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**Comparative International Rates of Incarceration:
An Examination of Causes and Trends**

Presented to the U.S. Commission on Civil Rights

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AN EXAMINATION OF CAUSES AND TRENDS**

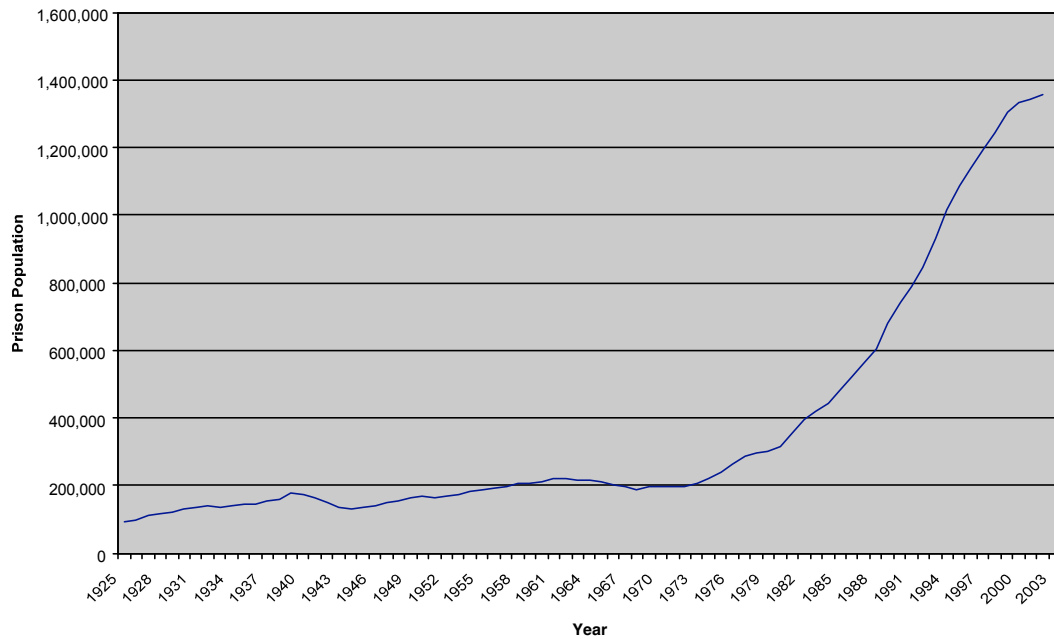
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I. Introduction

The Bureau of Justice Statistics recently reported that there are now two million people in the nation’s prisons and jails.¹ This figure is a record high and represents the product of an unprecedented 30-year rise in the use of incarceration. The national inmate population is now six times that of the approximately 330,000 total of 1972, just prior to the inception of the modern day “get tough” movement. As seen below, these developments arose following a nearly 50-year trend of relative stability in the use of incarceration.

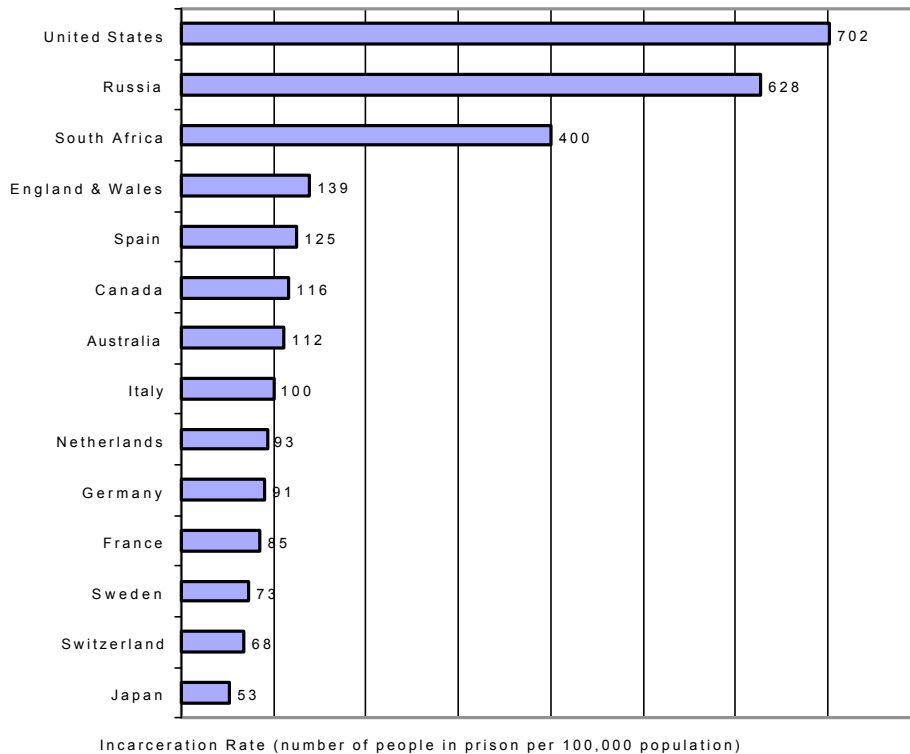
State and Federal Prisoners (1925-2002)



