 31 field officers, handled 514 alarms per day.

"When we first introduced this technology ... officers thought they were just going to go play golf for the day," said Jock Waldo, a spokesman for Boulder, Colo.-based BI Inc., which produces about half the bracelets used in the U.S. However, the devices require scrutiny of the vast amount of data they produce, Waldo said.

Sorting through alerts, and deciding which are serious enough to merit a rapid response, can be fraught with peril.

In Syracuse, N.Y., federal probation agents wary of alarms caused by things such as lost satellite signals asked a monitoring company to contact them only if an alert lasted more than five minutes. Agents tracking child-porn suspect David Renz then missed 46 alerts in nine weeks, including one generated when he removed his bracelet in March. He then raped a 10-year-old girl and killed her mother. Renz pleaded guilty to those charges July 17.

Corrections officials in Orange County, Fla., were so inundated with alerts that they halted all real-time notifications except when people tried to remove their bracelets. That allowed Bessman Okafor, awaiting trial for a home invasion, to violate his curfew 53 times in a single month without any action being taken. During one of those outings last September, prosecutors say, Okafor shot three people, killing a 19-year-old man who was to testify against him.

In Colorado — where the state's 212 parole officers handle an average of 15,000 alerts a month — one officer took five days to check on the whereabouts of a paroled white supremacist after getting an alert that he had tampered with his bracelet. By the time officers issued an arrest warrant, the man had killed two people, authorities say, including the head of the state's Department of Corrections and Nathan Leon, a computer technician and pizza delivery driver.

"I hurt as much now as I did four months ago," Leon's father, John Leon, said last week. "Technology is not going to automatically issue warrants for people. It just sends an alarm that says, 'This thing's been cut.' And for people to ignore it, what's the point?"

Supporters of electronic monitoring say such tragedies are the exception and that the devices are a valuable tool for authorities who previously relied only on shoe leather and the telephone to keep tabs on released prisoners. In many cases involving violence by people on trackers, the accused likely would have been free on bail or parole even if electronic monitoring didn't exist, and would have been far harder to monitor.

"No one should think this is going to be 100 percent effective," said George Runner, a former California legislator who wrote that state's voter-approved law requiring bracelets for all paroled sex offenders. "It's just a tool. When used, and used effectively, it can be not only helpful in modifying behavior, but we've heard stories about it actually preventing crimes."

Once used to track straying cows, electronic monitoring of criminals debuted in 1983, when a New Mexico judge inspired by a Spider-Man comic book allowed a man who violated probation to wear an ankle bracelet rather than go to jail. Use took off in the last decade, as technology improved and lawmakers became enamored of trackers as a cost-effective alternative to incarceration and a way of monitoring sex offenders for life.

Today, 39 states require monitoring of sex offenders. The biggest user of ankle bracelets is the federal government, which tracks people on pretrial release and probation, as well as thousands of immigrants fighting deportation.

Two types of devices are primarily used: radio frequency monitors that generate an alert when a wearer strays from a fixed location, such as a home, and GPS units that can track wearers all over town. Those GPS units can be set to sound alerts in real time or passively collect data for review later.

Manufacturers stress that these devices were never intended to be foolproof.

Most are designed to be cut off easily — in part because they could interfere with medical equipment — but they are made to send alerts anytime someone attempts to stretch or slice a strap. And while GPS devices allow users to pinpoint an offender's location on a computer map in real time, most officers are too busy to check until they get an alarm indicating a potential problem.

"It's virtually impossible to sit there and track a person all day," said Kelly Barnett, a union official who represents probation officers doing GPS tracking in Michigan. Barnett said that while officers see value in the monitoring, such programs also give "a false sense of security to the community."

Studies have found mixed results on the devices' value as a crime deterrent. Bill Bales, a criminology professor at Florida State University, said he believes they are beneficial. Offenders wearing them tend to stay home more with their families.

"They're glad to be in the free world, albeit tethered, rather than in prison," Bales said.

The key to making the devices work, he and other experts said, is to figure out how best to process the immense amounts of information they generate....

Crime Statistics: No Prison Sentences for Most Felony Convictions

Slate, January 25, 2010

Gentlereaders: A student was asking about incarceration in the United States. He is aware that the United States is the world's leader in rates of incarceration per a number of sources. According to the New York Times:

"The United States has less than 5 percent of the world's population. But it has almost a quarter of the world's prisoners."

"Indeed, the United States leads the world in producing prisoners.... Americans are locked up for crimes — from writing bad checks to using drugs — that would rarely produce prison sentences in other countries. And in particular they are kept incarcerated far longer than prisoners in other nations."

