

AN ANALYSIS OF U.S. DRUG POLICY: ITS EFFECT ON COMMUNITIES OF  
COLOR AND A PATH TO END THE WAR ON DRUGS

by

ALEXIS ARIELLE WHITE

A THESIS

Presented to the Conflict and Dispute Resolution Program  
and the graduate School of the University of Oregon  
in partial fulfillment of the requirements  
for the degree of  
Master of Science

June 2018

THESIS APPROVAL PAGE

Student: Alexis Arielle White

Title: An Analysis of U.S. Drug Policy: Its Effect on Communities of Color and a Path to End the War on Drugs

This thesis has been accepted and approved in partial fulfillment of the requirements for the Master of Science degree in the Conflict and Dispute Resolution Program by:

|                      |             |
|----------------------|-------------|
| Elizabeth Tippet     | Chairperson |
| Michael Hames-Garcia | Member      |

and

|                |  |
|----------------|--|
| Sara D. Hodges | Interim Vice Provost and Dean of the Graduate School |
|----------------|--|

Original approval signatures are on file with the University of Oregon Graduate School.

Degree awarded June 2018.

© 2018 Alexis Arielle White  
This work is licensed under a Creative Commons  
**Attribution-NonCommercial-NoDerivs (United States) License.**



## THESIS ABSTRACT

Alexis Arielle White

Master of Science

Conflict and Dispute Resolution Program

June 2018

Title: An Analysis of U.S. Drug Policy: Its Effect on Communities of Color and a Path to End the War on Drugs

This thesis examines the history of legal and illegal narcotics in the United States. This thesis explores the impact criminalizing drug use has on communities of color. The current criminal justice system seeks to correct behavior society and the law deems deviant but has not proven to be effective as shown by rates of recidivism. The present research uses a literature review to investigate how alternative dispute resolution practices and prison abolition meet the needs of the criminal justice system. The purpose of this thesis is to examine two proposed reforms: one that would abolish prison sentences except in cases where offenders pose a high risk to public safety, and another that would employ conflict resolution techniques to serve the retributive, and rehabilitative purposes of the criminal sanction. This thesis will suggest that these proposed reforms, if undertaken concurrently, will likely shrink the US prison population while advancing penal goals.

## CURRICULUM VITAE

NAME OF AUTHOR: Alexis Arielle White

### GRADUATE AND UNDERGRADUATE SCHOOLS ATTENDED:

University of Oregon, Eugene

### DEGREES AWARDED

Master of Science, Conflict and Dispute Resolution, 2018, University of Oregon  
Bachelor of Science, Psychology, Minor: Ethnic Studies, 2012 University of Oregon

### AREAS OF SPECIAL INTEREST:

Prison Abolition  
Critical Race Theory  
Psychology of Conflict

### PROFESSIONAL EXPERIENCE

Small Claims Court Mediator, Lane County Municipal Small Claims Court  
January 2013- May 2014

Long Term Care Ombudsman, Office of the Long-Term Care Ombudsman State  
of Oregon, May 2018 – Present

### GRANTS AWARDS, AND HONORS:

Oxford Raymond Human Rights Fellow, University of Oxford 2014

University of Oregon Diversity Excellence Scholar 2013, 2014

## ACKNOWLEDGMENTS

This thesis was made possible by the support of my thesis committee, and the friends and family who encouraged me along the way. I wish to thank Elizabeth Tippet who pushed me to finish and didn't hesitate to step in and help mid project. To Margie Paris who pointed me to the sources I needed and helped me narrow my topic, and to Michael Hames-Garcia whose expertise and teachings sparked my interest in prison reform from my undergraduate to graduate studies. Thank you, Kata Bahnsen-Reinhardt, for the extraordinary administrative support. To my parents Ron and Allison White who were patient and supportive and always pushed me to be great.

Special thanks to the community of friends who became family in Eugene. To the folks who invited me to dinner in their homes, game nights on Saturdays, to the women who validated the tough graduate school experiences over brunch, and to those who allowed me to jam with them on bass in their living room. Your support meant more to me during this process than you will ever know.

For my dear friend Sarah G. Lowery who filled my life with laughter.

## TABLE OF CONTENTS

| Chapter  | Page |
|--|------|
| I. INTRODUCTION.....   | 1    |
| II.THE RISE AND MODERN RELIANCE OF INCARCERATION.....        | 3    |
| The Criminalization of Marijuana .....                       | 3    |
| The Drug Policies that Lead to Mass Incarceration.....       | 8    |
| III. INCARCERATION VERSUS THE GOALS OF CRIMINAL JUSTICE..... | 11   |
| Our Reliance on Prison Labor .....                           | 16   |
| Free Labor and Communities of Color.....                     | 20   |
| IV.CONTEMPORARY RECOGNITION OF THE PROBLEM.....              | 30   |
| How Conflict Resolution Can Help .....                       | 31   |
| Next Steps .....   | 32   |
| V. ENDING THE WAR ON DRUGS .....                             | 35   |
| Ending Marijuana Prohibition .....                           | 36   |
| Legalizing Drugs and Providing Treatment .....               | 38   |
| Victim Offender Reconciliation .....                         | 39   |
| Moving Away from Prison Backed Policing .....                | 40   |
| Prison Abolition .....                                       | 42   |
| VI. CONCLUSION .....   | 46   |
| REFERENCES CITED.....  | 48   |



## LIST OF TABLES

| Figure   | Page |
|--|------|
| Table 1. Incarceration Rates by Country and Population ..... | 9    |

## CHAPTER I

### INTRODUCTION

When it comes to the length of prison sentences and rate of incarceration, the United States has some of the most shocking statistics in the world. Since the 1970s, the U.S. penal population exploded from around 300,000 to more than 2 million, with drug convictions accounting for the majority of the increase. The United States now has the highest rate of incarceration in the world, dwarfing the rates of nearly every developed country, even surpassing those in highly repressive regimes like Russia, China, and Iran. In Germany, 93 people are in prison for every 100,000 adults and children. In Germany 93 people are in prison for every 100,000 adults and children. In the United States, the rate is roughly eight times that, or 750 per 100,000 (Alexander 6).

By race the demographics in the penal system are even more stark: “One in three young African American men is currently under the control of the criminal justice system—in prison, in jail, on probation or on parole” (Alexander, 9). Yet, according to The Sentencing Project, half of the offenders in federal prisons are incarcerated as a result of drug offenses, and most of these have no prior record for violent offenses and were not main players in the drug trade. As many scholars have pointed out, this data suggests that incarceration in the United States has expanded so dramatically that it punishes far in excess of what is needed to advance its recognized penal goals of retribution, deterrence, incapacitation, and rehabilitation. Indeed, some suggest that the current system now thwarts these goals rather than serves them.

The purpose of this thesis is to examine two proposed reforms: one that would abolish prison sentences except in cases where offenders pose a high risk to public safety and another that would employ conflict resolution techniques to serve the retributive,

deterrent, and rehabilitative purposes of the criminal sanction. This thesis will suggest that these proposed reforms, if undertaken concurrently, will likely shrink the US prison population to a more appropriate level while advancing penal goals.

Modern reliance on incarceration and lengthy sentences continues to hinder advocacy groups' work to appropriately classify drugs like marijuana. I will discuss how the need to incarcerate citizens in large numbers and the classification of marijuana contributes to the war on drugs and mass incarceration. I will discuss the United States reliance on incarceration and its relationship to drug use. Mandatory minimums and lengthy sentences for drug offences contributed to a cyclical relationship between addiction and the prison industrial complex and contributes to the problem. This cycle is not only taxing on the public but it does not meet the needs of those who struggle with addiction, or the goals of the criminal justice system. I will discuss how mass incarceration and the prison industrial complex exacerbate the public health issue that is addiction. The unnecessary criminalization of marijuana has led to an increase in an over-capacity prison system. Some of these issues may be relieved by alternative dispute resolution and restorative justice practices. I will explain how many of the current injustices of the criminal justice system were derived from slavery and Jim Crow legislation and therefore disproportionately harm people of color and particularly black men. Finally, I will propose alternative dispute resolution practices and prison abolition as a potential solution to the broken and biased US criminal justice system.

## CHAPTER II

### THE RISE AND MODERN RELIANCE ON INCARCERATION

#### The Criminalization of Marijuana

The criminal status of marijuana use has fluctuated and evolved in the United States since the 17<sup>th</sup> century. Recreational use of narcotics was not accepted by middle class Americans and the movement to prohibit narcotic use overlapped alcohol prohibition. The production of hemp was encouraged by the US government in the early 1600's and continued to be a popular crop into the 1900's.<sup>1</sup> Racialized fear of a growing underclass was part of what drove the movement for prohibition.<sup>2</sup> Resentment toward Mexican immigrants spawned by xenophobia and racism sparked bias and fear toward Mexicans who were associated with recreational marijuana use. Anti-Drug campaigns began to associate Mexican immigrants with marijuana use and crime. During the great depression, the resentment and fear caused by massive unemployment and economic uncertainty was projected onto Mexican immigrants and continued to associate Mexicans, marijuana use, and crime. Anti-drug campaigns targeted Mexican immigrants while researchers linked marijuana use to violence and socially deviant acts.<sup>3</sup> These

---

<sup>1</sup> (PBS 2014) PBS's Frontline provided the history of marijuana legislation and production in the United States starting in the 1600's to today's current policies. In 1619 the Virginia Assembly passed legislation requiring every farmer to grow hemp.

