



Timeline of Mass Incarceration Policies: By the decades

1970s

Policy name | Policy Description | Policy Target | Policy Consequences

Policy name: [Comprehensive Drug Abuse Prevention and Control Act of 1970](#)

- **Policy Description:** *President [Nixon](#) asks Congress for “\$155 million in new funds, which will bring the total amount this year in the budget for drug abuse, both in enforcement and treatment, to over \$350 million.”*
- **Policy Target:**
 - “...Anti-war left and Black people” (John D. Ehrlichman, 1994)
 - “*America's public enemy number one in the United States is drug abuse. In order to fight and defeat this enemy, it is necessary to wage a new, all-out offensive.*” ([Nixon](#), June 17th, 1971)
- **Policy Consequences:** Nixon creates Reorganization Plan No. 2 of 1973 which establishes the Drug Enforcement Administration and states: “This Administration has declared all-out, global war on the drug menace.” ([Nixon](#), March 28, 1973)

Policy name: [1977 Uniform Determinate Sentencing Act](#)

- **Policy description:** In the 1970s, people incarcerated inside California prisons mobilized together in an effort to fight for safer conditions of confinement, such as reducing overcrowding, upholding constitutional rights, and eradicating cruel and unusual punishment in addition to fighting for fair sentencing legislation (i.e., removing life sentences).
- **Policy Target:** Increase in the incarceration of people of color, their children, families and communities
- **Policy Consequences:** The 1977 Uniform Determinate Sentencing Act erased decades of prison reform work by formally establishing that the core reason for incarceration was punishment rather than rehabilitation (Gilmore, 2007, p. 91).

1980s

Policy name | Policy Description | Policy Target | Policy Consequences

Policy Name: [1984 Comprehensive Crime Control and Safe Streets Act \(Sentencing Reform Act of 1984\)](#)

- **Policy Description:** This act comprehensively altered policies related to bail reform, sentencing reform, and drug enforcement amendments, such as continual enforcement of money bonds as a condition for pretrial release, eliminated the federal parole system, created a sentencing commission, and increased the fine levels and penalties for drug trafficking. It also created Mandatory Minimum sentencing structures.
- **Policy Target:** People of color, their children, families and communities over-policed
- **Policy Consequences:** 32% increase of people in federal prisons; Over 82% of people's cases who had requested bail were denied ([Ostrow, 1986](#))

Policy Name: [1986 Anti-Drug Abuse Act](#)

- **Policy Description:** A policy that created sentencing disparity between offenses for crack and powder cocaine from 100:1 (1-gram of Crack Cocaine = 100-grams of Powder Cocaine). The purpose of this policy was, "to strengthen Federal efforts to encourage foreign cooperation in eradicating illicit drug crops and in halting international drug traffic, to improve enforcement of Federal drug laws and enhance interdiction of illicit drug shipments, to provide strong Federal leadership in establishing effective drug abuse prevention and education programs, to expand Federal support for drug abuse treatment and rehabilitation efforts, and for other purposes."
- **Policy Target:** People of color, their children, families and communities over-policed
- **Policy Consequences:** Federal courts were allowed to impose mandatory minimums without any oversight or authority

Policy Name: [1987 Federal Sentencing Guidelines](#)

- **Policy Description:** The creation of the US Sentencing Commission which had 7 commissioners who were nominated by President Reagan in 1985 (Newton and Sidhu, 2017), consisted of a mostly white commission with one commissioner who was African-American. Effective November 1, 1987, these guidelines were created under the premise that rehabilitation was considered secondary to other forms of punishment in the name of public safety (Newton and Sidhu, 2017). Guidelines were not based on any empirical research on sentencing. The commission used mathematical formulas and sentencing grids (i.e., offense level X criminal history) to sentence people.
- **Policy Target:** People of color, their children, families and communities over-policed
- **Policy Consequences:** Higher penalties were enforced for drug type and weight in drug cases.
 - The guidelines declared that family responsibilities were considered irrelevant with respect to trying to get a sentence outside of the guidelines: "[§5H1.6. Family Ties and Responsibilities, and Community Ties \(Policy Statement\)](#) Family ties and responsibilities and community ties are not ordinarily relevant in determining whether a sentence should be outside the guidelines. Family responsibilities that are complied with are relevant in determining whether to impose restitution and fines. Where the guidelines provide probation as an option, these factors may be

relevant in this determination. If a defendant is sentenced to probation or supervised release, family ties and responsibilities that are met may be relevant in the determination of the length and conditions of supervision.”

- The policy also produced faulty sentencing based on conspiracy: *“A federal defendant could be convicted of a federal crime for which the defendant did not engage in the actual criminal conduct—the actus reus—in two different ways. First, a defendant could be convicted for having aided or abetted another who actually engaged in the actus reus, when the defendant did not do so, so long as the defendant intended the co-defendant to succeed in committing the crime. Second, the defendant could be convicted of a crime that was committed by a co-conspirator “in furtherance” of a conspiracy concerning a different crime, so long as the crime committed in furtherance of the conspiracy was “reasonably [foreseeable].”*

Policy Name: [1988 Edward Byrne Memorial State and Local Law Enforcement Assistance Program](#)

- **Policy Description:** With the allocation of federal funds, state and local agencies created excessive narcotic task forces, received free training from the Drug Enforcement Agency on how to use highway patrol officers to (il)legally stop drivers suspected of carrying drugs, and were provided ample opportunities from the Pentagon to purchase military equipment such as M-16 rifles, grenades, and military-style aircraft (Alexander, 2010).
- **Policy Target:** People of color, children, families and communities
- **Policy Consequences:** As the War on Drugs waged war on entire communities, families were subject to excessive force used by SWAT teams who broke their way into homes in the middle of the night, threw grenades, handcuffed, screamed at and pointed guns at household members, including children and grandparents (Alexander, 2010).

