

Equal Justice Initiative

Criminal Justice Issues and Prisoners' Rights

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Decades of harsh and extreme sentencing have left us with the world's highest incarceration rate. EJI challenges excessive punishment, especially for children and people living with poverty, addiction, or mental illness.

Incarceration is a permanent punishment for many Americans. Even after they're released from prison, parole conditions require formerly incarcerated people to pay restitution, supervision fees, and other costs. Loss of employment and housing, threatened immigration status, and disqualification from welfare benefits, student loans, and certain licenses often condemn formerly incarcerated people and their families to lifelong poverty.

We're exposing harsh [drug laws](#) as racially biased and ineffective, challenging excessive [habitual offender laws](#), and calling for smart reforms to undo our reliance on [abusive and hopeless sentencing policies](#).

Related Case

EJI challenged a mandatory life-without-parole sentence imposed on a Black veteran for possessing marijuana.

In 1971, President Richard Nixon declared a war on drugs to criminalize Black people.¹ EJI, [Nixon Adviser Admits War on Drugs Was Designed to Criminalize Black People](#) (March 25, 2016). Today, almost half of the people in federal prison are incarcerated for a drug offense and two-thirds of those are people of color.² Marc Mauer, [The Changing Racial Dynamics of the War on Drugs](#), The Sentencing Project 1 (Apr. 2009).

People in state and federal prisons for drug law violations today, up from less than 25,000 in 1980³ E. Ann Carson and Elizabeth Anderson, [Prisoners in 2015](#), Bureau of Justice Statistics (2016); Tracy L. Snell, [Correctional Populations in the United States, 1993](#), Bureau of Justice Statistics (1995).

Almost half of those in federal prison are incarcerated for a drug offense⁴ Bureau of Justice Statistics, [Offenses](#) (Oct. 5, 2019).

Average time spent incarcerated for federal drug offenses jumped 153% between 1988 and 2012⁵ Pew Trusts, [More Imprisonment Does Not Reduce State Drug Problems](#) (Mar. 8, 2018).

Between 1980 and 2011, arrests of African Americans for violent and property crimes fell, but rose dramatically for drug offenses.⁶ Jonathan Rothwell, [How the War on Drugs Damages Black Social Mobility](#) The Brookings Institution (Sept. 30, 2014). Black people are far more likely to be arrested for selling or possessing drugs than white people, even though white people use drugs at the same rates and are more likely to sell drugs.⁷ Christopher Ingraham, [White People Are More Likely To Deal Drugs. But Black People Are More Likely To Get Arrested For it](#) Washington Post (Sept. 30, 2014).

Locking people up for drugs does not reduce drug use or overdose deaths.⁸ Pew, [More Imprisonment Does Not Reduce State Drug Problems](#) (March 8, 2018). Mandatory minimum sentences for drug and other offenders have few, if any, deterrent effects.⁹ National Research Council, [The Growth of Incarceration in the United States: Exploring Causes and Consequences](#) (Washington, D.C.: The National Academies Press, 2014), 347. At the same time, reducing prison terms for drug offenders doesn't lead to more drug offenses.¹⁰ Pew Trusts, [More Imprisonment Does Not Reduce State Drug Problems](#) (Mar. 8, 2018).

Drug addiction is not a criminal justice issue. It's a health problem that should be managed by medical professionals. We advocate against prison for low-level drug offenders and for a health-care approach that provides treatment to reduce dependency and advances prevention efforts for people at high risk for substance use disorders.

Related Resource

AL.com reports on people incarcerated in Alabama who were resentenced.

Starting with Washington in 1993, more than half the states and the federal government enacted so-called three strikes laws within a

decade.¹¹ Michael Vitiello, [Three Strikes Laws: A Real or Imagined Deterrent to Crime?](#) ABA Journal (Apr. 1, 2002).

California's three strikes law passed in 1994. It required that a person convicted of a felony who has two or more prior convictions for certain offenses must be sentenced to at least 25 years to life in state prison, even if the third offense is nonviolent. People have been sentenced to life in prison for shoplifting a pair of socks or stealing bread.¹² EJI, [California Passes Three Strikes Reform](#) (Nov. 7, 2012).

Under Alabama's habitual felony offender law, hundreds of people have been sentenced to life imprisonment without parole for petty, nonviolent crimes like stealing a bicycle.¹³ EJI, [EJI Wins Relief for Persons Sentenced to Die in Prison for Nonviolent Crimes](#) (Sept. 13, 2007).

The federal three strikes provisions enacted in 1994 required mandatory life imprisonment for a serious violent felony third strike, but only one prior offense had to be a violent crime; the other could be a serious drug offense.¹⁴ U.S. Department of Justice, [Sentencing Enhancement/Three Strikes Law](#), Criminal Resource Manual 1032 (Mar. 13, 1995).

Federal prosecutors can also file a notice invoking a provision that makes a third felony drug offense state or federal, no matter how old the prior subject to mandatory life in prison without the possibility of parole.¹⁵ C.J. Ciaramella, [This Three Strikes Law Sends People to Die in Federal Prison for Drug Crimes](#), Reason (Nov. 27, 2018). More than two-thirds of people serving federal life or virtual life sentences today were convicted of nonviolent crimes, including 30% for a drug crime.¹⁶ Ashley Nellis, [Still Life: America's Increasing Use of Life and Long-Term Sentences](#), The Sentencing Project (May 3, 2017).

Related Resource

The New York Times

The Violent Crime Control and Law Enforcement Act of 1994 allotted \$12.5 billion to states to increase incarceration. About half of that was earmarked for states that enacted stringent truth-in-sentencing laws requiring people to serve at least 85% of their prison sentences.¹⁷ Lauren-Brooke Eisen, [The 1994 Crime Bill and Beyond: How Federal Funding Shapes the Criminal Justice System](#) Brennan Center for Justice (Sept. 9, 2019).

By 1999, 29 states had abandoned indeterminate sentencing policies which gave parole boards broad discretion to release people who had served, on average, 44% of their sentence to adopt truth-in-sentencing regimes.¹⁸ Paula M. Ditton, Doris James Wilson, [Truth in Sentencing in State Prisons](#), Bureau of Justice Statistics (Jan. 1999).

Eight states (Arizona, Delaware, Kansas, Mississippi, Ohio, Virginia, Washington, and Wisconsin) abolished parole boards in 1994. By 2001, eight more states had done the same.¹⁹ Timothy A. Hughes, Doris James Wilson & Allen J. Beck, [Trends in State Parole, 1990-2000](#), Bureau of Justice Statistics (Oct. 2001).

In return, the federal government awarded states \$2.7 billion to construct, expand, or renovate correctional facilities.²⁰ Bureau of Justice Assistance, [Violent Offender Incarceration and Truth-In-Sentencing Incentive Formula Grant Program](#) (Feb. 2012). The extreme sentencing laws enacted to get those federal dollars still keep people in prison today.

Mandatory sentencing has created cruel and harsh outcomes, especially for children, people with mental illness, and victims of violence and abuse. EJI fights to keep people who aren't a public safety risk out of prison and advocates for treatment, not imprisonment, for drug and other low-level offenses.

EJI won freedom for people who were sentenced to die in prison for non-violent drug offenses or other petty crimes.

EJI represented Lee Carroll Brooker, a veteran who was sentenced to die in prison for possessing less than three pounds of marijuana.

Ronald Elston was granted parole after EJI challenged his mandatory sentence to die in prison for several nonviolent offenses.

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