<sup>2</sup> Doris Marie Provine in *Unequal Under Law* explains that the movement to control narcotics and mind altering substances was due to many factors including, evangelical fervor, optimistic scientifically oriented reformism and primal racialized fear of a growing underclass. Reformers faced less opposition to narcotic prohibition than alcohol prohibition because narcotics had been deemed dangerous to society.

<sup>3</sup> (Pagano 2018) Alyssa Pagano for the Business Insider explains that racist propaganda was released that depicted marijuana users as unpardonable and dangerous. The propaganda depicted marijuana as a gateway

researchers explained that the violence and crime caused by marijuana use were committed by those who were “racially inferior”. The mounting public perception of marijuana use as criminal caused marijuana to be outlawed in 29 states by 1931. With pressure from the states, the federal government pushed national anti-marijuana campaigns that used new research to link marijuana, societal issues and crime.<sup>4</sup> The federal government encouraged states to adopt the Uniform State Narcotic Act to create uniformity among the states and their stance on recreational marijuana use. In 1937, the Marijuana Tax Act was passed by Congress.<sup>5</sup>

The Marijuana Tax Act criminalized the drug by restricting possession to those who cultivated and used it for medical or industrial purposes. During the 1950’s mandatory minimum drug policies were set by the Narcotics Control Act. This Act allowed first time offenders who were found guilty of the possession of marijuana were served a sentence of 2-10 years with fines up to \$20,000. In the 1960’s attitudes towards marijuana began to change as the political and cultural climate become more accepting of the drug.<sup>6</sup> Use of marijuana among white upper middle class increased. Presidents Kennedy and Johnson commissioned reports that claimed marijuana didn’t lead to

---

drug to heavier drugs. The propaganda linked the influx of Mexican immigrants to deviant behavior that marijuana.

<sup>4</sup> (PBS 2014) During the 1930’s there was an increase of faulty research that showed a link between marijuana use, crime and violence.

<sup>5</sup> (Uniform Narcotic Drug Act 1935) The Uniform Narcotic Drug act was created in part because of rising concern over the use of marijuana and research that linked the drug to crime and violence. It sought to create a uniform approach to recreational drug use. The federal government The act was repealed in 1971

<sup>6</sup> (Cameron 1956) The Narcotic Control Act of 1956 imposed strict drug penalties in an attempt to reduce narcotic trafficking and use in the US. The act implemented mandatory minimum sentences and the death penalty for certain drug offences.

heavier drugs nor did it induce violence<sup>7</sup>, contrary to what researchers claimed in the past. As the use of marijuana became mainstream among upper class white folks the proposed policy for marijuana use started to include discussions of treatment.<sup>8</sup> In the 1970's most mandatory minimum sentences for marijuana offenses were repealed. Policy makers acknowledged that the mandatory minimums created in the 1950s did not decrease drug use and long sentences for possession seemed harsh.<sup>9</sup> By 1986 after national anti- drug campaigns and the creation of the Drug Enforcement Agency ("DEA"), President Regan signed the Anti- Drug Abuse Act into law. The Anti-Drug Abuse Act created harsher federal penalties for marijuana related drug offenses. The three-strike law was included in the Ant-Drug Abuse Act, and sentenced offenders to life in prison for three repeat drug crimes.<sup>10</sup> In 1989 President George Bush declared a new war on drugs and federal incentives for local police forces were created. In 1996 medical use of marijuana was legalized in the state of California and today there are 29 states in which medical marijuana is legal and 9 states have legalized the drug for recreational use.<sup>11</sup> During this fluctuation of attitudes towards marijuana which changed vastly

---

<sup>7</sup> (US Commission on Narcotic and Drug Abuse, 1963) The Commission on Narcotics and Drug Abuse was commissioned by the President. In its final report the commission named a number of recommendations for federal programs that seek to prevent the abuse of narcotic and non-narcotic drugs. The report also contradicted earlier studies that suggested marijuana lead to heavier drug use.

<sup>8</sup> (PBS 2014)

<sup>9</sup> (Cameron 1956) The mandatory minimum laws and harsh penalties of the Narcotic Control Act were later eliminated by the Comprehensive Drug Abuse Prevention and Control Act of 1970.

<sup>10</sup> (Anti Drug Abuse Act 1986) The Anti- Drug Abuse Act of 1986 amended the Controlled Substances Act to modify the penalties of controlled substances crimes. The act granted federal courts to impose mandatory minimum penalties.

<sup>11</sup> (Robinson 2018) Melina Robinson in an article in the Business Insider maps out all states in the US who have legalized marijuana in some form.

depending on which presidential administration held office, the US began to rely on incarceration as the main response to marijuana and drug use.

The modern reliance on lengthy prison sentences, corresponds with changes in drug use. In the 1960's when recreational drugs started to become more mainstream among young people as the social stigma associated with drug use declined. Although marijuana and other substances had been strictly banned in many states since 1931, advocacy groups began working toward legalization, particularly with respect to marijuana. For example, the National Organization for the Reform of Marijuana Laws ["NORML"], founded in 1970, began educating the public about the dangers of incarcerating marijuana use offenders and the potential beneficial effects of marijuana. NORML also pushed for decriminalization<sup>12</sup>. Ironically, that same year marked Congressional passage of the centerpiece of Richard Nixon's presidency: the Comprehensive Drug Abuse Prevention and Control Act of 1970 ["the Prevention Act"], with its embedded Controlled Substances Act ["CSA"]. The Prevention Act essentially federalized and centralized drug enforcement. It created the DEA, a cabinet-level agency, that was authorized to make and enforce policy, and it empowered that agency to classify and categorize the sale and distribution of narcotics. The CSA categorized marijuana as a Schedule I narcotic, a category reserved for the most dangerous drugs in the world –

---

<sup>12</sup> (NORML 2018) Founded in 1970 NORML is an organization that provides a voice for Marijuana Prohibition. NORMAL is in favor of ending arrests for marijuana smokers and led successful efforts to decriminalize minor marijuana offences in 11 states during the 1970's.

those that purportedly have no legitimate medicinal uses and that cannot be the subject of medical experimentation. (DEA 2013)<sup>13</sup>

In the ensuing decades, employing “war on drugs” rhetoric,<sup>14</sup> the federal government invested heavily in costly efforts to enforce its ban on marijuana, as well as on street use of cocaine.<sup>15</sup> Its primary tool was incarceration, and Congress provided ammunition in the form of statutory mandatory minimum sentences and sentencing guidelines that denied federal judges the discretion to craft individualized sentences.<sup>16</sup> The threat of long prison sentences forced defendants to agree to harsh plea bargains, which enabled federal prosecutors to process thousands of criminal cases each year. Mandatory minimum laws for drug use became more popular. Mandatory minimum laws do not allow for judges to make sentencing decisions based on the circumstances

---

<sup>13</sup> The CSA categorizes illegal drugs and some chemicals used to create drugs into 5 schedules. These categories are used to group drugs based on their application to the medical field and the danger to their users in addictiveness. Currently, alongside Ecstasy and heroin, Marijuana is classified as a schedule I drug. Marijuana and schedule I drugs have the harshest penalties because they are classified as the most dangerous: “Schedule I drugs are considered the most dangerous class of drugs with a high potential for abuse and potentially severe psychological and/or physical dependence” (DEA, 2013). There have been no recorded deaths by overdose of marijuana and this scheduling has been heavily criticized. Although the effects of marijuana are often not life threatening, hysteria was created using news stories about drug use and its threat to society among the public to help support legislation that criminalized marijuana use.

<sup>14</sup> In the 1960’s recreational drug use rose and in 1968 the bureau of narcotics and Dangerous Drugs was founded. This move consolidated many drug enforcement agencies into one larger group. The following year a popular study linked drug use in to crime rates and Dr. Robert DuPont began to provide methadone treatments to heroin addicts in an effort to bring crime rates down in Washington DC. President Nixon declared a war on drugs in 1971 and his administration invested heavily into this initiative.

<sup>15</sup> Since the 1980s, federal penalties for crack were 100 times harsher than those for powder cocaine, with African Americans disproportionately sentenced to much lengthier terms

<sup>16</sup> The possession of marijuana for a first offence can be punishable for up to one year of federal prison time with a minimum fine of \$1,000 (NORML, federal penalties). Federal Mandatory minimum sentences created during the Regan administration in the 1980’s exacerbated the issue of disproportionate penalties for marijuana possession and distribution. In 1986 President Ronald Regan signed into law the Anti-Drug Abuse Act. The Anti-Drug Abuse act allocated funds to build new prisons, drug education, and treatment and increased sentencing times for drug offences. The Anti- Drug Abuse Act also increased the amount of mandatory minimum sentences.



surrounding a charge<sup>17</sup>, and can cause someone who has been convicted of a drug crime to serve a sentence that is disproportionate to the crime they committed.

The federal government continued to invest in the war on drugs after President Nixon's resignation in 1974. Notably, under the Reagan administration, Congress passed the Anti-Drug Abuse Act of 1986 (and amended it in 1988) in order to authorize prison time for simple possession,<sup>18</sup> lengthen prison terms, impose mandatory minimum sentences, and transform post-prison supervision into a punitive model, as opposed to rehabilitative, model. The Act also encouraged enforcement by providing state and local law enforcement agencies with grants to support their departments.<sup>19</sup> Grants that were provided to police departments incentivized those departments to enforce the punitive model of fighting crime which can be ineffective in preventing non-violent drug offences. If law enforcement agencies chose to opt out of employing tough on crime practices they might miss out on necessary funds that kept their departments well funded.