"Criminologists and legal scholars in other industrialized nations say they are mystified and appalled by the number and length of American prison sentences."

See <http://www.nytimes.com/2008/04/23/world/americas/23iht-23prison.12253738.html> for the full article.

Most Crimes End in Incarceration?

Based on the above, the student summarized that most crime, certainly most felonies result in long sentences to state prisons. But that's not the case.

Most crimes are not reported and most reported crimes do not end in arrest. These are solid facts as reported by US Department of Justice research.

In many urban jurisdictions, significant percentages of those charged with crimes are not prosecuted. Here the research is not nearly as strong but newspaper accounts seem to put the figure between 20-40 percent.

The Philadelphia Inquirer recently stated that nearly two-thirds of violent crimes are not prosecuted. See <http://crimeinamerica.net/2009/12/16/crime-and-justice-hampered-by-the-numbers/>

New research (below) indicates that 94 percent of those charged with felonies plead guilty, and the only way to get the offender to plead guilty is to drop some or most of the crimes the defendant is originally charged with.

Finally, the new research states that 41 percent of felony convictions end up in state prison.

The New York Times article cites criminologists being “appalled by the number and length of American prison sentences” so we do not use the small number of months given for jail sentences in our analysis.

Results? Obviously most crimes committed in the United States do not result in a prison sentence.

More to the point, the great majority of defendants with felony convictions do not end up in state prisons.

How the United States leads the world as to incarceration when considering the above is a question that we cannot answer.

The United States probably does overuse incarceration; we believe that tens of thousands of inmates that fit categories for low-risk recidivism (female offenders, older inmates) could probably be released with services to assist their reintegration. This would save states tens of millions of dollars while having acceptable rates of reoffending.

But we are also aware that incarceration in state prisons is rare when considering the numbers of: crimes committed; arrests; charges; prosecutions and ultimately convictions for felonies.

If incarcerations to prison are statistically rare events (based on the preceding numbers) and we do it more than any other country in the world, then we have a paradox; there is no easy explanation.

If the United States lead the world in the number of crimes reported then that would offer some justification, but we note that there are many countries that have higher rates of crime than the United States, see

<http://www.nationmaster.com/graph/crime/crime-mur-percap-crime-murders-per-capita>. We look forward to your opinions.

Felony Sentences in State Courts, 2006, Department of Justice, December, 2009

Remarks, observations and pure guesses from us are identified in italics. Data from the report are noted below our remarks:

Most felony convictions do not end up in prison.

Statistic: In 2006 an estimated 69% of all persons convicted of a felony in state courts were sentenced to a period of confinement—41% to state prison and 28% to local jails.

Charges are reduced for most defendants to induce guilty pleas. It's pure observation on our part but our belief that most offenders are charged with multiple but related crimes, thus a large number of charges are dropped to induce plea bargaining. Statistic: Most (94%) felony offenders sentenced in 2006 pleaded guilty.

A significant number of felony defendants are not incarcerated. Statistic: Among persons sentenced for a felony in state courts nationwide in 2006, an estimated 27% received a probation sentence with no jail or prison time.

Life sentences are very rare. Statistic: Life sentences accounted for less than 1% (0.3%) of the 1.1 million felony sentences in state courts during 2006.

Federal prison sentences are longer than state incarcerations. Statistic: The average felony sentence to incarceration (prison or jail) in state courts was about 3 years in 2006, compared to almost 5 years and 6 months in federal courts

A small percentage of offenders were sentenced for three or more felonies. It's pure observation on our part but our belief that most offenders are charged with multiple crimes, thus a large number of charges are dropped to induce plea bargaining. Statistic: About 3 out of 4 felons sentenced in 2006 (77%) were sentenced for a single offense. An estimated 15% were sentenced for two felony offenses, and 7% were sentenced for three or more felonies.

Crime is a young man's endeavor. Statistic: In 2006 persons in their twenties accounted for 40% of convicted felons, which was more than double their percentage of the U.S. adult population (18%)

Felony charges involve long waits for dispositions. Statistics: Among felons sentenced in state courts during 2006, an estimated 4% were sentenced within 1 month following their arrest, 14% were sentenced within 3 months of their arrest, 33% were sentenced within 6 months of their arrest, and 67% were sentenced within 12 months of their arrest.

The median time from arrest to sentencing for all felony convictions was 265 days. The median days from arrest to sentencing was longest for murder (505 days) and sexual assault (348 days) convictions.

Source: <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf>
