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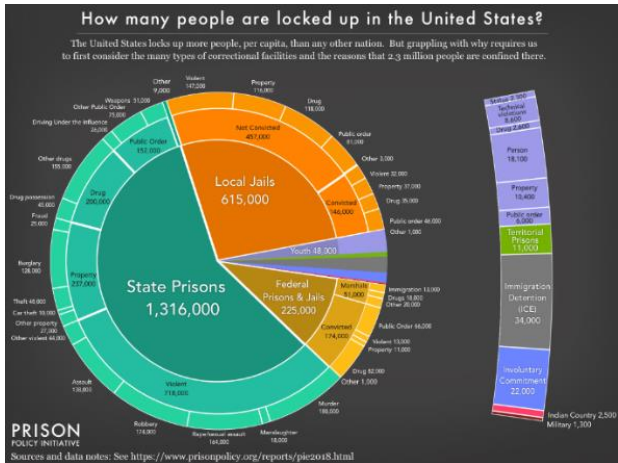
CRIMINAL JUSTICE REFORM 101

Background

The criminal justice system in the United States does not live up to its name. Throughout every phase, from setting bail, to initial sentencing, to serving time, to release and re-entry, our system is one of over-criminalization and mass incarceration, which disproportionately ensnares low-income people and people of color.

Today, over 2 million people are behind bars in the United States, an increase of 1.9 million since 1972.¹ “Tough on crime” law enforcement and sentencing policy adopted in the 1980s has exploded incarceration rates in the U.S., particularly among people of color, quadrupling the number of prisoners per capita.

We have the world’s largest prison population, with one-quarter of the world’s prisoners but just 5 percent of the total population. An additional 7 million people – about one in every 31 people – are under the supervision of the corrections system, either locked up or on probation or parole.²



Our criminal justice system is plagued by racial disparities at every level. People of color make up 37% of the U.S. population but 67% of the prison population.³ On average, one in three black men can expect to be incarcerated in his lifetime, compared to one in six Latino males and one in 17 white males.⁴ African Americans are more likely than white Americans to be arrested; once arrested, they are more likely to be convicted; and once convicted, they are more likely to face stiff sentences.

Mass incarceration is a tremendous drain on the American taxpayer. Estimates suggest that the criminal justice system costs taxpayers approximately \$260 billion a year. Further, returning citizens often struggle to find gainful employment after exiting prison. Almost 2 out of every 3 people who are released from prison each year face long-term unemployment, stifling economic growth and increasing poverty.⁵

¹ <https://www.sentencingproject.org/criminal-justice-facts/>
² <https://www.splcenter.org/issues/mass-incarceration>
³ <https://www.sentencingproject.org/criminal-justice-facts/>
⁴ <https://www.aclu.org/issues/mass-incarceration/racial-disparities-criminal-justice>
⁵ <https://www.brennancenter.org/analysis/national-agenda-reduce-mass-incarceration>



The Religious Action Center pursues social justice and religious liberty by mobilizing the Reform Jewish community and serving as its advocate in Washington, D.C. The Center is led by the Commission on Social Action of the Central Conference of American Rabbis and the Union for Reform Judaism (and its affiliates) and is supported by the congregations of the Union.