### The Drug Policies that Lead to Mass Incarceration

As a result of these policies, the United States incarcerates its citizens at far more alarming rates than any other country in the world. Among rich nations and members of

---

<sup>17</sup> (Criminal Justice Policy Foundation 2018) Mandatory minimum laws force judges to sentence based on the minimum sentence brought on by the prosecutor in a conviction. Mandatory minimums remove judge's authority to issue sentences based on the circumstances of a crime.

<sup>18</sup> " Drug Possession Penalty Act of 1986 - Establishes criminal penalties for simple possession of a controlled substance."

<sup>19</sup> There were many subtitles that allocated funds to support the initiatives. Subtitle J gave authorization to provide funds to the Department of Justice for drug enforcement activities (Congress, 5458). Subtitle K of the Anti-Drug Abuse Act authorized the FBI to hire additional agents for the DEA, allocate funds for prison construction and grants to states to enhance rural drug enforcement. Subtitle K also allocated assistance to state and local multiple-agency tactical narcotics teams in high intensity drug areas.

the Organization for Economic Co-operation and Development ("OECD") the United States incarceration rates are particularly bleak. For every 100,000 citizens the United States incarcerates 753 people. This is more than three times the amount of Poland, the country that incarcerates its citizens at the next highest rate at 224 per 100,000. (2, Schmitt). China incarcerates 118 individuals per 100,000. The US prison population even exceeds China's, despite China's massive population. With the US prison population at 2,193,798 the US has China beat in its overall prison population by over 600,000. These rates are astronomical and cannot be explained by an increase of crime or an increase in drug use among US citizens compared to citizens of other nations.

**Table 1. Incarceration Rates by Country and Population**

| <u>Country</u> | <b>Prison population</b> | <b>Population per 100,000</b> | <b>Jail occupancy level %</b> | <b>Un-sentenced prisoners %</b> | <b>Women prisoners %</b> |
|----------------|--------------------------|-------------------------------|-------------------------------|---------------------------------|--------------------------|
| US             | 2,193,798                | 737                           | 107.6                         | 21.2                            | 8.9                      |
| CHINA          | 1,548,498                | 118                           | N/A                           | N/A                             | 4.6                      |
| RUSSIA         | 874,161                  | 615                           | 79.5                          | 16.9                            | 6.8                      |
| BRAZIL         | 371,482                  | 193                           | 150.9                         | 33.1                            | 5.4                      |
| INDIA          | 332,112                  | 30                            | 139                           | 70.1                            | 3.7                      |
| MEXICO         | 214,450                  | 196                           | 133.9                         | 43.2                            | 5                        |
| UKRAINE        | 162,602                  | 350                           | 101.3                         | 19.5                            | 6.1                      |
| SOUTH AFRICA   | 158,501                  | 334                           | 138.6                         | 27.5                            | 2.1                      |
| POLAND         | 89,546                   | 235                           | 124.4                         | 16.8                            | 3                        |
| ENGLAND/WALES  | 80,002                   | 148                           | 112.7                         | 16.4                            | 5.5                      |
| JAPAN          | 79,052                   | 62                            | 105.9                         | 14.7                            | 5.9                      |
| KENYA          | 47,036                   | 130                           | 284.3                         | 45.6                            | 42                       |
| TURKEY         | 65,458                   | Even E91                      | 77.4                          | 47.7                            | 3.3                      |
| NIGERIA        | 40,444                   | 30                            | 101.5                         | 64.3                            | 1.9                      |

|           |        |     |       |      |     |
|-----------|--------|-----|-------|------|-----|
| AUSTRALIA | 25,790 | 125 | 105.9 | 21.6 | 7.1 |
| SCOTLAND  | 6,872  | 134 | 107.5 | 21   | 4.4 |
| N IRELAND | 1,375  | 79  | 91.5  | 37.4 | 2.2 |

SOURCE: International Centre for Prison Studies

The criminal justice system's reliance on incarceration as a resolution to drug offenses is unprecedented worldwide and has not proven to meet the needs and goals of the criminal justice system. The goal of incarceration in this case would be to reduce recidivism and drug use. Mass incarceration has yet to prove that it is an acceptable method of meeting either of these goals. The punitive model for treating substance abuse and crimes related to drug use is ineffective, and a continued investment in these practices will do more harm to offenders while providing no relief to the damages that substance abuse has on its victims. The focus should diverge from punitive measures to best practice treatment for those who are suffering from addiction. The investment into the war on drugs has not lead to its proclaimed desired result and therefore should be replaced with an investment in best practice methods for reducing drug abuse and crime.

## CHAPTER III

### INCARCERATION VERSUS THE GOALS OF CRIMINAL JUSTICE

Reliance on incarceration is not only failing to meet its goals in reducing illegal drug use and abuse but it is also exacerbating drug abuse problems and causing cyclical patterns of crime and recidivism. Those who have been incarcerated often have a more difficult time reentering society as contributing members, often returning to the same habits that led them to offend before they were incarcerated.<sup>20</sup> There is a need for re-entry programs that help those who have been incarcerated restore their lives to the life they had before conviction, but also to life without the need to offend in the future. The idea of serving a prison sentence includes the notion, and the constitutional law, that when a sentence has ended an individual will not be punished twice for the same offense.<sup>21</sup> If someone has served the sentence for the crime they committed and the result of their sentence was reformatory there should be very few long or lifetime consequences of their offense. This should be particularly true for non-violent drug offenses as the harm to society for their offense is likely to be minimal. Unfortunately, we find the opposite to be true in the United States with regard to non-violent drug offenses. Folks who have been incarcerated often struggle with employment and housing opportunities post-release, which increases their likelihood of reoffending.<sup>22</sup> The barriers that those who have been

---

<sup>20</sup> (Obama white house initiative, 1). The Obama White house initiative indicates that more than two thirds of those incarcerated in state prisons are re-arrested in three years.

<sup>21</sup> In *Understanding Criminal Law (2012)* page 12 Dressler explains that “the constitutions provide that a person may not be punished twice for the same criminal offense, may not be punished retroactively, and may not be subjected to cruel and unusual punishment”

<sup>22</sup> (Obama white house initiative, 1) Each year more than 700,000 people are released from state or federal prison. Two thirds of state prisoners are rearrested within three years of release and half are re-incarcerated.

incarcerated face once they are released serve as a double jeopardy for their crime after they have served their sentence. There are few opportunities post incarceration to get the support that those who have offended need in order to stay out of our criminal justice system. A criminal record can keep those who have served their sentence from finding employment and housing.<sup>23</sup>

The current criminal justice system has also yet to solve drug abuse issues. While the United States continues to grow its prison populations for drug use crimes the United States has not seen rates of drug use decline.<sup>24</sup> The US has seen an increase in drug overdoses due to opioid use and the introduction of fentanyl in the US drug trade.<sup>25</sup> The New York Times estimates that in 2016 the death toll from drug overdoses rose 19 percent. Marijuana use has declined among adolescents yet it has doubled among adults and the illegal use and abuse of opioids continues to be an epidemic that claims the lives of 116 people per day.<sup>26</sup> It was reported that in 2016 the US saw the largest jump in drug overdose deaths ever recorded. With estimated deaths at 59,000 drug overdoses has

---

Attorney General Holder urged state attorneys to review the collateral consequences of their state laws that may impede the successful reentry of former incarcerated individuals into society, such as housing and employment restrictions.

<sup>23</sup> (Lageson 2016) Page 129 There has been an increase in online criminal histories due to the expansion of the criminal justice system allowing for easy access to employers landlords and others. This change prevents those who are attempting to move on from their criminal record to be denied the opportunity to move past their convictions.

<sup>24</sup> According to The National Institutes of Health (2015) The prevalence of marijuana use among US adults has doubled over the past decade.

<sup>25</sup> (National Institute on Drug Abuse 2018) The synthetic opioid fentanyl is more powerful than opioids like heroin and has been attributed to an increase in opioid overdoses.

<sup>26</sup> National Institute on Drug Abuse 2018) The US Department of Health and Human Services reports that there is an opioid epidemic in the US caused by widespread misuse of prescription opioid medications. This epidemic claims 116 lives per day.

become the leading cause of death for those under 50.<sup>27</sup> Incarceration is often our answer for those who abuse illegal substances. Yet as the rate of those who are incarcerated rapidly increases, we see the rate of drug use increasing as well. We can deduce that the method by which we are addressing drug use and abuse is not working according to this trend. The goal of decreasing drug use by deterrence, backed by the fear of being incarcerated has proved to be an inadequate method for addressing drug use and abuse.

