

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/we-already-tried-a-war-on-drugs-it-failed>

Public Facing Advocacy Writing

We're in the middle of a public health crisis: overdose deaths have overtaken motor-vehicle accidents as the leading cause of injury-related death in our country.

Research shows that a public health response is in order, something that's already successfully practiced in many places around the country where the justice system coordinates with the community health systems.

Those efforts are in some jeopardy, as the nation's federal prosecutors were [instructed last week by the Department of Justice](#) to pursue the most serious charges including mandatory minimums in all but the most exceptional cases in an effort to reverse this alarming trend.

Previously, DOJ policy called for focusing its resources on high-level drug traffickers rather than less serious cases, which resulted in fewer mandatory minimum sentences for lower-level cases.

Decades of evidence show that this approach does not work to stem drug use, overdoses, or crime, as we detail in a forthcoming brief on the issue.

What's worse, it comes with extremely high collateral costs to society. We know this because we've tried it before.

In the late 1960s and early 1970s, New York City was facing unprecedented rates of heroin use and spiking violent crime. In 1973, amidst increasing public pressure, New York Gov. Nelson Rockefeller passed a series of drug laws that mandated sentences of 15 years to life for possession or sale of certain amounts of drugs.

A few years later, a joint commission funded by the DOJ to evaluate the laws' effect [concluded](#) that they had no substantial impact on heroin use, which remained just as widespread.

The analysis also concluded that the laws did not deter crime: felony level property crimes associated with heroin users (theft, robbery, and burglary) increased by 15 percent each year between 1973 and 1975.

By the mid-1980s, spiraling rates of crack cocaine use combined with some of the nation's toughest drug laws led to a perfect storm of incarceration; between 1974 and 2002, the [New York State prison population](#) rose from 14,400 to 70,700 people, a near-500 percent increase.

In this time period, more than 150,000 New Yorkers were incarcerated for nonviolent drug offenses and the percent of prison admissions attributable to drug offenses increased from 11 percent in 1980 to 44 percent in 2000.

Though people of all races self-report drug use at similar rates, these policies have disproportionately affected people of color.

In New York State, African-Americans and Hispanics have made up an average of [94 percent](#) of people in prison for drug felonies since the passing of the Rockefeller drug laws.

It's difficult to measure the resulting damage to these individuals, their families, and the historically underserved communities they often return to.

However, one [study](#) estimated that more than 125,000 children in New York were separated from a parent due to drug laws over the course of three decades.

As we face another overdose epidemic, it's imperative that policymakers recognize that we cannot incarcerate our way out of this problem.

The number of Americans incarcerated for drug offenses has [grown](#) by more than a factor of ten, from 40,900 in 1980 to 469,545 in 2015. Meanwhile, the number of drug overdose deaths has grown from about [6,100](#) to more than [52,000](#).

It's clear that more incarceration is not addressing drug use or keeping our communities safer.

Given this reality, New York has led a nationwide trend toward reversing punitive policies and replacing them with ones that favor evidence-based treatment approaches.

In 2009, drug law reform in New York State eliminated mandatory minimums for the possession, use, or small-scale sale of illegal drugs, and provided prosecutors the option to divert people to treatment instead of incarceration.

Our [study](#) analyzing the impact of this reform showed that those who were diverted to treatment had lower levels of recidivism.

It also reduced racial disparities: before reforming the laws, black and Hispanic defendants arrested for felony drug offenses in New York City were three times as likely to receive a prison sentence as white defendants.

After reform, they were twice as likely. As well as reducing racial disparity and improving individual outcomes, New York's approach to drug use has reaped benefits for the taxpayers who pay for prisons, and the communities that bear the brunt of crime.

On January 1, 2016, there were 6,780 people serving time in New York State prisons for drug offenses, less than a third of the equivalent number in 1999. At the same time, crime in the city is at its lowest point in decades.

New York isn't alone: from 2009 to 2014, more than 30 states from both sides of the aisle [reformed their drug laws](#), and 32 state-level bills were passed to [roll back mandatory minimums](#).

And since last week's announcement, a wide range of political leaders and advocacy groups have spoken out against the move toward punitiveness, including the [Koch brothers network](#) and the [ACLU](#); Sens. [Rand Paul](#) (R-Ky.) and [Cory Booker](#) (D-N.J.); and a group of more than 200 [law enforcement officials](#).

There's a reason so many people are in favor of abandoning a tough-on-crime approach, especially when it comes to drug use.

They know what the end of this story looks like: It does not make us safer and it comes at too high of a cost to society.

This post originally appeared in [The Hill](#).

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