

9.13: Current Issues in Corrections - War on Drugs and Gangs

The war on drugs, initiated by President Nixon in 1971, was framed as an all-out war to eradicate drugs in the United States. The massive expenditures on the curtailment of the drug epidemic also shifted our views on drug use. We became much more punitive towards drugs, treating it as more of a criminal justice issue, rather than as a substance dependence issue. Good or bad, drug use was demonized in the public and media, which aided in the development of much tougher sanctions on drug use in America. The Drug Enforcement Agency was created in 1973, to provide another arm of the government to tackle a specific issue, drugs. By the 1980s, lengthy sentences for drug possession were also in place. One to five-year sentences for possession were increased to upwards of 25 years. There was also an increased focus on gangs, which were held responsible for the majority of the drug trade in the United States.

Gang activity in the United States was prevalent long before the enactment of the war on drugs. However, once the linkages between our fear of crime, and the drug trade by gangs became more pronounced due to the war on drugs, the conflict escalated. While there are hundreds of different gangs in many neighborhoods and communities in the United States today, gangs in prison have converged into four main gangs, or what corrections call security threat groups. These four basic gangs include the Whites, the Blacks, the Southerners (Sureños, or EME), and the Northerners (Nortenos). Not only are these STGs considered violent inside and outside of prison, but they are also actively involved in the continuing drug trade in the United States today, even behind bars. In fact, many of the leaders of all of the gangs on the streets are held in one prison in California, Pelican Bay State Prison.

Within the prisons in the United States, gangs actively recruit members, communicate with gangs on the streets, run the drug trade, and are also at war with each other over the power within the institutions, from their perspective. There have been numerous documentaries on gangs in the U.S., and even mainstream films about gangs and gang life, both inside and out. A few notable examples of films to watch on this subject include *Felon* (2008), *Shot Caller* (2017), and *American Me* (1992).

Transcarceration

At the same time, the proliferation of gangs was occurring in prisons in the United States, there were another sizeable increase of prisoner type, mentally ill inmates. This is due to the transinstitutionalization that occurred for thousands during the late 1970s, 1980s. Transinstitutionalization, or transcarceration is a process that occurred for many with mental health issues when State-run mental health facilities began to close their doors. Having few choices of where to go, many became homeless or destitute. Ultimately, these individuals wound up in America's jails and prisons. This is also compounded by how we have shifted our views on the mentally ill within the courts and justice system. While insanity is a defense that is used in court, it is rare (roughly 1% of cases), and even more rarely does it conclude in success. This shift occurred within our understanding of guilt surrounding mental illness. In the past, an individual would be held not guilty by reason of insanity. However, this shifted to guilty, but legally insane. The guilt would be grounds to still incarcerated individuals. Changes in policy like this also contributed to the increase in offenders in the 1980s.