¹ Harrison, P.M. & Karberg, J.C. (2003). *Prison and Jail Inmates at Midyear 2002*. Washington, DC: Bureau of Justice Statistics.

The absolute figures are dramatic in themselves, but take on even greater significance in comparison with other nations. In this regard, the U.S. rate of incarceration of 702 inmates per 100,000 population represents not only a record high, but situates this nation as the world leader in its use of imprisonment. The continuous rise in the prison population in the U.S. has vaulted this country ahead of our old Cold War rival Russia to become the world's leading incarcerator.

For comparative purposes, the U.S. now locks up its citizens at a rate 5-8 times that of the industrialized nations to which we are most similar, Canada and western Europe. Thus, as seen in the accompanying chart, the rate per 100,000 population is 139 in England/Wales, 116 in Canada, 91 in Germany, and 85 in France.²



² For international incarceration rates, see the International Centre for Prison Studies, available online at www.prisonstudies.org.

Overall rates of incarceration, based on the total population, obscure the broad variation by which imprisonment impacts various demographic groups. In this regard, African American males are clearly the most heavily affected by current policies, with one of every eight black males in the age group 25-29 currently in prison or jail. Data from the Department of Justice demonstrate that a black male born today has a 29% chance of spending time in state or federal prison in his lifetime.³ And in the low-income neighborhoods most heavily affected by these trends, the figures are even more striking. One researcher calculates that 75% of black males in Washington, D.C. can expect to go to prison or jail during his lifetime.⁴ Racial and ethnic disparities for other groups -- African American women, Hispanics, and Native Americans -- while not as severe as those for black males, are nonetheless well above the national average and have been rising significantly in recent years.

Regardless of one's political orientation, these dramatically high rates of incarceration should be of concern to all Americans. The jarring contrast of the wealthiest society in human history maintaining the greatest use of imprisonment presents a clear indication of troubling circumstances. We can debate the causes of these developments and appropriate remedies, but what is clear is that the problem is one deserving significant public and policymaker attention.

³ Bonczar, T.P. & Beck, A.J. (1997). *Lifetime Likelihood of Going to State or Federal Prison*. Washington, DC: Bureau of Justice Statistics.

⁴ Braman, D. (2002). "Families and Incarceration." In Mauer, M. & Chesney-Lind, M. (Eds.) *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. New York: The New Press. (pp. 117-135).

II. Causal Factors

If we are to develop effective means by which to reduce the high use of imprisonment in the U.S. we need to understand the factors that have contributed to these developments. In this section I will review the evidence that addresses comparative rates of incarceration in order to develop a framework by which we can understand the implications for crime and social policy.

Crime Rates

A simple explanation for a relatively high rate of incarceration in a given nation would be that its crime rate is also higher than for other nations. All things being equal, more crime would lead to more imprisonment. What, then, do we know about crime rates in the U.S. in comparison to other nations?

Comparing crime rates across national boundaries is a complicated task, made particularly difficult by differences in the definition of various offenses and reporting methodologies. The most sophisticated data available results from a series of victimization surveys conducted among 17 industrialized nations, including the U.S., since the late 1980s.⁵ The results of these surveys are instructive.