High rates of recidivism and continued drug use suggest that prisons are not meeting their goals when it comes to non-violent drug offences. US prisons are failing because rates of recidivism show that correction facilities are not being effective. Correctional facilities' inability to provide adequate paths for offenders to become contributing members of society upon reentry into their communities is one of the causes of this recidivism. The goal of the criminal justice system is to prevent harm to individuals and society.<sup>28</sup> More specifically to prevent the injury, protect health, safety, morals and welfare of the public.<sup>13</sup> If the goals of incarceration are not being met it is critical that either the goals be redefined, or that reform begin. Our current criminal justice system punishes those who have done things we consider undesirable to prevent those undesirable behaviors from reoccurring. Preventing harm is accomplished by deterring crime, by using incarceration as the treat for punishment of a crime.<sup>13</sup> In theory, the threat of incarceration as punishment for a crime should be enough to deter much of

---

<sup>27</sup> Josh Katz for the New York times (2017)

<sup>28</sup> In Lafave's Principles of Criminal Law (2010, 11) the purpose of criminal law as a means to prevent harm is explained. Punishment is how harm is described to be prevented.

the public from harmful and unlawful activity.<sup>13</sup> Preventing harm also includes punishing and rehabilitating those who do participate in crime. In order to prevent recidivism by those who have committed a crime and been punished, the government must also rehabilitate them in some way so that they do not continue to commit crime. Those who are incarcerated need to be provided with the tools they need to survive without offending. Finally, obtaining revenge through retribution is included in prevention because of the idea that seeking revenge will restore some of what victims of crime have lost.<sup>13</sup>

High recidivism rates, a lack of restorative and rehabilitative programs, disenfranchisement and criminal record discrimination have all contributed to, or are symptoms of failing correctional facilities unable to meet their purported goals. In a study that included offenders in 15 states, it was found that within 3 years of their release 67% of those who were incarcerated were rearrested for a new offense.<sup>29</sup> Fifty one percent of offenders were back in prison within three years after release.<sup>14</sup> Every year about 700,000 of those who were incarcerated are released back into society. According to the Marshall Project most of them will be unemployed within a year post release.<sup>30</sup> Billions of US tax dollars are being spent to incarcerate folks who have committed crimes but this only yields less than half of offenders to the reform we believe correctional facilities are

---

<sup>29</sup> The Bureau of Justice Statistics: Recidivism of Prisoners Released in 1994 (2002) reported that 67% former inmates who were tracked were re-arrested within three years of release. 51% of those tracked were re-incarcerated.

<sup>30</sup> The Marshall project (Keller 2017)

capable of.<sup>31</sup> The rest of those formerly incarcerated are back to reoffending and in the cycle of our criminal justice system. There is a negative return on investment in our current criminal justice system because it hasn't done an adequate job in rehabilitating folks who have offended. If this were another social service or program funded by U.S. tax dollars and research continued to show this lack of a return on our investment, talks of reform or cutting programs would likely occur. Prison reform conversations are starting to occur among scholars, advocates, politicians and the public around incarceration but there are incentives to keep the criminal justice system status quo. The Violent Crime Control and Law Enforcement Act created monetary incentives in the form of 9.7 billion dollars in grants for the expansion of prisons and jails. Federal grants were also provided to expand department personnel. The Violent Crime Control and Law Enforcement Act allocated 6.1 billion dollars to preventative programs for drug use, but these programs were more punitive than rehabilitative. This act also provided grants to states that implemented laws that required those who were incarcerated to serve up to 85% of their sentences.<sup>32</sup> In doing so an incentive was created to incarcerate more people. Federal money is being funneled into keeping police forces well-staffed so long as implement policy that keeps folks in prison for longer periods of time. Both the public and private corporations have come to rely on prisons to support state budgets and or to generate

---

<sup>31</sup> (The PEW Charitable Trust 2015)The federal prison systemno consumes more than \$6.7 billion a year, or roughly 1 in 4 dollars spent by the U.S. Justice Department

<sup>32</sup> (Violent Crime Control and Law Enforcement Act n.d.)



profit.<sup>33</sup> The profitability of prisons undermines the criminal justice system and creates an incentive for prisons to grow or remain the same. Creating poor drug policies that incarcerate citizens at alarming rates provides an easy means for keeping prisons operating and profit flowing. One particularly egregious example of how pervasive the incentive to maintain the current structure of the U.S. criminal justice system is occurred at a news briefing on October 5<sup>th</sup> 2017 in Caddo Parish Louisiana. Sheriff Steve Prator of Caddo Parish expressed his concern for criminal justice reform legislation that would allow for the release of nonviolent offenders. Sheriff Prator explained that the release of these offenders would negatively impact the prisons and jails that use prison labor.

“In addition to the bad ones — and I call these bad — in addition to them, they’re releasing some good ones that we use every day to wash cars, to change oil in our cars, to cook in the kitchen, to do all that, where we save money. Well, they’re going to let them out.” (Bromwich 2017)

Sherriff Prators plea to the public essentially makes the argument that the folks who are incarcerated are providing the state with free labor that will be difficult to replace when the reform bill’s on Caddo Parish go into effect. The states reliance on prison labor should not be what keeps folks who serve little harm to the public from being released from prison. This reliance on prison labor is not isolated to Caddo Parish and keeping prisons full provides private industry with incentives to resist championing prison reform as well.

---

<sup>33</sup> (Miller 2017) Miller explains that states like Louisiana suffer from the loss of people who are incarcerated that are able to work in prison. “Every state relies on inmates to not only make prisons run (for instance, by cooking and cleaning), but to make products and provide services for the state”

## Our Reliance on Prison Labor

The criminal justice system has been efficient in providing free and cheap labor to many corporations and states who depend on the labor of those who are incarcerated and benefit from prisons remaining at full occupancy.<sup>34</sup> Prison labor provides services that include everything from manufacturing jeans in Oregon, cultivating crop in Louisiana to fighting fires in California.<sup>21</sup> All of these are valuable skills to be learned and those who are incarcerated are voluntary participants in them, but there is an argument to be made that the work in prison is not truly voluntary when there are often no alternatives than to provide labor for little to no pay.<sup>22</sup> Because much of the work in prisons is not truly voluntary and can even be met with retaliation in the form of solitary confinement or other tactics, prison labor is comparable to a modern day slavery.<sup>22</sup> It is hypocritical for US policy to believe there should be a standard for minimum pay yet that standard is rescinded once someone has been convicted a crime and sentenced to jail or prison. Providing equal pay for equal work or at least the federal minimum wage to those who have been incarcerated should be the very least that occurs when prisons have the opportunity to work while incarcerated. Compensation for jobs that are done while folks are in prisons ranges from no compensation at all, to around \$4.90, hourly pay in Alaska,

---

<sup>34</sup> (Benns 2015) Whitney Benns explains that more than a century after Jim Crow the US prison labor system has grown. Incarcerated workers laboring within in-house operations through convict leasing or through for profit cooperations are in a number of industries including midding, argrculture, and manufacturing. Employment laws that protect people who do the same jobs as prisoners outside of prison. In cases where prison workers have sued under the grounds of workers protection laws like the Fair Labor Stadards Act (FLSA) to enforce minim wage laws courts have rulled againts workers. Benns argues that slavery never ended and that it was reinvented in the prison system.

where prison laborers are paid half that of the states minimum wage.<sup>35</sup> Prisoners providing labor for next to nothing are not able to create a savings that will be necessary for them to start a life post incarceration. Trying to secure housing or simply take a bus from the prison where someone has been recently released to a nearby city is near impossible when compensation is so low or simply do not exist. This barrier coupled with a lack of access to social services for those who have been convicted of a felony are all factors that lead to recidivism.<sup>12</sup> Recidivism should be minimal if the current criminal justice system was working in the way that it is intended to. By failing to provide those who have been incarcerated with a wage that they can save to support themselves post incarceration, the benefit to learning valuable skills while incarcerated is diminished. The skills learned are often not able to be put to use. Job applications often ask about criminal backgrounds, and in the state of California where prison labor is used to fight fires and keep our communities safe, those same laborers will find it difficult to find a job firefighting upon release because of prescreening questions that inquire about applicant's criminal backgrounds.<sup>36</sup> Prison laborers might be deemed qualified and capable of fighting fires for low wages while incarcerated but once they are released, despite their experience protecting the public, those who have been incarcerated will have an extremely difficult time finding a firefighting job that accepts folks with a criminal

---

<sup>35</sup> (Sawyer 2017) Sawyer explains that in each state prison wages remain low and even appeared to be declining at one point. "One major surprise: prisons appear to be paying incarcerated people less today than they were in 2001. The average of the minimum daily wages paid to incarcerated workers for non-industry prison jobs is now 86 cents, down from 93 cents reported in 2001."

<sup>36</sup> (DeMerceau, 2018).

background on the outside. This kind of inequity only serves the states who use that prison labor to keep costs to taxpayers low. What we find though is that employment after release is a barrier to keeping offenders from returning to crime so it is counterintuitive that we create institutional barriers for those who have been released to find employment and housing.

The history and culture of lynching has seeped into many police forces and this rhetoric plays a part in what laws and policies the public support. The benefits to having a large prison population are the organizations and corporations that continue to profit off of the growing prison population. Organizations and corporations who serve prisons, including food vendors, construction workers, architects, and contractors, benefit from increased incarceration rates and have little motive to support legislation that would bad for business or decrease profits. They profit off of the number of prison beds filled. Private prisons and corporations that serve prisons have an incentive to keep their prisons full and operating because it means more profit. Incarcerating more people means more supplies, food and services that will need to be met. This is even more problematic when the increase of for profit private prisons are taken in to consideration. The US saw a prison building boom between 1980 and 2000, as there was an increase in the amount of arrests that ending in incarceration. Alexander explains that during this boom the US prison population increased from around 300,000 to over 2 million.