Get Tough Policies

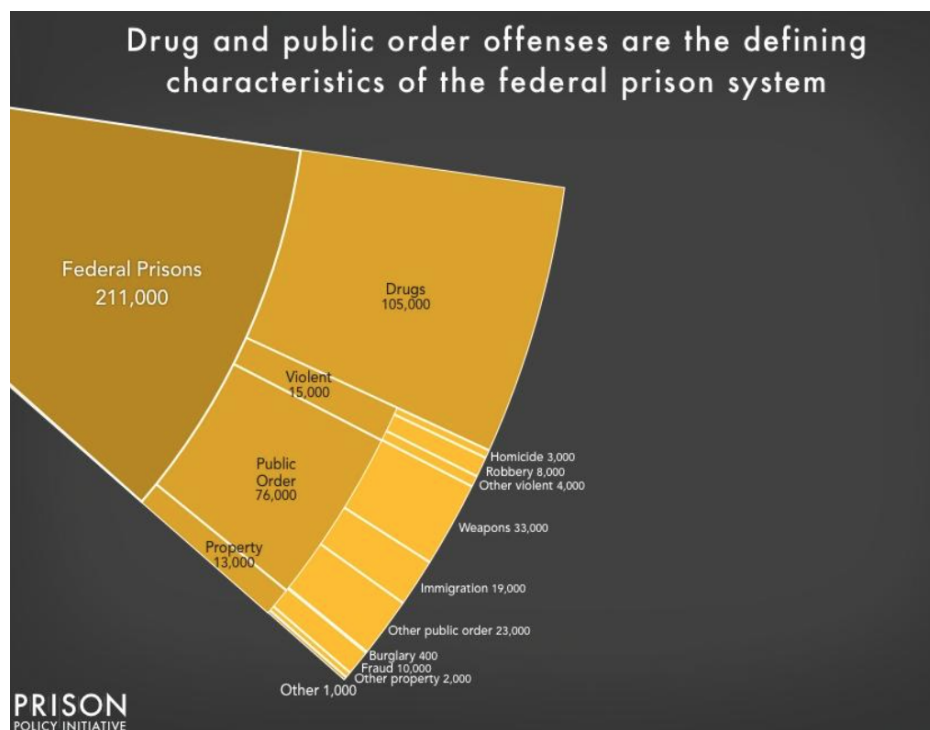
Another reason for the large scale increases can be found in our changes to policies surrounding sentences and sentence lengths. Get tough policies flourished in the latter half of the 1980s and into the 1990s. This included truth in sentencing legislation three-strikes policies, and drug crime minimums. Truth in sentencing, also known as the 85% rule, is where mandatory minimums of sentences would be forced to be served by incarcerated individuals. Thus if an individual was sentenced to prison, a mandatory minimum of 85% of the sentence would have to be served before the individual was eligible for release (parole). This added to the average length of sentences served in American prisons, which meant that individuals were not being released as early as in prior years. Thus, as more individuals were coming in due to increases in other legislation, there were already more people in the prisons.

Three strikes policies were enacted in many States. In 1993, Washington overwhelmingly passed (75% voted yes) to approve initiative 593 ^[1] This policy increased sentence lengths for 40 felonies, which included life imprisonment. Perhaps the largest 3 strikes policy was in 1994, in California, with Proposition 184, commonly called the Three Strikes and You're Out policy. It mandated a minimum of 25 years of prison for individuals committing 3 felonies. What made this policy more pervasive than others was the way in which it could be applied. If a person had two previous strikes for violent, or serious felonies (not necessarily violent), any new felony was life imprisonment, with a minimum of 25 years. For a more detailed view of this policy, see https://lao.ca.gov/2005/3_strikes/3_strikes_102005.htm

Drug laws were also changing at this time. The Controlled Substances Import and Export Act (1970), started the increases for drugs in the U.S. under federally mandated minimums found within the federal code 21 U.S.C. § 841. For a detailed reporting of these minimums, see https://www.usssc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171025_Drug-Mand-Min.pdf

One of the most debated issues within the drug sentencing laws was the differential between cocaine (in powder form) and crack (also form of cocaine, diluted and in a hardened paste form). During the increases in sentencing, there was a disparity in the lengths of sentences for comparable weights of these two drugs. There has been much debate whether this targeted poorer individuals more harshly, as crack was seen as a poor man's cocaine. However, with additional mandatory minimum increases in the 1980s, differences in sentence lengths began to widen. In a detailed report, Barbara Meierhoefer (1992) detailed how the average sentence lengths for African Americans (for similar weights of crack v. cocaine for Whites) was roughly 50% higher, supporting this assertion that drug sentences were not equal. ^[2]

With over a million arrests per year for drugs, it does add to the prison system as a whole. While the proportion of drug offenders in State prisons hovers around 20-25%, it is much larger at the federal level. As seen below, it makes up over half of the federal prisons. In all, the drug seriousness went up (how drugs are scheduled within federal guidelines), and sentence lengths for drugs went up; certain drugs more than others also went up.



Federal Drug Inmates

1. Wright, P. (1995). Three strikes racks 'em up. *Journal of Prisoners on Prisons*, 6(2), 3-6. <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=162918>
2. Meierhoefer, B. (1992). The general effect of mandatory minimum prison terms: A longitudinal study of federal sentences imposed. *Federal Judicial Center*. www.fjc.gov/sites/default/files/2012/GenEffMM.pdf

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