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## Excessive Incarceration: 2.4 Million Americans in Prison Nonviolent Offenders Burden on Taxpayer Dollars; Alternatives Could Reduce Billions in Taxes and Costs

*The United States incarcerates more people than any other country in the world, including the far more populated nation of China. At the start of 2008, the American penal system held more than 2.4 million adults. China was second, with 1.5 million behind bars, and Russia, formerly a police state with a Gulag of its own, was a distant third with 890,000 inmates. Beyond its sheer number of inmates, America is also the global leader in the rate at which it incarcerates its citizenry, outpacing nations like South Africa and Iran. In Germany, 93 people are in prison for every 100,000 adults and children. In the United States, the rate is roughly eight times that, or 750 people per 100,000.*

*Challenges in reducing crime and promoting a more just society continue to present themselves to the nation. Despite declining crime rates since the mid-1990s, the United States' incarceration rate remains by far the highest. The numbers of people under every kind of supervision, particularly prison populations, have skyrocketed during the past 35 years. Despite these burgeoning correctional populations, our streets remain unsafe. The financial burden of expensive and ineffective crime-control policies is enormous, while the social costs are immeasurable. Punishment alone will never be an answer to America's crime problem, nor will it be a solution for injustice.*

### One in 100

The consequences of this upward trend of incarceration are many, but few can rival this: More than one in 100 adults are now locked up in America. With 1,596,127 in state or federal prison custody, and another 723,131 in local jails, the total adult inmate count at the beginning of 2008 stood at a staggering 2.4 million. With the number of adults in the population just shy of 230 million, the actual incarceration rate is one in every 99.1 adults or one in 100.

In view of this dubious distinction, the cost of housing and caring for inmates has been astronomical: an estimated \$55 billion annual expense for taxpayers. The bloated number of inmates has been particularly painful for many states, especially in this recent era of reduced revenues due to the economic slowdown. Some states have been forced to cut spending in other critical areas, such as higher education, to fund correction programs. The fiscal crisis should be a wake-up call for all states. Tough sentences for murder, rape and similar violent crimes are unquestionably necessary and have contributed to a drop in such crimes over the past

two decades. However, rather than warehousing *nonviolent, first-time offenders*, prisons should be focused on holding the most dangerous criminals in order to keep them off the streets and unable to hurt or cheat innocent victims.

The category of *nonviolent offenders* includes low-level drug abusers, nonviolent property or financial crimes, prostitutes, probation or parole violators and illegal immigrants with no criminal history. While the numbers vary from state to state, roughly two-thirds of people currently sitting in prison are there for *nonviolent offenses*. Sentencing these offenders to alternative programs could save billions in tax dollars, diverting them to better use for the American public.

There is no question that putting violent and chronic offenders behind bars lowers the crime rate, provides punishment that is well-deserved and, in some cases, serves as a deterrent. However, there are large numbers of people behind bars who could be supervised in the community safely and effectively at a much lower cost, while also paying taxes, child support and restitution to their victims. The public humiliation and loss of freedom provided by house arrest and the mandated wearing of an ankle cuff should not be underestimated as incentives to keep within the law; consider how effective the stocks of the 18th-century American colonies were in deterring crime.

There is also the very real issue of the prison environment's negative influence on *nonviolent offenders*, particularly drug abusers, who then emerge as die-hard criminals or as drug or alcohol addicts. When it comes to preventing repeat offenses by *nonviolent criminals*, who make up about half of the incarcerated population, cost-saving punishments such as community service, electronic monitoring and mandatory drug counseling can prove at least as effective as jail. Florida, for instance, despite almost doubling its prison population over the past 15 years, has experienced a smaller drop in crime than New York, which has reduced its numbers of inmates to below the 1993 level and made effective use of some of the aforementioned alternatives.

The debate should also continue regarding the accelerated release of the best-behaved inmates who have no violence in their records, an approach that provides an incentive for good behavior. Consideration should also be given for reducing harsh penalties for nonviolent drug offenses, especially drug abusers.

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### Thirty-Three Consecutive Years of Growth

The latest figures on incarceration represent a record 33-year rise in the number of inmates in the United States. This continued growth comes despite the fact that the United States has experienced a sustained, falling crime rate for more than a decade, reducing crime to levels last witnessed in the 1960s. The rate of incarceration has increased since 1991 by more than 50 percent.

These dynamics suggest that the rise in imprisonment is due less to crime rates than to changes in policy that have increased the amount of time offenders are serving in prison. An examination of the rise of imprisonments from 1992 to 2001 concluded that the increase was entirely the result of changes in sentencing policy and practice. These include some of the harsher mandatory sentencing policies, as well as a widespread abandonment of parole in the state and federal system. From 1995 to 2001, the average time served in prison rose by 30 percent.