Overall, U.S. rates of victimization are generally in the mid-range of the nations surveyed. In fact, for a variety of offenses, American citizens are at less risk of victimization than their counterparts in other nations. Residents of New York City, for example, are less likely to be victims of burglary or theft than persons in London. And residents of Los Angeles are more likely to be victimized by theft than people in Sydney, Australia, but less likely to be burglarized.

For violent crimes, though, Americans are considerably less safe than citizens of other countries. Of particular note here is a comparison of murder rates, the most well reported offense in all countries. Over the past decade we have seen a sharp, and welcome, decline in homicides in the U.S., falling from a rate of 9.8 per 100,000 in 1991 to 5.6 in 2001. Yet despite this 43% drop, the homicide rate in the U.S. is still about four times that of most nations in western Europe.

We can also note in this regard the role of firearms as a contributing factor to the high murder rate in the U.S. As the only industrialized nation without strong gun control policies, guns clearly contribute to the disparity in murder rates. A 1988 comparison of the U.S. with England/Wales found that U.S. homicides rates were 5.6 times greater, but by excluding homicides with firearms, the differential dropped to 2.4.⁶ Guns are not the only cause of violence in the U.S., but they do contribute to higher rates of homicide -- essentially, it is far easier to kill someone with a gun than with a knife, fists, or other objects.

⁵ Van Kesteren, J.N., Mayhew, P. & Nieuwebeerta, P. (2000) *Criminal Victimization in Seventeen Industrialised Countries: Key-findings from the 2000 International Crime Victims Survey*. The Hague, Ministry of Justice, WODC

⁶ Lynch, J. (1995). "Crime in International Perspective," in Wilson, J. and Petersilia, J., (Eds.). *Crime*. San Francisco: Institute for Contemporary Studies (pp. 22-23).

Criminal Justice Policies

While higher rates of violent crime explain part of the differential in U.S. rates of incarceration, the key question is to what extent changes in crime rates over the past three decades have contributed to the six-fold rise in the inmate population. In the early years of this increase, it appears that changes in crime were responsible for at least a portion of the increase. Crime rates increased significantly from the mid-1960s to the mid-70s, although the actual measure of that increase is difficult to ascertain because reporting mechanisms were much less sophisticated in those years than they are today. But as one measure of increase, the murder rate nearly doubled from 5.0 per 100,000 in 1960 to 9.8 per 100,000 by 1974.

Since that period, though, there is little evidence to indicate that changes in crime have been the driving force in expanding the prison population. In the most sophisticated analysis of these factors, criminologists Alfred Blumstein and Allen Beck examined the near-tripling of the prison population during the period 1980-96 and concluded that changes in crime explained only 12% of the prison rise, while changes in sentencing policy accounted for 88% of the increase.⁷ Essentially, persons arrested for a felony offense became far more likely to be sentenced to prison (accounting for 51% of the increase) and to be sentenced for a longer period of time in prison (37% of the increase). Newly adopted policies such as mandatory sentencing, “truth in sentencing,” and increasingly, “three strikes and you’re out” laws have resulted in a far more punitive justice system than in years past.

⁷ Blumstein, A. & Beck, A.J. (1999). “Population Growth in U.S. Prisons, 1980-1996.” In Tonry, M. & Petersilia, J. (Eds.) *Prisons: Crime and Justice- A Review of Research. Volume 26*. Chicago: University of Chicago Press (pp. 17-61).

A review of current data shows that about half the inmates in U.S. prisons (and a smaller proportion in jails) are incarcerated for a violent offense. It is difficult to draw international comparisons in this regard due to the difficulty of obtaining comparative data on the composition of prison populations by offense. But over the past two decades, the most significant change in the composition of the U.S. prison population has been the dramatic increase in the number of persons incarcerated for a drug offense. In 1980, prisons and jails held about 40,000 inmates for drug offenses. That figure has increased more than ten-fold to about 450,000 today, nearly a quarter of all inmates. Thus, despite the fact that the U.S. has a higher rate of violent crime than other industrialized nations, much of the unprecedented prison population increase of recent years is explained not by crime rates but by changes in sentencing and drug policy.

