



# MORE PRISON LESS CRIME?

## Some lessons from America

In California in 1980, there were 22,600 adult prisoners. Now there are close to 110,000. The numbers of prisoners increased therefore, almost 500% in 13 years. However, this vast increase in incarceration did not do anything about crime. In 1980 there were 1,118,000 index crimes reported by the police. In 1990 1,965,000 index crimes were reported. If putting more people in prison is supposed to reduce crime, it certainly did not happen in California despite a huge increase in the number of prison beds. California's addiction to imprisonment has been both ineffective and expensive.

California has spent almost 14 billion

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dollars in the last eleven years on new prison construction. At the time that they began this new prison construction, their prisons were 50% over capacity. Today, at the completion of this expansion, they are 60% over capacity and crime has gone up dramatically. And they have simultaneously reduced state funding for their public school system and their system of higher education, of which they had reason to be proud for many years. Today, local counties are closing their public school system for lack of state funds, thereby creating, another generation of kids who are going to have dead-end jobs and go into criminality as a way of making it in the world. The prison expansion policy has bankrupted their school system.

### How did it happen?

How did we get to all this in the United States? How did we develop such disastrous public policy in the criminal justice arena with such terrible results? There are four inter-related developments.

First of all, the mythology voiced by

U.S. politicians and policy makers that imprisonment is an effective crime control mechanism. The Liberals, the Democrats, Republicans in moments of political fervour say 'we've got to do something about crime. Let's harshen penalties, let's lock up more people', and they promise the public what cannot be delivered; that somehow this will have an impact on crime.

In the United States and in most other countries, most crime is unreported. Especially crime, of the kind that people are concerned about, namely, street crime and break-ins. In major cities in the U.S. more than 72% of all crime is never reported to the authorities. Of reported crime, in the cities, we have an apprehension rate of around 16 to 17%. In the rural areas outside the cities, we have a higher apprehension rate, 23-24%. Of that, there is only a very small percentage of reported crime that goes to court and is not plea-bargained out. A very tiny percentage go to prison. In New York city, the odds of a burglar going to prison are .0003. Given the huge amount of unreported crime, and the fact that, we have a very low apprehension rate and that the courts are so congested that the prosecutors will plead the case out, the likelihood of going to prison is extremely small. This is true of most crime, except for violent crimes. So if you increased the number of people in the United States prison system today ten times, you would not have a statistically significant impact on crime rates and yet that is what we are now hearing in Britain.

### The war on drugs

The second factor has been the so-called war on drugs, which is a losing battle all the way, and is also racist. We put different quotients on different kinds of drug crimes. Cocaine, for example is punished rather mildly, whether for possession or for sale. It is essentially a white person's drug. Crack is punished very harshly. That is a black person's drug; an inner city drug. The same amount of crack will get you ten times the penalty that cocaine will. Crack in the city, cocaine in the suburbs. This is a racist application of the criminal law.

We have not learned the lessons that we should have learned from the

prohibition era of the 1920's and 1930's when we created the Mafia. We created organised crime by our policies, which put so much wealth into the system of controlling alcohol. Now we have put so much money into the control of drugs that large numbers of our narcotics agents are corrupt as are many judges, prosecutors and the police. This has resulted in an easy way of getting the public to think we were doing something

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about crime, by doubling, tripling, quadrupling the sentence for possession of drugs or sale of drugs.

### Sentencing practices

The third thing was changes in sentencing practices. We began to reform sentencing in the early 1970s and as it often happens great liberal reforms turn out to be conservative victories. It was the liberals that started sentencing reform. We did not like the uncertainty of punishment. We did not like the disparity and we wound up with a system of mandatory minimum sentences where judges have no discretion. If you are convicted or plea to a particular offence, you get a mandatory sentence period and a mandatory minimum sentence. You get mandatory minimums for possession of a weapon. You get mandatory minimums if its a second offence and so on. We changed from indeterminate sentences where you had the parole board as an escape valve to determinate sentencing. We all wanted to abolish the indeterminate sentences where a judge could sentence you up to a period of two years to twenty years and we wound up with a fixed sentence of fifteen years. Now you know no longer could you get out after 2, 3, 4, 5, 6 or 8 years. Instead you served the full 15. These long sentences have a big impact on our rate of imprisonment and our rate of incarceration. New sentencing practices create a presumption for imprisonment over any other intermediate sanction and re-established incarceration as the punishment of first resort.



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## Profiting from crime

Finally, there is what I call 'the correctional industrial complex'. You will recall that President Eisenhower talked about the military industrial complex, dictating policy in arms manufacture and so on. Well, I think there is a correctional industrial complex, which views crime and punishment policy as a gigantic money machine. There are huge amounts of dollars to be made and what is so sad is that people with the profit motive in mind are impacting public policy in an area where the state is exercising the maximum control over its citizens.

Having painted a very gloomy and depressing picture of prisons in America, I would like to end by saying that there are some positive developments in penal policy which are currently emerging. American penal policy seems to be under review. The new Attorney General, Janet Reno, is like a breath of fresh air. She has

come out for changing our drug policy, moving more to a public health model rather than a criminal justice model. She is talking about abolishing mandatory minimum sentencing for a whole variety of offences and about the futility and the cost of our over-reliance on incarceration. She is also talking about moving towards a range of intermediate sanctions, so we are beginning to recognise that at the federal level we need some change. At the state level that is already happening.

Many of our states are unable to pay the upkeep on the prisons which they have built in the past 20 years. Rhode Island has just closed their medium security prison because they cannot afford to run it and they are changing it into a re-integration facility. It will be used as a half-way house and as a substance abuse, counselling, and Probation Centre. As a small State, they tried to build their way out of their problems. They could not do it and now

they are changing their policies. They have developed a population overcrowding commission, in the State legislature to control population and reduce sentencing. Other States are beginning to look at reducing sentence lengths, because they cannot afford to lock that many people up. These changes are now underway in America and they could be very relevant for discussions on penal policy in Britain.

*This paper is an extract from a talk given by Alvin J Bronstein at NACRO on 19 October 1993. Alvin J Bronstein is Executive Director of The National Prison Project of the American Civil Liberties Union Foundation.*

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