There is an argument for allowing those who are incarcerated to take on jobs and responsibilities while they serve sentences. Having a job while incarcerated can provide folks who are serving long sentences with the opportunity to learn new skills and stay

motivated and out of trouble while incarcerated. This may be true but prison labor is inherently exploitative because the rights that workers have on the outside, to unionize, to negotiate for better conditions and to be paid a minimum wage, do not apply to those who are incarcerated.<sup>37</sup> Prisons should provide programming and education to inmates so that the idleness that can lead to dissatisfaction and undesired behavior in prisons is reduced. Having prisoners work for low to no wages just for the structure and benefit of the prison is unethical.

The function of a prison should be rehabilitation. By contrast, a private prison functions to create revenue and maintain the status quo in order to remain open for operation there is a fundamental misunderstanding of a prison or jail's expressed intent. Incarceration facilities are often referred to correction facilities but our culture seems to lean more on the idea of punishment rather than rehabilitating offenders to serve as contributing members of society. If a prison was created to serve what we describe as its true purpose, that is to correct behavior that is anti-social and destructive. The United States Justice Department has recognized some of the damage the private prisons have done and announced in the summer of 2016 that it will begin to phase out the use of private prisons<sup>38</sup>. Acting as the Director of the Federal Bureau of Prisons Sally Q. Yates

---

<sup>37</sup> (Patrick A Langa 2002)

<sup>38</sup> (Johnson 2016) Findings from the Justice department inspector general concluded that in private prisons there were more reports of contraband, assault, and use of force than facilities run by the Federal Bureau of Prisons. Deputy Attorney General Sally Yates' 2016 memo announced that the Department of Justice would move away from renewing contract with private prison facilities,

announced in a memo that the private prisons were used in 2013 when the federal prison population increased by almost 800 percent and there were not enough facilities to accommodate the increase of inmates<sup>39</sup>. With the election of President Donald Trump there has been a shift to continue the war on drugs. Attorney General Jeff Sessions rescinded the memo announced by Yates which will allow private prisons to continue to operate with federal contracts. We have already seen a call from the Trump administrations US Attorney General Jeff Sessions, to amp up the war on drugs and tough on crime policies that will certainly negatively impact communities across the nation. <sup>40</sup>

#### Free Labor and Communities of Color

The United States has a history of terrorizing people of color through legislation that criminalizes behavior. Starting with slavery in the United States racism was used to justify the forced labor of blacks for capital gains. After slavery, vagrancy laws were put in place to assure that blacks were under state control. Vagrancy laws criminalized being out of work and the laws were applied almost exclusively to blacks. One vagrancy law explicitly stated, “that ‘all free negroes and mulattoes over the age of eighteen’ must have written proof of a job at the beginning of every year.” (28 New Jim Crow). Creating policy that makes it criminal *not* to work was a form of forced labor after the end of

---

<sup>39</sup> (Yates 2016)

<sup>40</sup> (Boston Globe 2018)

slavery. These laws were later overturned but the 13<sup>th</sup> Amendment which abolished slavery included a provision that stated

“Neither slavery nor involuntary servitude, except as a punishment for crime where of the party shall have been duly convicted, shall exist within the United States,” (United States Constitution. Amendment. XII n.d.)

or any place subject to their jurisdiction. States have the power to create their own law “both the states and the federal government, therefore, may be said to possess considerable authority (the police power) to declare conduct criminal.” (United States Constitution Amendment X n.d.). There are however constitutional limits on this power.

The prison industrial complex in the United States incarcerates men of color at even more alarming rates. Michelle Alexander explains in “The New Jim Crow” that the reason for this is rooted in the history of slavery in the United States. Since the nations inception black people have been controlled and utilized for capital gain from whites. White slave owners in the south used black bodies to harvest cotton and today we see black bodies funneled into the prison system where they often work and are profitable for private corporations. Alexander begins “The New Jim Crow” with the birth of slavery and the creation of black men and woman as other.

“Back there, before Jim Crow, before the invention of the Negro or the white man or the words and concepts to describe them, the Colonial population consisted largely of a great mass of white and black bondsmen, who occupied roughly the same economic category and were treated with equal contempt by the lords of the plantations and legislatures” (Alexander, 23).

Alexander explains that race is a social construct that at one time did not exist in the ways that we experience race today. Race is a concept and a construct created and

used to dominate a specific group of people. The cause and the introduction of the idea of race can be attributed to imperialism by European countries, “Here in America, The idea of race emerged as a means of reconciling chattel slavery—as well as the extermination of American Indians—with ideals of freedom preached by whites in the new colonies.”(Alexander, 26). European progress in America was dependent upon using slaves and displacing American Indians. In order for Europeans to justify colonizing land that was already occupied they had to find a way to insert their dominance over American Indians and Africans. Skin color was an easy way for Europeans to differentiate themselves from others and it was used to label slaves as less human and inferior. Alexander points out that our constitution was created with white supremacy and slaveholders in mind, “Under the terms of our country’s founding document, slaves were dined as three fifths of a man, and not a real, whole human being “(Alexander 26). Whites in power sought to keep their power by using legislation and policy to secure their status.

When slavery ended after the civil war, the idea of white supremacy continued. Although the institution of slavery was abolished, the idea that people of African descent were inferior was a belief that whites held deeply. It was unfathomable that black folks could have the same rights and protections as whites during this time.

“White supremacy, over time, became a religion of sorts. Faith in the idea that people of the African race were bestial, that whites were inherently superior, and that slavery was, in fact, for blacks’ own good, served to alleviate the white conscience and reconcile the tension between slavery and the democratic ideals espoused by whites in the so-called new world.” (Alexander 26).



This faith in white supremacy and the end of slavery created a dilemma for whites interested in maintaining their superior status. Other institutions and policies were created including the black codes after slavery not only to ensure that white the privileges that accompanied white supremacy continued but also because of the deep faith in the idea that whites truly were a superior race. Racial segregation in both the north and south developed into Jim Crow, the legal segregation of blacks from whites both in the public and private sector. Jim Crow became a replacement for slavery and allowed for whites to protect their perceived superiority for capital gain.

The Jim Crow era was created out of fear from whites after black started to make political and social gains post reconstruction. Conservative whites during this time “sought the ‘abolition of the Freedmen’s Bureau and all political instrumentalist designed to secure Negro supremacy” (Alexander, 30). Alexander explained that The Ku Kluz Kln reinforced this idea with its terrorism of the black community in the form of bombings, lynching’s, and mob violence. The federal government withdrew federal troops in the south and no longer supported or protected federal civil rights legislation. Alexander explains that the Freedman’s Bureau’s budget was also cut so much that it was no longer effective. Laws were created as a means of controlling the black community in the form of vagrancy laws. Behaviors were criminalized and blacks were the target of the enforcement of these laws. Vagrancy laws outlawed “activities such as ‘mischief’ and ‘insulting gestures”” (Alexander, 31). Convict leasing became a practice widely practiced as a result of these laws an offender’s inability to pay court fees and fines. Convict leasing was a practice that allowed for prisoners to pay their newly acquired debts owed

due to their convictions by working as forced labor for “lumber camps, brickyards, railroads, farms, plantations and dozens of corporations throughout the south” (Alexander, 31). Private corporations and industries of the state now had a legal means to effectively own slaves. Even though legally slavery had been abolished, slavery as a means of punishment for a crime was legal. Alexander explains that in a Virginia Supreme Court decision *Ruffin v Commonwealth* ended the idea that prisoners could be distinguishable from slaves:

For a time, during his service in the penitentiary, he is in a state of penal servitude to the State. He has, as a consequence of his crime, not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords to him. He is for the time being a slave of the state. He is civiliter mortuus; and his estate, if he has any, is administered like that of a dead man. (Alexander, 30).

As a result of their crimes, men were forced into slavery and their liberties stripped. The target of these laws were African American men and although slavery was abolished it had transformed into another legal means of free labor based on race. It was still possible after the abolition of slavery to be a legal slave to the state so long as you were convicted of a crime. All of your possessions would be treated as if you were a dead man but you were in fact still a living person in the custody of the state. This also meant that creating laws that would disproportionately target men of color and poor communities became much easier to do and since it was disguised under the law it was acceptable.

The criminal justice system implements similar terrorizing practices in urban communities while shielded by the protection of the state and drug policies that makes these practices legal and contribute to an inflated prison population. Police violence,

prison labor, and drug policy that is disproportionately used and focused on communities of color are some of the methods used today that continue to terrorize citizens.