Cross-National Sentencing Comparisons

Comparing the limited data examining U.S. sentencing policies with those of other nations demonstrates that American sentencing practices appear to be harsher for many offenses. Criminologist James Lynch compared sentencing practices in the U.S. with those in Canada, England and Wales, and the former West Germany. He found that, with the exception of West Germany, these nations had comparable rates of incarceration given the number of arrests for violent offenses, but that “in the case of property crime, it is clear that the United States incarcerates more and for longer periods of time than similar nations. The same appears to be true for drug offenses.”⁸ Burglars in the U.S., for example, served an average of 16.2 months in prison, compared to 5.3 months in Canada and 6.8 months in England/Wales.

The impact of such variations in sentencing practice on rates of incarceration is confirmed by additional cross-national research. While there is relatively little research in this area, that which does exist confirms the significance of sentencing as a key variable. British criminologists Warren Young and Mark Brown analyzed the factors contributing to variations in imprisonment among a number of European nations, as well as New Zealand and Australia, and concluded that “only a small measure of the difference in prison populations between one jurisdiction and another or the changes in prison populations within particular jurisdictions seems to be related to crime rates.”⁹

⁸ Lynch, op. cit., p. 37.

⁹ Young, W. & Brown, M. (1993). “Cross-national Comparisons of Imprisonment,” in Tonry, M., ed., *Crime and Justice: A Review of Research*, vol. 17. Chicago: University of Chicago Press (pp. 1-49).

Policy Initiatives and Prison Populations

There is a growing consensus among criminal justice researchers both in the U.S. and abroad that policy initiatives play a key role in determining the size and composition of a jurisdiction's or nation's prison population. While such a framework does not ignore the contributing role of crime rates to these outcomes, in fact policy initiatives increasingly appear to explain many of the changes we see over time.

In the international context, this can be seen most strikingly in prison policy changes in Finland and the former West Germany. In the 1970s Finnish officials became concerned that the nation's prison population was unusually high by Scandinavian standards and so instituted a series of policy reforms designed to increase the use of suspended sentences and earlier eligibility for parole release. As a result the rate of incarceration declined by 40% from 1976 to 1992.

Similarly, officials in the former West Germany achieved a substantial reduction in prison admissions through decreased use of short prison terms. According to one scholar, "the German legislature had embraced the idea that short-term imprisonment does more harm than good; it disrupts the offender's ties with family, job, and friends, introduces the offender into the prison subculture, and stigmatizes the offender for the rest of his or her life."¹⁰

More recently, the sharp decline in the Russian prison population in the past several years is the result of a prisoner amnesty that has now released more than 120,000 inmates. Russian officials, concerned about the dismal health conditions in prison and lengthy periods of pretrial detention, have engaged in a systematic release of large

numbers of inmates in an attempt to both control costs and reduce the negative consequences of overcrowding in the prison system.

Within the U.S., policy changes adopted under the rubric of the “get tough” movement and the “war on drugs” have contributed substantially to the rising prison population. The impact of drug policies beginning in the 1980s has been described above. In the 1990s, these trends have been exacerbated by such policies as the “three strikes” laws adopted by half the states and “truth in sentencing” policies in some 30 states.

The long reach of such policies can be seen in the case of California’s “three strikes” law, which applies a sentence of 25 years to Life for a third felony following two previous serious or violent felonies. A decision this year by the U.S. Supreme Court upheld the California statute in a case in which a man convicted of stealing \$153 worth of videotapes from a department store received a sentence of 50 years to Life. Thus, California taxpayers will spend at least \$1 million over the next 50 years to lock up this videotape thief. Such policies may be found constitutional, but they do not necessarily represent effective crime policy.

¹⁰ Weigand, T. (1997). “Germany Reduces Use of Prison Sentences.” In Tonry, M. & Hatlestad, K. (Eds.) *Sentencing Reform in Overcrowded Times: A Comparative Perspective*. New York: Oxford University Press (p. 177-181).

