

25 April 2019

THERE’S HOPE FOR AN END TO MASS INCARCERATION, BUT NOT IN THE NUMBERS

The Vera Institute has released [People in Prison in 2018](#), the criminal justice research and policy organization’s second annual tally of state and federal prisoners. The second report documents a -1.3% decrease in state and federal prisoners in 2018, an apparent improvement over the -1.0% decrease Vera documented for 2017. For the states, the rate of decrease almost doubled, from -0.7% to -1.3%.

We’re fortunate to have the Vera reports because the federal Bureau of Justice Statistics (BJA), which for decades provided a consistent annual analysis of state and federal prison populations has just today released its report for 2017 and is not expected to produce a report for 2018 until early 2020. But even with the apparent improvement in state rates, anyone committed to ending mass incarceration can’t be cheered by the numbers now before us.

Almost one year ago, I [analyzed BJA data to conclude](#), first, that at the -1.4% average decrease over the most recent three years, 2014 to 2016, America’s total prison population wouldn’t fall below one million until 2042. At that rate, it would take 50 years, until 2068, to reduce the number of prisoners by half.

Mine was not the most pessimistic projection: The Sentencing Project [estimated a 75 year wait](#) before prison populations would be halved.

What I found then was that more rapid deincarceration isn’t happening because, while the majority of states stopped increasing prison populations, only a handful of states and, from 2012 to 2016 the federal system, succeeded in significantly decreasing prison populations. Just seven states (California, New York, New Jersey, Michigan, Connecticut, Maryland and Illinois) were responsible for 2/3rds of the collective decrease in state prison populations between 2000 and 2016. California alone, acting under orders from the United States Supreme Court, was responsible for almost one in three (29.6%) of the decreases in America’s prison populations in these years.

Other states periodically decreased prison populations, often in response to legislated reforms or changes in parole policies championed by national organizations and deemed acceptable to a bi-partisan audience. Much was made of reforms in “red” states such as Texas or Georgia, which were held out as models of “bipartisan” reform. But it turns out that many of these reductions were sporadic, often offset by subsequent increases. Most of the impactful change occurred in “blue,” not “red” states. The Vera Institute’s most recent data, shown in the table to the right, illustrates this point. Since the end of 2008, 16 states reduced prison populations at an annual rate of -1.4% or more. Five of these (South Carolina, Michigan, Louisiana, Mississippi and Alaska) might currently be considered “red” states. Of these, only Michigan and South Carolina are included among the ten states that decreased prison populations by on average more than -2% annually over these years.

Percent Change in Prison Populations 2008 - 2018 annualized		
Connecticut (unified jail/prison system)	-33.8%	-3.8%
Rhode Island (unified jail/prison system)	-31.6%	-3.5%
California	-25.8%	-2.9%
New Jersey	-25.4%	-2.8%
Massachusetts	-23.8%	-2.6%
Maryland	-23.6%	-2.6%
South Carolina	-21.8%	-2.4%
New York	-21.4%	-2.4%
Michigan	-20.5%	-2.3%
Vermont (unified jail/prison system)	-18.0%	-2.0%
Louisiana	-15.6%	-1.7%
Delaware (unified jail/prison system)	-14.0%	-1.6%
Mississippi	-13.8%	-1.5%
Colorado	-13.2%	-1.5%
Alaska (unified jail/prison system)	-12.6%	-1.4%
Illinois	-12.2%	-1.4%

Source: *People in Prison in 2018*, Table 3

This is not to say that prison or sentencing reform is not “bi-partisan.” It is, but not because of legislation that policy-makers on both ends of the political spectrum can agree to by targeting low level or drug crimes with adjustments to charging or release mechanisms. When this happens, the result is often watered down reform lacking the teeth or the energy to put more than a dent in a system heavily invested in incarceration.

The bi-partisan nature of justice reform is more nuanced. For instance, seven of the 12 “blue” states which significantly reduced prison populations were under Republican administration for at least part of the time: California, New Jersey, Massachusetts, Maryland, Michigan, Alabama and Illinois. Investigation may well show that in states such as New Jersey, Michigan and Illinois Republican governors were better able to take bold steps to reduce incarceration, confident in the backing of more Democratic urban politicians and less likely than their Democratic counterparts to be attacked by Republicans in the legislature. In some “blue” states, including Connecticut, New York and historically Illinois and Michigan, justice reform initiated by Democrats was vigorously opposed by Republicans. On the other hand, Georgia Governor Nathan Deal’s nationally-recognized, highly principled advocacy for justice reform may well have been frustrated by local and system stakeholders rather than members of an opposing political party.

Vera’s two reports, and quite assuredly the more comprehensive reports just issued by the Bureau of Justice Statistics for 2017, continue to show that America’s progress toward deincarceration is as I described it last year: “anemic.” It will remain so unless and until leaders stop frittering around the edges of a complex, self-perpetuating, industry-driven and racially-fraught system and get to the heart of the problem. Not only must fewer people be charged with crimes, detained in jail if charged, and sentenced to prison for far less time if convicted, but distressed communities must be remedied. That means improved schools, richer community resources, living wage employment, safe and pleasant public spaces, access to drug treatment, affordable housing and medical and mental health services. Many of these are partisan issues. Yet until they are addressed, “bi-partisan” criminal justice reforms will continue to do little to end mass incarceration.

As I write this, I see signs of hope in three contemporaneous bell-weather indicators of cultural change. The First Step Act might be one of them, depending upon how it is administered and whether its modest reforms are extended. What’s more heartening, we read today that politicians and groups across the political spectrum, including Senators Mike Lee, Charles Grassley, Cory Booker and Richard Durbin, individual and organized prosecutors as well as traditional advocates are speaking out against a counterproductive proposal from federal Office of Personnel Management, that federal job applicants be required to disclose having successfully gone through a criminal diversion program (usually resulting in a dismissal of charges). And, it was announced that the National Teacher of the Year award went to Rodney Robinson who chose to teach in a Virginia juvenile detention center in order to reach kids in the school-to-prison pipeline.

Combined with the activism of many, including people formerly caught up in criminal courts and corrections, and initiatives tackling large issues, such as The Sentencing Project’s Campaign to End Life Sentences, we may be seeing signs of the kind of broad-based cultural and attitudinal change that will bring about an end to the nation’s excessive, obsessive reliance on criminal prosecution and incarceration in our lifetimes. And that’s hopeful, because as the numbers show, perpetually tweaking around the edges isn’t doing it.

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My June 2018 report, *Prisoners in 2016 and the Prospects for an End to Mass Incarceration*, may be read or downloaded from the Center on Community Alternatives <http://www.communityalternatives.org/> under the heading, “[New Research Report Highlights Challenges in Reducing Mass Incarceration](#)”

See also, the Crime Report at <https://thecrimereport.org/2018/06/13/incarceration-decrease-researcher-calls-drop-in-prison-numbers-anemic/>

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