Prisons have been used to segregate people in society with harmful and divergent behavior but they also serve as a form for free labor to governments and corporations. Many prisons provide little incentive for good behavior and do nothing for reentry into society after formerly incarcerated people are released. This can create a revolving door for people who have been incarcerated who often do not have to support not avoid the behaviors that caused them to go to prison to begin with. The free or next to nothing labor that prisons use, coupled with the racial biases that cause prisons to be filled with citizens who are predominantly black and brown created a neo-slavery that we've turned a blind eye to. For example, the state of California uses prison labor to fight its forest fires. California pays prison laborers no more than \$2.59 per hour for their work while they risk their lives to save others.<sup>41</sup> After gaining a wealth of knowledge in a trade that has the potential to help keep the formally incarcerated, from reoffending they will find that they cannot seek employment in firefighting after they have been released because fire departments in the state currently do not allow folks who have a recent criminal record, or those who have been convicted of felonies join their forces. It is baffling that we find it morally sound to risk the lives of fellow citizens who have been convicted of crime to do the back-breaking labor of fighting fires but we find those same individuals unfit to fight

---

<sup>41</sup> (Lowe 2017)

fires and save lives upon release. It is important to note that folks have lost their lives participating in this work that saves the state tens of millions of dollars per year.<sup>24</sup>

The relationship between prison labor for public and private industry becomes even more nuanced because of the disparities between people of color who are incarcerated compared to their white counterparts. Black and brown folks are incarcerated at far higher rates than white folks who commit the same crimes.<sup>42</sup> Compared to the one in three African American men who are currently under state control because of drug offenses white counterparts, who do not commit crime at a lower rate, will have incarceration rates that are 5.1 times less than blacks.<sup>30</sup>

These numbers are not only problematic, they are inconsistent with a goal of the criminal justice system to be unbiased and equitable to everyone in the United States. Improved drug policy could save lives and should also address the disproportionate incarceration of minorities in the US. Drug use across race and class is not significantly different and we know that those who are penalized for the use of drugs depends often on socioeconomic status and race.<sup>30</sup> Black men use drugs at similar rates than white men, but black men are incarcerated at much higher rates than white men. The sentencing project estimates that blacks are incarcerated at a rate of 5.1 the times of whites. Policing practices like racial profiling and the “tough on crime” movement which encouraged the use of biased police practices that were particularly harmful to people of color and those

---

<sup>42</sup> (Alexander 2011) Alexander explains that people of color and particularly black men are incarcerated at higher rates than their white counterparts although they do not commit crimes or use narcotics at higher rates than whites.

who lived in poverty stricken neighborhoods. The criminal justice system has a racial bias and we can see that it is also reflected in the war on drugs.

Alexander makes the case that the current criminal justice system is just another take on racist policy that seeks to exploit the labor of people of color by enforcing a racial caste system. It is imperative that we analyze how prisons contribute to our society in order to understand the war on drugs and its efficacy. There has been a historic prison population increase, black men are severely over represented in the criminal justice system, and this overrepresentation begins with the way black communities are policed. As early as grade school, students of color face disproportionate punishments as compared to their white peers.<sup>43</sup> Black children are disciplined at higher rates than their peers and those who are disciplined at an early age are more likely to have behavioral issues as they continue their schooling. A cycle of offending and punishment in school makes punishment outside of school and by police more likely. This is a systematic problem that was born out of slavery and has woven itself into our criminal justice system. Michelle Alexander explains that although we have abolished slavery and the Jim Crow laws that forced racial segregation a new system was born of these discriminatory institutions. The new system Alexander goes on to describe is the criminal justice system and the war on drugs. The war on drugs is explained to be the way that white supremacy persists. The war on drugs creates a caste of people, drug users, who are considered to be criminal and therefore punishable. Since drug use across race and class is not

---

<sup>43</sup> (Lewin 2016)

significantly different, determining which drugs are criminal and how punishment is enforced also determines who gets categorized in to this lower caste.

When we think of the purpose of prisons most describe it as a place for correction, rehabilitation, and also a place that serves as a deterrent for anti-social, criminal behavior. With recidivism rates so high and the rates of drug use across race and class constant, but overall drug use raising we can see that much of the intended purpose of prison is not working to deter people from using drugs. After over 50 years of the war on drugs the United States still faces a drug crisis with drug overdose as the leading cause of death in the among those under 50. <sup>19</sup> Criminalizing drug use is not helping to prevent harm to society. Substantive criminal law, is law that serves to protect society from harm and decides what conduct is considered criminal. "...conduct cannot be called "criminal" unless a punishment is prescribed therefor." (Lafave, 6). One of the basic principles that Lafave discusses is that "only harmful conduct should be made criminal. It is reflected in the substantive due process notion that a criminal statute is unconstitutional if it bear[s] n[o] reasonable relation to injury to the public" (Lefave, 9). The war on drug's policies and laws purport themselves to protect society from harm but in many ways have exacerbated societies problems by adopting a penal system that does little too curb crime or prevent drug use. Certainly widespread addiction can cause injury to the public but criminal punishment for addiction and drug use has proved itself too be ineffective, and there are effective ways to address and prevent drug abuse. Ethnic minorities are overrepresented in the prison system as well as every aspect our judicial system and it is not a coincidence that their labor is being exploited by yet another US institution. Slavery

has not ended in the United States but instead it has been masked by the prison industrial complex.

## CHAPTER IV

### CONTEMPORARY RECOGNITION OF THE PROBLEM

In June of 2015, the White House made a large step toward by removing a policy that hindered scientific research into marijuana and its use, led by senator Elizabeth Warren. Seven members of the US Senate called for the DEA to reconsider its classification of marijuana and invest in extensive research into the medical use of the drug.

Classification of marijuana determines the penalties associated with its use and distribution. Schedule I classified drugs carry some of the most harsh penalties. Mandatory minimums and life sentences are doled out for the use and distribution of marijuana. In one particularly problematic case, a 24 year old man named Weldon Angelos was sentenced to 55 years in federal prison for a non-violent drug offence. Paul Cassell the judge in Angelos case explained that he didn't feel that there was justice in this case but had no choice in his sentencing because of mandatory minimum laws "I sometimes drive near the prison where he's held, and I think, 'Gosh he shouldn't be there. Certainly not as long as I had to send him there.' ... That wasn't the right thing to do. The system forced me to do it." <sup>44</sup>

There is growing recognition of the problem and this can also be seen in the public's vote to legalize marijuana in some form in 29 states and to make recreational marijuana legal in 9 states.

---

<sup>44</sup> (Craven 2015)



## How Conflict Resolution Can Help

“How do we rectify a system that so brilliantly serves its intended purpose?”

(Roberts, 2).

There are many methods in which we can use conflict resolution and restorative justice tools to implement best practice victim and offender reconciliation. If what we desire from prison is a place where those who have offended go for correction, repentance and reform, victims of crime should be included in the conversation. Restorative justice needs to be the center of our criminal justice system and using isolation and institutions as a means to protect the public should only be reserved for the most dangerous offenders who otherwise prove not to be able to reintegrate back into society. People should not be defined by the worst thing they have ever done for the rest of their lives but rather given the opportunity to atone for their offence through a restorative justice. There are many restorative justice tools that can be used in conjunction with one another meet the needs of each offender and victim. I will focus on legalizing drugs and providing substance abuse treatment, victim offender mediation programs, and the demilitarization of police and community policing. Illegal drug use and abuse that is addressed with a punitive criminal justice system and a militarized police force are just some of the societal problems that are contributing to astronomical incarceration rates. Providing adequate housing for the homeless, adequate mental health treatment for those who are sick and improving the social security net to can address the struggles of the poor are also things that are necessary to curb crime rates and decrease

our prison population. All of these societal should be examined in depth and implemented concurrently with the proposed reforms.

### Next Steps

Advocates of prison reform will fail to see legislative change if there continues to be a need or incentive for prison labor in public and private industry. Wages for those who are incarcerated need to be raised to take home pay that is actually the federal minimum wage. I propose that the wages of those who are incarcerated be wages comparable to employees who do the same work outside of prison. One of the first steps in reforming prisons could be to provide a comparable wage to those who are working voluntarily while incarcerated or to remove the benefit to states and private industry, which rely on prison labor. Prison reform must start with an end to the relationship that the United States has with free labor and commerce. If the wages for those who provide labor while they are incarcerated are comparable to those on the outside, corporations will not have any more of an incentive to use prison labor and the often exploitative relationship between the two would likely dwindle. It has also been argued that this will boost the economy by creating less competition for low-wage American workers on the outside. <sup>45</sup> Working class workers in political discussions have been influenced by the narrative that jobs are being offshored to low wage countries or that undocumented

---

<sup>45</sup> (Smith 2017)

immigrants are somehow responsible for a lack of working class job opportunities but some of this competition is caused by how the US exploits prison laborers.

The other cost I am concerned with is the cost on human rights. The war on drugs violates many human rights and creates a pipeline for citizens to lose their civil rights and serve prison time. The Universal Declaration of Human Rights states that, “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>46</sup> The war on drugs creates systematic human rights violations because it violates the right of people not be discriminated against based on the classes listed yet the criminal justice system in the U.S. is rife with bias that are based on these things.

Since we do not have data to show that drugs like marijuana are in fact just as dangerous as cocaine and methamphetamines, we shouldn't be locking up hundreds of thousands of people who have used drugs as a punishment for doing harm to society. We do not yet know the full benefits or harm that marijuana has on the body and society. The restrictions on marijuana's medical and recreational use, and Schedule I status have prevented trial studies that would provide the research to create best practice sensible drug legislation. De-scheduling the drug would allow for researchers to determine if marijuana is helpful for medicinal use and quantify its effectiveness. It would also allow for improved regulation of its sale and use recreationally by setting recommended federal

---

<sup>46</sup> (INPUD 2014)

guidelines and dosages. This would make the use of marijuana among those in states where the drug is recreationally legal more safe as more study of the drug would bring insight to proper dosage. Some of the things we do know about marijuana use is it cannot be used to the point of fatal overdose or toxicity. The inability for humans to fatally overdose while using marijuana makes in a good candidate for the clinical studies that are currently prohibited because of its federal scheduling.

