

TWO MILLION PRISONERS

JOHN J. DI IULIO JR.

Violent crime has dropped 21% since 1993, and property crime is at a post-1973 low. No one really knows which demographic, economic, or other factors explain what fraction of the decrease in crime. But recent studies confirm that increased incarceration has helped to cut crime. Yet the same research also suggests that the nation has "maxed out" on the public-safety value of incarceration.

Until recently, increased incarceration has improved public safety. But as America's incarcerated population approaches two million, the value of imprisonment is a portrait in the law of rapidly diminishing returns. The justice system is becoming less capable of distributing sanctions and supervision rationally, especially where drug offenders are concerned. It's time for policy makers to change focus, aiming for zero prison growth. Current laws put too many nonviolent drug offenders in prison. A 1997 study by Harvard economist Anne Morrison Piehl found that in Massachusetts about half of recently incarcerated drug offenders had previously been charged, and a third had previously been convicted, of a violent offense. But most of the



state's drug offenders had no known record of violence, while half its probation population consisted of violent felons.

Drug-Only Offenders

New York state is another example. Since 1973 the Rockefeller laws have landed legions of nonviolent drug offenders in the state's prisons for mandatory terms ranging from 15 years to life. I have been calling for the repeal of the Rockefeller laws since 1995, and the case for repeal is now stronger than ever. Based on the results of a forthcoming Manhattan Institute study by Ms. Piehl, criminologist Bert Useem of the University of New Mexico and me, it appears that at least a quarter of recent admissions to the state's prisons are "drug-only offenders," meaning felons whose only crimes, detected or undetected, have been low-level, nonviolent drug crimes. And we were able to derive similar drug-only estimates for several other state prison systems.

In 1997, as crime continued to decline, the prison population grew by 5.2%. Spending on

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correctional institutions is crowding out spending on other proven crime-reduction strategies, including improved policing. A study released last month by the Rockefeller Institute of Government found that in 1983, 52% of total U.S. criminal-justice spending went to police, 28% to corrections. By 1995, 43% went to police and 37% to corrections. Policy makers at all levels of government should dedicate themselves to further public-safety gains while keeping the prison population around two million and even aiming to reduce it over the next decade. The path to zero prison growth can be paved by five policy steps:

1. Repeal mandatory-minimum drug laws, release drug-only offenders, and mandate drug treatment both behind bars and in the community. Between 1980 and 1994, the incarceration rate for drug arrests increased to 80 per 1,000 arrests from 19. Continued increases in drug incarceration will yield little or no public-safety value. Recent studies by Yale psychiatrist Sally Satel and UCLA criminologist Mark A.R. Kleiman indicate that community-based coerced abstinence programs tend to succeed where other approaches fail. The Center for Alcohol and Substance Abuse has produced persuasive data on the promise of specialized drug courts. The National Institute for Healthcare Research has collected reams of reliable data about the efficacy of certain faith-based substance abuse programs.

2. Reinvent and reinvest in probation and parole. Currently, we spend next to nothing on community-based corrections. We get what we pay for. About a third of all people arrested for violent crimes are on probation, parole or pretrial release at the time of their arrest. A recent study of Texas probationers found that three years after receiving probation, 44% of first-time violent offenders with a prior felony history had returned to prison. Likewise, a 1996 New York state study found that within three years of their release, 43% of state prison inmates released between 1985 and 1992 had returned to prison — half for a new crime, half for parole violations.

Most of what ails probation and parole can be fixed by cutting officer caseloads and spending more on performance-driven programs that take supervision seriously and put public safety first. Boston's Deputy Probation Commissioner Ronald Corbett has spearheaded a five-year effort to enter into crime-cutting partnerships with police, community leaders and clergy. Early on, the effort resulted in a quadrupling in the number of probationers prosecuted for violating the terms of their conditional release. Even though few of those violations resulted in incarceration, would-be street felons got the message, and Boston has since had only four gun-related youth homicides.

Between 1991 and 1997, the number of probation and parole agents in Michigan increased by more than half, and the average number of offenders supervised by each agent fell to 63 from 92. Former Michigan Director of Corrections Kenneth McGinnis explains that these changes resulted in an increase of more than 55% in the number of parolees charged with violating the terms of their release. But over six years, Michigan prison admissions resulting from probation and parole violations grew by only 1.6%, demonstrating, Mr. McGinnis says, that "intensive supervision of offenders in community programs can be accomplished without a disastrous impact on prison growth."