The number of federal prisoners in custody has doubled in the last decade, leading to the present overcrowding level of 134 percent. This expansion has come about primarily because of the incarceration of *nonviolent offenders*. More than half (55 percent) of federal prisoners are serving time for a drug offense, while only 11 percent are incarcerated for a violent offense. Despite the fact that the crime rate has declined significantly during the past decade, the number of new state sentences during this period increased by 223 percent. This increase reflects the continuing impact of high numbers of drug arrests along with mandatory and other sentencing policies that require judges to impose lengthy prison terms. Parole revocations have become an increasingly significant contributor to the rising prison population, now accounting for one-third of all admissions to prison, a rate double that of the early 1980s. Revocations may be for a new crime, but may also result from technical, nonviolent violations of parole, such as testing positive for drugs.

Another trend, also linked to the war on drugs, is the increasing number of incarcerated women. The total female incarcerated population is now more than 200,000 for the first time ever. The rapid growth of women's incarceration, at nearly double the rate for men over the past two decades, is disproportionately due to the war on drugs. Women in prison are substantially more likely than men (29 percent vs. 19 percent) to be serving a sentence for a drug charge.

It should be noted that the escalating rates of incarceration are creating an aging of the prison population. There is now a marked increase in prisoners over 55 years of age, and prison health care costs are rising accordingly. A significant contributor to this growth has been that people sentenced to prison today are serving more time than those in past decades, and the health issues concerning older prisoners are part of what is driving up the costs of the incarceration growth. About 10 percent of corrections spending is devoted to medical care costs, and this number is rising rapidly. The fact that older prisoners tend to be less of a risk to public safety than younger ones and are more expensive to keep — the average cost in America of geriatric care is \$70,000 a year — should be an intrinsic part of the dialogue on sentencing reform.

### Racial Dynamics

Sadly, the new imprisonment figures also document the continuing dramatic impact of incarceration on African-American and Hispanic communities. African-American males are incarcerated at more than six times the rate of white males, and Hispanic males at more than double the rate. Moreover, one of every eight black males in the age group 25 to 29 is incarcerated on any given day. For women, black females are incarcerated at four times the rate of white females and Hispanic females at nearly double the rate. From a historical perspective, the number of African-Americans incarcerated in this country today — over 910,000 — is more than nine times the number of 98,000 in 1954, the year of the *Brown v. Board of Education* decision. Many social and economic reasons account for this disparity, but the sheer volume of *nonviolent offenders*, first-time *nonviolent offenders* and parole violators for technical reasons, along with continued drug abuse, also contribute to this tragic number.

### Who Else Is Incarcerated?

#### The Mentally Ill

New federal statistics reveal that the number of mentally ill inmates in U.S. prisons and jails has quadrupled over the past six years. More than half of all inmates now report mental health problems, including symptoms of major depression, mania and psychotic disorders. Ten years ago, the number of inmates who suffered from mental health problems was estimated at 283,000; that number has now exploded to a staggering 1.25 million. The rate of reported mental health disorders in the prison population is five times greater than that of the general adult population. While the

number of mentally ill inmates surges, prisons remain dangerous and damaging places for them. It is understood that prisons are ill-equipped for their current role as the nation's primary mental health facilities. Deficient mental health services in prisons leave prisoners under-treated, misdiagnosed or even ignored. Across the country, inmates with mental problems also face a shortage of qualified staff, lack of resources and prison rules that interfere with treatment and may even exacerbate disorders. Statistics suggest that, compared with other prisoners, mentally ill inmates encounter a host of added challenges and problems in prison — from more difficulty following prison rules, to more stresses of confinement, to more frequent altercations and injuries suffered in fights. Furthermore, prison staffs, ignorant of the circumstances, often punish mentally ill offenders for such symptoms of their illnesses as being noisy, refusing orders, mutilating themselves or even attempting suicide. Mentally ill prisoners are thus more likely than others to end up housed in especially harsh conditions, including isolation, which can push them over the edge into acute psychosis. Research indicates that the staggering rate of incarceration of the mentally ill is a consequence of under-funded, disorganized and fragmented mental health services. Many people with mental illness, particularly those who are poor, homeless or struggling with substance abuse, cannot obtain mental health treatment. If they commit a crime, even a low-level *nonviolent offense*, punitive sentencing laws mandate imprisonment.

In addition to the obvious ethical problems, criminalization of the mentally ill is also very costly. For example, individual minimum care for a mentally ill person in a Florida prison costs over \$60,000 annually, while intensive community mental health treatment for the same person would amount to \$20,000 per year. The traditional purposes of incarceration are punishment, deterrence and rehabilitation. But for the mentally ill, incarceration can be unhelpful, even cruel in some situations, magnifying symptoms and propelling mentally ill inmates even further away from recovery and a productive life. Released with minimal provision for treatment and services in the outside community, many mentally ill individuals are caught in the “revolving door” between jail and the streets. The harshness and stress of prison life and the lack of adequate mental health care can easily undermine rehabilitation in jail. Keeping the mentally ill in prison — subjected to abuse and victimization by the other inmates and to

ongoing punishment for breaking the rules, even when they cannot help themselves — creates what is clearly a counterproductive situation. Diversion from the justice system to appropriate treatment and supervision is a far more humane and effective approach to reducing and preventing crime by mentally ill individuals.