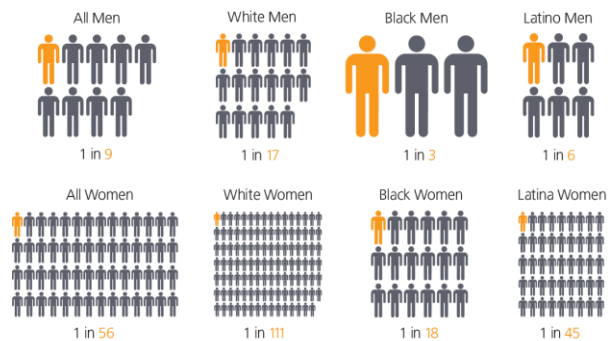
Jewish values

As Reform Jews, we are tasked with carrying out the directive issued in Deuteronomy 16:20, "Tzedek, tzedek tirdof - Justice, justice you shall pursue." The sages explain that the word tzedek is repeated not only for emphasis but to teach us that in our pursuit of justice, our means must be as just as our ends. Whether we are working to reform our bail system, reduce excessive sentencing, or hold elected officials accountable for their policies, we demand that our criminal justice system operate in accordance with our deeply held Jewish beliefs in rehabilitation and redemption, *teshuva*. As we read in Ezekiel, "I have no pleasure in the death of the wicked, but that the wicked turn from his way and live" (33:11). We reaffirm the Biblical precept that criminals are human beings, capable of reshaping their lives and worthy of an opportunity to repent and reenter society.

Bail reform

Injustice in our system begins before the trial phase. Today, 450,000 Americans are sitting in jail because they cannot afford to meet bail.⁶ Over the last 15 years, 95 percent of growth in the U.S. jail population is attributable to increases in the pretrial population. Our bail system disproportionately harms people from low-income communities and communities of color; Black and Latino men respectively pay 35 percent and 19 percent higher bail than white men.⁷

Lifetime Likelihood of Imprisonment of U.S. Residents Born in 2001



Source: Bonczar, T. (2003). *Prevalence of Imprisonment in the U.S. Population, 1974-2001*. Washington, DC: Bureau of Justice Statistics.



Sentencing

Since the beginning of the War on Drugs in 1982, harsh sentencing policy, like mandatory minimums and three strike laws, has exploded incarceration rates. The number of people incarcerated for drug offenses in the U.S. has skyrocketed from 40,900 in 1980 to 469,545 in 2015.⁸ Of the population in federal prisons in the U.S., half are serving time for drug crimes.⁹ Despite the fact that white and black people use drugs at similar rates, black people are jailed on drug charges 10 times more often than white people.¹⁰ These troubling sentencing trends remain consistent among non-drug related crime. In 2017, the U.S. Sentencing Commission found that black men received 19.1 percent longer sentences than white men, despite committing the same federal crimes.¹¹

Prosecutorial discretion

Prosecutors are some of the most powerful actors in the criminal justice system. They have broad discretion to influence criminal justice policy, and all too often, they wield this power in ways that drive mass incarceration. Prosecutors decide which charges to file against defendants and how severe of a

⁶ https://www.washingtonpost.com/news/wonk/wp/2017/04/24/were-jailing-way-more-people-whove-been-convicted-of-exactly-nothing/?utm_term=.9d6e8a0a7f46

⁷ <http://projects.pretial.org/racialjustice/>

⁸ <https://www.sentencingproject.org/criminal-justice-facts/>

⁹ <https://www.brennancenter.org/analysis/national-agenda-reduce-mass-incarceration>

¹⁰ <https://www.aclu.org/issues/mass-incarceration/racial-disparities-criminal-justice>

¹¹ <https://www.uscc.gov/research/research-reports/demographic-differences-sentencing>

sentence they will seek from judges. They oversee the plea bargain process, which impacts the vast majority of those charged with a crime: 97 percent of federal cases and 94 percent of state cases end in plea deals.¹² Reform minded district attorneys have the power to use their discretion in a way that effectively decriminalizes certain offenses and reduces sentences for low-level and non-violent offenders. Using their discretion in this way would drastically reduce mass incarceration in the absence of much-needed legislative change. Prosecutors also have broad discretion to limit a jurisdiction's use of money bail and offer diversion programs as alternatives to incarceration. On the local level, the prosecutor is often called the district attorney.

Additional

Our criminal justice system is in desperate need of reform. Eliminating the practice of solitary confinement, stemming the flow of young people of color into the school to prison pipeline, and addressing the collateral consequences of incarceration are all crucial elements of criminal justice reform. Although the work ahead may seem daunting, Pirkei Avot reminds us, "You are not obligated to complete the work, but neither are you free to desist from it (2:21)."

¹² <https://www.nytimes.com/2012/03/23/us/stronger-hand-for-judges-after-rulings-on-plea-deals.html?mtrref=www.google.com&gwh=DCAC3482EA7BDC684D10DB936ABFF420&gwt=pay>