## CHAPTER V

### ENDING THE WAR ON DRUGS

Howard Zehr sought to humanize the criminal justice system with his take on how restorative justice should be the focus of for criminal behavior.<sup>47</sup> Best practice restorative justice and rehabilitation programs have proven to be effective in preventing recidivism in some cases and often include processes that focus on the needs of the victim.<sup>25</sup> Restorative justice tactics have increased in popularity and have even been used for egregious violent crimes including murder.<sup>25</sup> For more serious crimes, restorative justice processes need to be extremely well practiced as not to re-traumatize the victims who have been harmed. For drug use there are some restorative justice practices that can be implemented more easily. Drug courts can be considered restorative and at the very least are rehabilitative.<sup>48</sup> Instead of being sentenced to time in prison often drug courts provide a holistic approach to certain drug offenses, include drug treatment, and sometimes counseling.<sup>26</sup> these treatments can vary in approach based on the resources available in each court.<sup>26</sup> Drug courts serve folks who have committed crimes that are related to their drug use, but are now being overused by courts who feel that marijuana users should be going to treatment. When only around 9% of marijuana users become dependent, drug court for many marijuana charges could be less helpful than previously

---

<sup>47</sup> Howard Zehr's (1990) *Changing Lenses: A new focus for crime and justice*, discusses how the western criminal justice system responds to wrongdoing. Zehr explains that restorative justice can be used from what we think of as minor offenses such as burglary to more severe crimes including rape murder and other violent crimes. Zehr provides an alternative to wrongdoing by including more restorative justice practices in the western legal system.

<sup>48</sup> (Fulkerson 2009)

thought. Marijuana treatment that is unneeded might be keeping out people who are addicted to heavier substances whose lives may be in more imminent danger without treatment.<sup>49</sup>

### Ending Marijuana Prohibition

With regard to marijuana legislation we see the opposite. The general public in the United States is making a shift toward decriminalization of this substance but legislation surrounding decriminalization has been slow moving. This culture shift has been slow as well but can be attributed to 'tough on crime' policies that sway public opinion and understanding on the risks and association of marijuana. The policies and police practices that remain stagnant and continue to disproportionately affect minority and poor communities and continue to rob those communities of the opportunity to break cycles of poverty and crime. The war on drugs was a campaign not aimed at drugs that were dangerous as nearly 80% of the growth in drug arrests in the late 1990's were due to marijuana infractions (Alexander, 59).

“On the other hand, it is contended that any infringement of individual liberty is itself a harm for which there must be justification; that there is no proof that society is harmed by private immorality; that the enforcement of laws against private sin is necessarily impartible and uneven handed” (Lafave, 8).

---

<sup>49</sup> (Ingraham 2015)

The criminal justice system is being used to treat addiction with punishment for biological dependence. Rather than treating the addiction problem itself with best practice methods, addiction itself has been criminalized. Addiction to substances should be considered in many cases a defense to criminal liability in regard to possession charges similar to the way insanity, coercion and self-defense are defenses to liability. We now know that addiction is a disease and not a moral failure but we often respond to addiction, drug use and abuse, with punishment in the form of incarceration which does nothing to address what causes someone to repeat a drug offense. Incarceration is not an answer for a chemical dependence. We have relied on incarceration as an answer to chemical dependence because of its ties to a steady flow of workers and the United States history of labor exploitation among vulnerable populations. Mandatory minimum laws for minor marijuana possession have created a flow of folks who are available to work while incarcerated. Drug Courts serve as a good first attempt at addressing drug crime that is associated with addiction but it is less effective for marijuana law. A more visionary and revolutionary approach is needed to end the war on drugs.

With regard to marijuana use, the criminal justice system punishes the use of a substance that is rapidly becoming socially acceptable and is legal for both medical and recreational use from state to state. Although there are many other substances that have been proven to be more harmful and highly addictive to marijuana the scheduling of marijuana does not reflect its known danger. Marijuana is classified as one of the most dangerous drugs alongside heroin and amphetamines, putting those who use the drug at

risk for harsher penalties and long sentences in places where it is not legal. This scheduling also limits researchers on conducting studies necessary to see its harm or benefits. Criminalizing drug use and abuse becomes particularly troubling when there is so much variance between state laws. Growing marijuana in allowed quantities in Oregon shouldn't be what sends another person to prison in Oklahoma but as the law stands now, that is the case. The rhetoric of 'states rights' used by politicians as a means to keep drug policy status quo should not hinder best practice drug policy. In the short term a federal change to drug policy could level the playing field for those who are being sentenced to long stays in prison over possessing a drug that might be legal in a neighboring state. This will take public buy-in but needs to be something that is pushed from our presidential administration to succeed.

### Legalizing Drugs and Providing Treatment

Prison is simply not the place for those who are in need of drug treatment to be rehabilitated. Prisons are not equipped for drug rehabilitation and as a result do not help those with addiction problems to leave prison with the tools to avoid relapse. Addiction should no longer be criminalized and the possession of illegal drugs should not be something our police forces dedicate their resources to. It is wasteful to target those with addiction problems as criminals who should be incarcerated when their chemical dependence is what keeps them from being able to stop using. The deterrence, punishment, retribution that prison and criminal law is supposed to assist with is not solved by incarcerating those who offend by the use and possession of drugs they are



addicted to. The fear of incineration that deters someone from using drugs might also encourage addicts to stop use but some chemical dependencies on drugs are so strong that quitting cold turkey is not only extremely difficult but also in some cases fatal. Marijuana is not a drug that can cause a fatal withdraw response but those who are dependent will likely respond to treatment better than incarceration. The immediate adjustment that can be enforced by law enforcement department overnight is to stop dedicating their resources to possession charges. This would mean an immediate end to stop and frisk policing.<sup>50</sup>

#### Victim Offender Reconciliation

Victim offender mediation programs when used correctly are often viewed as positive for all parties involved. Even in more extreme cases, there has been success in victim and offender mediation programs. Seeing the true consequences of crime in the first hand from a victim can be transformative and give voice to victims who are often silenced in the current criminal justice process. In the case of drug use, particularly marijuana, use we often think of it as a victimless crime but the approach of mediation through public forum on how the sale of marijuana effects the health and safety in a community can also be of benefit. Educating the public on how illegal marijuana use has an impact on their community and giving light to the dangers that illegal sale have might

---

<sup>50</sup> (Bump 2016) Stop-and-Frisk refers to a practice of stopping subjects law enforcement officers have a reasonable suspicion that a suspect is armed or dangerous. Stop and frisk allowed officers to detain and search people for reasons that were often vague. Stop and frisk practices disproportionately effect blacks and Latinos.

deter illegal use. It also encourages community members to be autonomous over their neighborhoods.

Prison abolition includes the following goals proposed by Roberts, “The goals of an abolitionist movement would be: to drastically reduce the prison population by seeking state and federal moratoriums on new prison constructions, amnesty for most prisoners convicted of nonviolent crimes, and repeal of excessive, mandatory sentences for drug offenses; to abolish capital punishment; and to implement new procedures to identify and punish patterns of police abuse “(Roberts, 10). Prison abolition would need to include many facets and its goals would be not only to reduce those who are incarcerated but also implement best practice methods for reconciling with offenders and victims.

### Moving Away from Prison Backed Policing

Beginning with policing practices, ethnic minorities are disproportionately stopped and arrested for drug related crime. While there have been no studies to suggest that black people commit crimes at higher rates than any other race. The racial biases that continue to regenerate are derived from slavery. Grave racial biases exist in policing practices and have become part of the institution that is our current criminal justice system. The problem is that the criminal justice system as it stands is inherently racist unjust. While the criminal justice system is a new system, it functions similar to the racist institutions of the past. “Although this new system of radicalized social control purports to be colorblind, it creates and maintains racial hierarchy much like earlier systems did.

Like Jim Crow ( and Slavery), mass incarceration operates as a tightly networked laws, policies, customs and institutions that operate collectively to ensure the subordinate status of a group defined largely by race.”(Alexander, 27). Since the institution of prison in the US has proven to be so biased and harmful, I propose prison abolition as the means to achieve some of an equitable criminal justice system. Providing adequate addiction treatment coupled with the legalization of drugs, especially marijuana, using restorative justice as a primary means of crime retribution, and prevention, I will discuss the ways the field of conflict resolution can be a major contributor to creating a more equitable criminal justice system.

There are extreme and dangerous racial biases in the way people in the US are policed. This is widespread and can be observed in all regions of the US. The ACLU reports that in regard to marijuana possession, blacks are 3.73 times more likely to be arrested for possession of marijuana than whites (ACLU, 17). The American Civil Liberties Union also reports that blacks do not use marijuana at higher rates than whites. In fact, there has been a consistent trend in reported drug use since 2001 that whites use marijuana at slightly higher rates than blacks. The racial disparity in arrests and incarceration therefore are not related to who is committing crime but rather who is more likely to be convicted and sentenced to committing a crime. We have created and continue to support a criminal justice system that is drenched with racial bias and practices that are doing very little to protect society from harm or to rehabilitate offenders.

Prison backed policing also contributes to the prison industrial complex and it creates an atmosphere of fear in communities who should be relying on police to keep them safe. To begin the process of the abolition of prison, we must first end prison backed policing practices. There are an unlimited number of ways that our communities can respond to the harm and crime that often accompany substance abuse that don't require imprisonment as punishment for harm. Mediation, reconciliation and victim offender programs that do not include the threat of prison time must be exhausted in crime before the use of segregating a citizen from society is necessary. We find that now the threat of time in prison is the primary mechanism used for deterring crime.