3. Stop federalizing crime policy, and modify federal sentencing guidelines. Washington's role in crime control has expanded dramatically since 1968. But the results have been mixed at best. Too often Congress twists reasonable ideas developed by local law enforcement (the need to restrain repeat violent offenders regardless of their age) into grotesque federal policies (last year's defeated plan to remove federal restrictions on incarcerating juveniles with adults).

Early last year, an American Bar Association report led by former Attorney General Edwin Meese III detailed the dangers of further federalizing crime policy. Federal lawmakers should heed the Meese report, and study *Fear of Judging*, a just-published book by

former federal prosecutor Kate Stith and Judge José A. Cabranes, who make a solid case for reforming federal sentencing procedures. Such changes would undoubtedly reduce the number of drug-only offenders in federal prisons by tens of thousands.

4. Study and promote faith-based crime prevention and restorative justice. Scientific studies testify to the efficacy of faith-based efforts. A 1998 report, issued by the Manhattan Institute criminologist Byron R. Johnson of Vanderbilt University, summarized the results of a systematic review of more than 400 studies testing the relationship between all sorts of religious influences (churchgoing being just one) and crime and delinquency. The report echoed the conclusion of a study published in 1995 in the journal *Criminology*, namely, that most of the best available empirical evidence suggests that religion significantly reduces crime and delinquency.

The remarkable leaders and programs behind these findings know one God but many religions and ideologies. The liberal New York Theological Seminary recently launched an antiviolence youth outreach program staffed by ex-offender graduates of its historic Sing Sing education ministry, advised by leaders of the Amer-I-Can program directed by former football star Jim Brown and supported financially by both Republican Gov. George Pataki and the Ford Foundation. The Prison Fellowship Ministry, led by Charles Colson, a religious conservative, recently launched an initiative dedicated to ministering to the spiritual and material needs of prisoners, ex-prisoners, and their families, including the over one million youngsters in this country who have one or both parents in prison or jail. The National Ten-Point Leadership Foundation, led by The Rev. Eugene F. Rivers III of Boston, a former

Philadelphia gang member, has put responsible adults in the lives of thousands of at-risk youths, and helped to spark ecumenical, interfaith and public-private partnerships dedicated to reducing violence in cities all across the country.

These faith-based anticrime programs, and a growing number of secular ones as well, are predicated upon the concept of "restorative justice," according to which the ultimate purpose of the criminal law is to restore the "shalom" or peace that crime robs from victims, perpetrators, and communities alike. Restorative justice returns America to the ethical understanding of those who founded the

American penitentiary to reclaim public order and repair broken hearts, lives and communities on both sides of the walls.

5. Redouble efforts at juvenile crime prevention. I have argued before and I continue to believe that demographic trends will exert strong upward pressure on crime rates in the years just ahead unless we take strong steps to prevent juvenile crime.

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Most experts seem comforted that only a fifth of the more than 1.5 million annual "delinquency" cases in the mid-1990s involved violent crimes, and reassured by statistics showing that barely 0.1% of all juvenile arrests were for homicide. But in Philadelphia and many other cities in the mid-1990s, homicide was the leading cause of death for people age 13 to 21. Rosy statistics cannot mask the travesty of some 2,000 juvenile-committed homicides a year — a death toll that would have been higher were it not for vast post-1990 improvements in emergency medical technology. The statistics cannot hide the reality that an estimated six out of 10 of the most serious youth offenders are never caught.

Juvenile crime has declined from its horrific peak in 1994, but with a record 70.2 million juveniles in the population, the number of 14- to 17-year-olds will be 20% greater in 2005 than it was in 1996. By 2006, America will be home to some 30 million teenagers, the largest number since 1975. Over the next decade, all but five states will experience significant growth in the number of young males entering their most crime-prone years. For all the good news about crime and other social indicators, too many of America's children are still growing up abused (over a million substantiated cases a year), impoverished (at least 16%), without a father in the home (at least 40%) or subject to other influences that researchers have consistently found are associated with crime and delinquency.

In 1997, researchers at the U.S. Bureau of Justice Statistics estimated that if present incarceration rates were to remain constant, 5% of Americans would be imprisoned during their lifetimes (the rates are 16.2% for blacks, 9.4% for Hispanics and 2.5% for whites). But the rates need not remain constant, nor should they. Zero prison growth is possible. In the end, whether or not we achieve this goal will be a profound measure not merely of how nimble we are when it comes to managing public safety cost-effectively, but also of how decent we are, despite our many differences, when it comes to loving all God's children unconditionally, including all those in criminal custody.