1990s

Policy name | Policy Description | Policy Target | Policy Consequences

Policy Name: [The Three Strikes, You're Out laws of 1993](#)

- **Policy Description:** Mandated lengthy sentences to people who were accused of committing repeat violent offenses. It should be noted that people could receive 25 years to life sentence even when the third violation involved theft that costs as little as \$150 worth of videotapes to \$400 golf clubs ([Chen, 2014](#)). As a result, people received mandatory life imprisonment if they were: 1) convicted in federal court of a "serious violent felony" and 2) has two or more prior convictions in federal or state courts, at least one of which is a serious violent felony. The other prior offense may be a serious drug offense. Prosecutors were highly encouraged to *“achieve prolonged incarceration for “Three Strikes”-eligible defendants”* (Harris, 1995). Mandatory sentences could include, but were not limited to, life without parole sentences and 25 years to life sentences (Chen, 2014). California implemented the harshest response of the 3 strikes, with over 7,500 people sentenced to 25 years to life (Legislative Analyst's Office, 2005).
- **Policy Target:** Children, families and communities
- **Policy Consequences:** Chen (2014) explained how significant racial disparities emerged

in California, where Black men represented 44% of third-strikers even though they only represented about 3% of California's population (U.S. Census Bureau, 2006; California Department of Corrections and Rehabilitation, 2008).

Policy Name: [Violent Crime Control and Law Enforcement Act of 1994](#)

- **Policy Description:** This policy authorized the Attorney General to create grants for law enforcement “to increase police presence, expand cooperative efforts between law enforcement agencies and community members to enhance public safety, and procure equipment and technology for policing. This policy also created Truth in Sentencing laws that required people to serve 85% of their sentence. Additionally, this policy compensated states who incarcerated undocumented people or made undocumented people serve their sentence in a federal prison. Lastly, this policy created the federal 3 strikes law, expanded the death penalty, and eliminated the Pell Grant for people incarcerated inside state and federal prisons.
- **Policy Target:** People of color, children, families and communities
- **Policy Consequences:** Rapid expansion of prison facilities, larger police force, allowed minors as young as age 13 to be prosecuted as adults

2000s

Policy name | Policy Description | Policy Target | Policy Consequences

Policy Name: [Second Chance Act of 2007](#)

- **Policy Description:** A law that centered on reentry and reducing recidivism through grants, reentry task forces, resource centers, drug treatment programs, grants for family substance abuse treatment alternatives to incarceration for parents with nonviolent drug offenses and for prison-based family treatment programs for incarcerated parents of minor children. Additionally, the federal prisoner reentry program was created. Funds were allocated to reentry research related to: *“collecting data and developing best practices for coordinating the efforts of state correctional departments and child protection agencies to ensure the safety and support of children of incarcerated parents and the support of relationships between incarcerated parents and their children. Expresses the sense of Congress that states and other entities should use the best practices developed by the Attorney General to protect children of incarcerated parents.”*
- **Policy Target:** Children of incarcerated parents, families and communities
- **Policy Consequences:** 40 years after the War on Drugs was declared, the relationship between incarcerated parents and their children is deemed worthy of support.

Policy Name: [2010 Fair Sentencing Act](#)

- **Policy Description:** Four decades after the War on Drugs, Congress passed the FSA law to reduce the sentencing disparity between offenses for crack and powder cocaine from 100:1 to 18:1, which by 2010 had created huge racial disparities in length of sentences that ultimately impacted Black communities and Communities of Color. This Act also eliminated the five-year mandatory minimum prison term for first-time possession of crack cocaine.
- **Policy Target:** Majority of Black and Brown people who unjustifiably receive harsher sentences

- **Policy Consequences:** At the federal level, over 12,000 people — 85 percent of whom are African-Americans — could have their sentences for crack cocaine offenses reviewed by a federal judge and possibly reduced (ACLU, n.d.).

2010s

Policy name | Policy Description | Policy Target | Policy Consequences

Policy Name: [President Obama's executive clemency initiative](#)

- **Policy Description:** In April 2014, qualified people in federal custody were encouraged to petition to have their sentences commuted or reduced by the President of the United States if applicants met most if not all of the following factors: They are currently serving a federal sentence in prison and, by operation of law, likely would have received a substantially lower sentence if convicted of the same offense(s) today; They are non-violent, low-level offenders without significant ties to large scale criminal organizations, gangs or cartels; They have served at least 10 years of their prison sentence; They do not have a significant criminal history; They have demonstrated good conduct in prison; and They have no history of violence prior to or during their current term of imprisonment.
- **Policy Target:** People incarcerated in federal prisons, their children, families and communities
- **Policy Consequences:** Approximately 16,776 petitions were received. However, President Obama's initiative resulted in the commutation and pardon of over 1,715 men and women.

Policy Name: [First Step Act of 2018](#)

- **Policy Description:** A law that focused on recidivism reduction, limited (but did not ban) the use of restraints on federal prisoners who are pregnant or in postpartum recovery, reduced, and restricted the use of enhanced mandatory minimum prison terms for certain repeat drug offenses. This Act was also retroactive. The latter focus changed mandatory minimum sentencing as follows: reduction of 20 to 15 years for a high-level offense after one prior conviction, and reduction from life to 25 years for a high-level offense after two or more prior convictions
- **Policy Target:** People re-entering into society, their children, families and communities
- **Policy Consequences:** Reauthorize offender reentry research and the grant program for offender reentry substance abuse, reauthorize and modify eligibility for an elderly offender early release pilot program; reauthorized grant programs for technology career training demonstration projects and reentry mentoring services

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