### **Illegal Immigration**

Significant numbers of illegal aliens are in prison for the violation of immigration laws and for other *nonviolent offenses*, usually casual drug use. The emphasis here is on *nonviolent offenders*; illegal aliens who commit violent crimes must be prosecuted to the full extent of the law and immediately deported upon completion of their sentences. For years, the country has stumbled in a state of immigration panic, using harsh tactics to create the illusion of control while rejecting comprehensive strategies that would attack the problem of illegal immigration at its roots. The way to get tough at the border is to bring the visa supply in line with reality and give the Border Patrol the resources to catch drug smugglers, human traffickers and other criminally minded people. The federal crackdown on illegal hiring is a similar mishmash of hastily erected rules, including the much-criticized system of checking workers' names against error-plagued databases. The immigration detention system, which has been scarred by horrifying accounts of neglect and mistreatment, is in dire need of reform in order to ensure humane standards of medical care. The disastrous campaigns of raids that have sundered families and spread terror throughout immigrant communities, resulting in the incarceration of large numbers of hard-working, *nonviolent people*, make no meaningful difference in the undocumented population and should be reconsidered.

### **The Cost — High and Climbing Fast**

The cost of housing and caring for inmates has been astronomical — an estimated \$55 billion annual expense for taxpayers. Some estimates have placed the total cost for prisoners on a national level upward of \$100,000 a year. Why is the expense so great? Prisons are 24 hours a day, seven days a week operations. They require highly trained staffs. Their inhabitants are troubled, aged and generally sicker than people outside prison walls. In sum, the cost of keeping the nation's lock-ups running safely is simply staggering. By 2011, continued prison growth is expected to cost states an additional \$25 billion. The primary catalyst

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behind this increase is obvious: Prison growth means more bodies to feed, clothe, house and supervise. Capital expenses, meanwhile, are difficult to estimate, but researchers cite \$65,000 per bed as the best approximation for a typical medium-security facility. As states are learning, medical care is one of the principal cost drivers in corrections' budgets. Prison healthcare budgets have been growing at 10 percent annually; despite the dismal quality of prison healthcare, it now accounts for 10 percent of correctional spending. Moreover, approximately 11 percent of state government employees — or one in nine — are employed in the correctional regime, but prisons are struggling to keep a full complement of officers on staff. The extensive use of overtime is one of the biggest budget busters confronting states. On average, corrections is the fifth-largest state budget category, behind health, elementary and secondary education, higher education and transportation. In 1987, for every dollar spent on higher education, 32 cents were spent on corrections. Not surprisingly, this has changed: In 2007, for every dollar spent on higher education, 60 cents were spent on corrections.

### Policies to Control Prison Growth

As the nation struggles with the escalating costs of imprisonment, a comprehensive strategy is needed in order to control the rise in incarceration. A framework should be developed with the goal of public safety, by directing funds saved through unnecessary incarceration toward targeted approaches for reducing crime and supervising offenders in the community.

### Recommended Changes Regarding Nonviolent Offenders:

- Reconsideration of sentence lengths by judges, sentencing commissions and legislatures
- Enhanced drug-offender diversion to treatment through drug court and other mechanics
- Increased development of alternatives to incarceration that can provide services and supervision that meet the needs of individual offenders
- Reconsideration of policies that result in unnecessarily lengthy incarceration, such as "truth in sentencing," mandatory sentencing and life without parole
- Enhanced use of judicial discretion by increasing the range of factors that can be taken into account at sentencing to provide non-prison sentencing options
- Reconsideration of parole revocation policies, particularly for technical violations, that have increasingly contributed

to prison admissions

- Increased development of alternatives to incarceration for the mentally ill
- Reallocate justice system funds to support greater investments in community-justice programs that can target services proactively to communities heavily affected by both crime and incarceration

While there are several reasons for the phenomenal growth in the prison population, there is little doubt that changes in sentencing laws have fed the ever-larger correctional leviathan. Efforts to protect public safety while slowing the growth of prison populations can institute two basic policy directives: the diversion of a greater number of low-risk offenders from prison and the reduction of the length of time that the lowest risk offenders stay behind bars. These options require strong community corrections programs to ensure that offenders in the community remain crime- and drug-free.

*The politics of crime-fighting have made most lawmakers understandably wary of advocating a diverse punishment strategy. Some politicians have seen their careers torpedoed by opponents who use a lone vote, or even a comment, to create a dreaded "soft on crime" image at election time. Historically, incarceration has been an unquestioned weapon of choice in our battle against crime. However, recent studies show that a continual increase in our reliance on incarceration will pay declining dividends on crime prevention. In short, experts say that expanding prisons will accomplish less and cost more than in the past. Meanwhile, the dramatic rise in correctional costs is causing alarm around the nation. Relentless prison growth and its corresponding expense are reducing the amount of tax dollars available for other vital needs. The national inmate count is projected to march onward and upward, and with one in a 100 adults behind an expensive wall of bars, the potential of new approaches cannot be ignored. The time for urgency is now®.*



The Lipman Report Editors