

## ANALYSIS

# Four Things We Can Do to End Mass Incarceration

America needs fundamental reform to reduce our reliance on incarceration, while keeping citizens safe. These four recommendations walk through how we can reform our criminal justice system.

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It's time for Americans to rethink how we use prison as a knee-jerk punishment for a majority of crimes. We have the highest incarceration rate in the world. There are 2.2 million people behind bars — by far the highest incarceration rate of any comparable nation. We have less than 5 percent of the world's population but nearly 25 percent of its prisoners.

Mass incarceration is the greatest civil rights injustice of our time. People behind bars are disproportionately black and Hispanic. The criminal justice system drives and reinforces deep-seated racial inequity.

The United States needs fundamental reform to reduce our reliance on incarceration, but it also needs to keep its citizens safe. [A new report](#) by the Brennan Center shows how to do just that.

Researchers found 39 percent of prisoners — almost 600,000 people — behind bars do not need to be there for a public safety reason. For some, mostly lower-level and non-violent offenders, prison is an inefficient and unfair sanction. For others, they have done their time behind bars and can be safely released.

These four recommendations walk through how we can achieve a fairer, more efficient criminal justice system.

## 1. Eliminate prison for lower-level crimes

Prison is often the default criminal justice sanction when someone breaks the law. It shouldn't be that way. For those who commit a lower-level crime like drug possession, petty theft, or selling marijuana, prison is not just unfair, it is also a bad sanction for society at large.

Prison costs **\$31,000 a year per prisoner**, and often does little to prevent re-offense for these crimes. Probation, treatment, or community service are all more appropriate for many lower-level crimes, not to mention much cheaper (**probation is 10 times less expensive**). State legislatures and Congress should change sentencing laws to make alternatives to prison the default penalty for certain lower-level crimes, like drug possession and petty theft.

## 2. Reduce sentence minimums and maximums currently on the books

If someone commits a serious crime, like robbery, they should be punished. But there's little evidence that staying in prison for such long periods of time, such as the 20 or 30-year sentences imposed, will rehabilitate prisoners. In fact, research indicates that longer stays in prison do not lead to lower recidivism. Sometimes, longer stays can even *increase* recidivism. With prison stays growing longer each year, lawmakers should consider reducing the time many inmates spend behind bars when it's not necessary.

State and federal legislatures should reduce the minimum and maximum sentencing guidelines, and make them more proportional to the crimes committed. We suggest in the report that legislators consider a 25 percent cut as a starting point for the six major crimes (aggravated assault, drug trafficking, murder, non-violent weapons offenses, robbery and serious burglary) that make up the bulk of the nation's current prison population. This will make our system smarter while still protecting public safety.

## 3. Make these changes retroactive

If we know that something is good policy, then we should practice it. Many times, criminal justice reforms only impact future defendants.

But if the reform is the right policy, then we should live by it. Current inmates should be able to petition judges for retroactive application of the two reforms above, on a case-by-case basis.

## 4. More ideas

There are other ways the country can improve the criminal justice system for the better that line up with the goals of the Brennan Centers report:

**Reinvest savings into crime prevention polices:** The recommendations in the recent Brennan Center report would save almost \$20 billion dollars a year. We should reinvest those savings into police, schools, and reentry programs, which will help improve public safety even more. \$20 billion could cover 270,000 police officers, 327,000 teachers, or 360,000 probation officers. Most experts agree that these investments better prevent crime than prison.

**Eliminate “Three Strikes Laws” and “Truth in Sentencing”:** Both policies take away the ability of judges to properly assess the appropriate sentence for defendants in the criminal justice system. We should trust our judges to make these decisions instead of forcing an inappropriate sentence with set-in-stone rules.

**Prosecutors should seek lower penalties when appropriate:** Prosecutors should use their discretion to implement the recommendations in our report. Their sentencing recommendations should not simply aim to put defendants behind bars for the longest time possible. The best way to keep us all safe is for prosecutors to seek the most proportional punishment – one that fits the crime — not simply the harshest one.

The evidence-based findings in this report show one way to rethink sentencing that will reduce the criminal justice system’s disproportionate impact on communities of color, keep hard-won declines in crime over the last 20 years, and save significant amounts of money.

The ultimate goal of the report is to jump-start a conversation about how the United States can implement specific reforms that are audacious enough to truly end mass incarceration.

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