III. International Trends

While rates of incarceration have been rising in some European nations in recent years the contrast between their policies and those in the U.S. are still quite glaring. Vivien Stern, secretary general of Penal Reform International and one of the most prominent observers of international trends in this regard, finds that “Among mainstream politicians and commentators in Western Europe, it is a truism that the criminal justice system of the United States is an inexplicable deformity.”¹¹ She further finds that while punishment has largely replaced rehabilitation as the goal of incarceration in the U.S., a number of industrialized nations are now intensifying their efforts at rehabilitation. In Canada, for example, the federal prison system has instituted a comprehensive policy of prisoner assessment and programming, with the goal of achieving early parole release. In response to high level publicity about inhumane prison conditions in France, a commission of inquiry has recommended to Parliament a broad range of citizenship rights for prisoners.

In examining issues of racial disparity, it is important to note that many of the trends we observe in the U.S. can be seen in other nations as well. Scholar Michael Tonry documents, for example, that minority groups in Australia, Canada, and England and Wales experience dramatically high rates of imprisonment as well. For 1990, the black/white differential in imprisonment in the U.S. was 6.44:1, while in England and Wales the ratio was 7.1:1. In Canada, the Native population’s rate of incarceration is about 8 times that of non-natives and in Australia, Aboriginals are 15 times as likely as others to be serving a prison term.¹²

¹¹ Stern, V. (2002). “The International Impact of U.S. Policies.” In Mauer, M. & Chesney-Lind, M., (pp. 279-292).

¹² Tonry, M. (1994). “Racial Disproportion in US Prisons,” *British Journal of Criminology*, Vol. 34, p. 105.

IV. Impact of High Rates of Incarceration: Crime Rates

The impact of the record 30-year rise in the U.S. prison population can be evaluated in a number of ways. The most obvious terms of assessment regard the impact of these changes on crime rates. Here the evidence is somewhat ambiguous.

Looking at recent years, we note that during the 1990s the prison population rose steadily while crime rates generally declined. Two leading studies have examined the relationship between these two trends, concluding that about 25% of the decline in violent crime during this period resulted from the rise in imprisonment.¹³ But is this good news or bad news?

The decline in crime is obviously welcome news, but if imprisonment was responsible for 25% of the decline this suggests that 75% of the decline was *not* due to higher rates of imprisonment. There has been no thorough analysis of these other contributing factors, but most observers believe that a combination of factors were responsible. These included a relatively healthy economy during the 1990s, the waning of the crack epidemic, changes in policing strategies toward community policing, and behavioral changes among young people in high crime neighborhoods toward safer conduct. In addition, one of the above study's authors concludes that "violent crime *would* have dropped a lot, anyway. Most of the responsibility for the crime drop rests with improvements in the economy, changes in the age structure, or other social factors. Whether the key to further reductions lies in further prison expansions, or (more likely) in further improvements in these other factors remains an open question."¹⁴

¹³ Spelman, W. (2000). "The Limited Importance of Prison Expansion." In Blumstein, A. & Wallman, J. (Eds.) *The Crime Drop in America*. Cambridge, UK: Cambridge University Press (pp. 97-129); and Rosenfeld, R. "Patterns in Adult Homicide," in Blumstein & Wallman, (pp. 130-163).

¹⁴ Spelman, op. cit., p. 129.

Further, even to the extent that imprisonment can be demonstrated to have an effect on reduced crime rates, this does not inform us as to whether this is the *most* effective means of accomplishing this objective. For example, RAND researchers have documented the crime reduction impacts of several alternative policies. In evaluating the impact of a \$1 million investment in intervention programs, they found that providing cash and other incentives for disadvantaged students to graduate from high school would result in a reduction of 258 crimes per year and parent training and therapy for families with young “acting out” children 160 crimes per year, compared to a reduction of 60 crimes a year through building and operating prisons.¹⁵ Other RAND research concluded that in addressing problems of drug abuse, spending \$1 million on treatment programs would reduce serious crimes 15 times more effectively than incapacitating more offenders.¹⁶

¹⁵ Peter W Greenwood, et al., “Diverting Children from a Life of Crime: Measuring Costs and Benefits,” RAND, 1996.

¹⁶ Caulkins, J. et. al. (1997). *Mandatory Minimum Drug Sentences: Throwing Away the Key or the Taxpayers’ Money?* Santa Monica: RAND.

V. Social Impacts

While it is clearly important to assess the impact of imprisonment on crime rates, an increasingly significant area of inquiry regards the collateral consequences of mass imprisonment. These are the social and economic dynamics that are set in play by imprisonment, and which need to be calculated in order to assess the full impact of these policies. In the new book for which I am co-editor, we refer to these consequences as “invisible punishments.”

These effects can be seen on several levels. For the individual offender, there are now a range of civil disabilities that accompany a felony conviction, often lasting long after the completion of sentence. Many of these are of relatively recent vintage and grow out of the policy initiatives of the “war on drugs.” Thus, for example, depending on the state in which one lives, a person convicted of a felony drug offense may now be barred for life from receiving welfare benefits, prohibited from living in public housing, permanently lose the right to vote, and be denied access to financial aid for higher education. It is important to note that many of these provisions apply only to drug offenders. Thus, for example, a three-time armed robber could be released from prison and qualify for welfare benefits, but not a mother convicted of a one-time drug sale.

Large-scale imprisonment also results in growing numbers of families and communities experiencing the ripple effects of incarceration. Currently, there are an estimated 1.5 million children who have a parent in prison¹⁷; for African American children, the figures are one of every fourteen, and over the course of childhood, these figures would be considerably higher. Thus, a record number of children are now

¹⁷ Mumola, C.J. (2000). *Incarcerated Parents and Their Children*. Washington, DC: Bureau of Justice Statistics.

growing up with the stigma of having a parent in prison, along with the loss of emotional and financial support as well.

The disproportionate effects of imprisonment on low-income communities of color has collateral consequences on family formation and stability as well. Given the dramatic rates of imprisonment for young black men in particular, many urban neighborhoods now have a highly uneven gender ratio. One study finds that in the 10% of neighborhoods in Washington, D.C. that are most heavily affected by incarceration, the gender ratio is an estimated 62 men per 100 women.¹⁸ Thus, policymaker concern with the issue of single parent families cannot ignore the contribution of harsh punishment policies to these developments.

High rates of incarceration affect the broader community as well. As a result of laws in 48 states and the District of Columbia that disenfranchise various categories of current or former felons, more than four million Americans have now lost the right to vote, in some cases for life. Once again, the disproportionate racial impacts are clear, with an estimated 13% of adult black men disenfranchised as a result of these policies.

Finally, in recent years we have witnessed the effects of imprisonment policies on support for vital services. As states grapple with the fiscal crisis, they are now confronted with the results of decades of “get tough” policies that have swollen the prison population, creating a \$40 billion corrections system. At the state level, spending on prisons is now competing directly with support for higher education and other vital services. It is increasingly clear that a commitment to a large-scale prison system entails sacrifices in other areas of community life.

¹⁸ Braman, op cit.

VI. Conclusion

The high rate of imprisonment in the United States can be explained by several factors:

- A higher rate of violent crime than other industrialized nations.
- Harsher sentencing practices than in other nations, particularly for property and drug offenses.
- Sentencing policy changes over a period of three decades, particularly the shift toward mandatory and determinate sentencing, restrictions on judicial discretion, and a greater emphasis on imprisonment as a preferred sanction.
- Policy changes adopted as part of the “war on drugs,” leading to a vastly increased use of the criminal justice system as a means of responding to drug problems.

None of the preceding suggests that crime is not a problem or that government has no responsibility in this area. Rather, what we can learn from an international perspective on the use of incarceration is that the means by which different nations respond to issues of crime and punishment is very much a reflection of policy choices. As we have seen, the consequences of these decisions are wide-ranging and, as is the case in the United States today, have collateral consequences that extend well beyond immediate criminal justice decisionmaking. Unless we address these issues in a comprehensive manner, we risk not only perpetuating ineffective criminal justice policies but aggravating other social problems as well.