Criminal law should be focused on how we can use criminal law—principally deterrence, incapacitation, rehabilitation, and retributive justice— to prevent harm to those who offend and others. This might be pursued by means entirely apart from criminal law enforcement. Rather than incarcerate to end the harm that substance abuse causes to the community and to addicts there are a number of ways that we can address the problem of drug use and addiction. Criminal law can deter folks from using but for those who are already addicted to substances

### Prison Abolition

The idea of prison abolition sounds to some as a radical and unattainable approach to prison reform but given the history of prison and its exploitation of citizens and the grave human rights violations that US prisons, it is a necessary step in truly reforming and transforming the current criminal justice system. Prison does not have to be a permanent feature of our social lives and once we get past the idea that it does, we

can see that it is the next step in working to create racial justice in the US. There is historical precedent for the abolition of a structure that was thought to be inseparable from the American way of life and that is the abolition of slavery. At one time it was inconceivable that the institution of slavery cease to exist and abolitionists were thought to of as utopian extremists. Davis explains that white abolitionists during this time struggled be able to consider black folks as equals even though they desired to end slavery. “The belief in the permanence of slavery was so widespread that even white abolitionists found it difficult to imagine black people as equals.”(Davis, 23). White supremacy had gripped society that it believed the permanence of slavery or some sort of legal system that separated blacks from society was necessary. Davis explains that in the time of resistance to the institution of slavery, lynching and Jim Crow there have always been racial voices pushing for their abolition. Prison abolition is the next phase of radical stances

Angela Davis suggests in “Are Prisons Obsolete” that we examine the function of the prison similar to the way we have examined the function of the death penalty in our criminal justice system. Davis explains that, “Many people have already reached the conclusion that the death penalty is an outmoded form of punishment that violates basic principles of human rights. It is time, I believe, to encourage similar conversations about prisons.” (Davis, 10). It was 150 years ago when slavery was abolished and the stain of institutional racism remains and has been reborn in our criminal justice system.

Why does the existence of prisons make us feel safer? We think of prisons as a place for others and separate the reality of prison life. We justify what we imagine those

who are incarcerated go through because we label those who have offended as criminals. Davis explains “we thus think about imprisonment as a fate reserved for others, a fate reserved for the “evildoers,” (Davis, 16). The prison serves as a place where society disposes of what it considers undesirable. If we come to terms with the fact that those others are disproportionately poor black and suffer from mental illness, we can get to the core of why prison reform alone may not be enough for the kind of sweeping change that needs to be had in the criminal justice system. The pipeline of slave labor to Jim Crow to the prison industrial complex is undeniable and preserving an ineffective institution that perpetuates racism and classism is negligent. It should be the federal government’s responsibility to ensure that it is promoting best practice policing and criminal justice and it is the federal government that should be the leaders of the prison abolition movement. Those of us on the outside who have not visited a prison or been unfortunate enough to be sentenced to prison are unaware of the realities of prison. We rely on the media and film to get our information about prison and then use our votes to make policy decisions for an existence we have very limited experience with.

I was able to hear about the experience of those who have been incarcerated and some of the trauma they experienced while they were serving prison time. By while attending an event put on by the Civil Liberties Defense Center a panel of those who were formerly incarcerated shared their experiences with those in attendance. One man described how he witnessed another man die before his eyes while guards did not allow other inmates to attempt resuscitation on this man. Stories like this are more common

than the public would think and the human rights violations that are occurring in our jails and prisons can no longer be ignored.

A prison should be designed to dissolve once a population becomes more and in line with the general population's values. When correction occurs the need for prisons is diminished and therefore the closure of a prison in areas where there is a decrease in crime should not be uncommon. Instead we see that as crime decreased as a result of improved an improved economy, stabilizing drug markets resulting in less violent inter-gang conflict, and an aging population, among other things prisons expansions have continued. <sup>51</sup>

---

<sup>51</sup> (Chettiar 2015)

## CHAPTER VI

### CONCLUSION

The United States drug policy is in need of reform. Current drug policies have criminalized addiction and caused an influx of people into the criminal justice system and into prison and jails. This movement toward mass incarceration has been costly but has benefited states and private industry by providing a cheap or free workforce available for use. There are human rights violations that come with the use of prison labor at little to no cost. Although prison labor is technically voluntary it is comparable to slavery because prison laborers can be reprimanded or punished for refusing to work. Prison laborers do not have any of the protections available to workers doing the same jobs. There is institutional racism in our criminal justice system which arrests and incarcerates people of color at disproportionate rates. Not only is this unethical but it mimics historical institutional racism the US has face in slavery and Jim Crow law.

In response to the problems that have manifested from our failing criminal justice system several actions need to be taken to begin to end the war on drugs. Policing practices that target people of color need to end immediately. Victim offender medication practices and restorative justice practices that will address offenses holistically and reduce recidivism need to be more widely spread and regularly used. Ultimately there needs to be a call to abolish the institution of prison that we find it hard to conceptualize our lives without. The US prison system is so biased and faulty that attempts to make the



system more equitable means being complicit in allowing one of the most pressing human rights issues of our time.

## REFERENCES CITED

- Alexander, Michelle. 2011. *The Guardian*. March 31. Accessed May 2018.  
<https://www.theguardian.com/commentisfree/2011/mar/31/america-jim-crow-race-war-on-drugs>.
- all, Renee M Johnson et. 2015. "Past 15-Year Trends in Adolescent Marijuana Use: Differences by Race/Ethnicity and Sex." *HHS Public Access* 21.
- n.d. "Anti-Drug Abuse Act of 1986 H.R. 5484 99th Congress ."
- Barnes, Katherine Y. 2005. "The Efficacy of Drug Interdiction Absent Racial Profiling." *Duke Law Journal* 45.
- Beck, David. 2016. *Law Enforcement Against Prohibition* . June. Accessed May 2018.  
<https://lawenforcementactionpartnership.org/about/why-legalize-drugs/>.
- Benns, Whitney. 2015. *TheAtlantic.com*. September 21. Accessed May 2018.  
<https://www.theatlantic.com/business/archive/2015/09/prison-labor-in-america/406177/>.
- Blackmon, Douglas A. 2008. *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*. New York: Random House.
- Bonta, James. 2003. "Restorative Justice and Recidivism." *Public Safety Canada* 2.
- Boston Globe. 2018. *The Boston Globe*. January 5.  
<https://www.bostonglobe.com/opinion/editorials/2018/01/05/jeff-sessions-reignites-drug-war/eyJ2EbwPRjSQ8Jlo93jnK/story.html>.
- Bozelko, Chandra. 2017. *National Review* . January 11. Accessed May 2018.  
<https://www.nationalreview.com/2017/01/prison-labor-laws-wages/>.
- Bromwich, Jonah Engel. 2017. *The New York Times*. October 12.  
<https://www.nytimes.com/2017/10/12/us/prison-reform-steve-prator.html>.
- Bump, Phillip. 2016. *The washinton post* . September 26.  
[https://www.washingtonpost.com/news/the-fix/wp/2016/09/21/it-looks-like-rudy-giuliani-convinced-donald-trump-that-stop-and-frisk-actually-works/?noredirect=on&utm\\_term=.650d1aca4e98](https://www.washingtonpost.com/news/the-fix/wp/2016/09/21/it-looks-like-rudy-giuliani-convinced-donald-trump-that-stop-and-frisk-actually-works/?noredirect=on&utm_term=.650d1aca4e98).
- Cameron, Jennifer M. 1956. "Encyclopedia of Drug Policy ." *Narcotic Control Act of 1956*. Edited by <http://sk.sagepub.com/reference/drugpolicy/n238.xml>. SAGE.

- Caporizzo, Cynthia. 2011. *ObamaWhiteHouseArchives*. November 30. Accessed May 2018. <https://obamawhitehouse.archives.gov/blog/2011/11/30/prisoner-reentry-programs-ensuring-safe-and-successful-return-community>.
- Chettiar, Inimai M. 2015. *The Atlantic*. February 11. <https://www.theatlantic.com/politics/archive/2015/02/the-many-causes-of-americas-decline-in-crime/385364/>.
- Colorblindness, The New Jim Crow: Mass Incarceration in the age of. 2010. *The New Jim Crow*. New York: New Press.
- n.d. "Comprehensive Drug Abuse Prevention and Control Act 1970, 84 U.S.C.S. §§ 531-1236."
- Congress.Gov. 1986. "Anti-Drug Abuse Act of 1986." *Law*. Edited by Anti-Drug Abuse Act. <https://www.congress.gov/bill/99th-congress/house-bill/5484>, October 27. 99-570.
- n.d. "Controlled Substances Act 1970, 84 U.S.C.S. §§ 91-513."
- Craven, Julia. 2015. *The Huffington Post*. February 19. [https://www.huffingtonpost.com/2015/02/19/judge-regrets-weed-sentence\\_n\\_6713568.html](https://www.huffingtonpost.com/2015/02/19/judge-regrets-weed-sentence_n_6713568.html).
- Criminal Justice Policy Foundation . 2018. *Mandatory Minimums and Sentencing Reform* . June. <https://www.cjpf.org/mandatory-minimums/>.
- Davis, Angela. 2003. *Are Prisons Obsolete*. New York: Seven Stories Press .
- DEA. 2013. "DEA Stance on Marijuana." *U.S Drug Enforcement Administration*. April. Accessed May 2018. [https://www.dea.gov/docs/marijuana\\_position\\_2011.pdf](https://www.dea.gov/docs/marijuana_position_2011.pdf).
- DeMerceau, John. 2018. *Chron*. February 20. Accessed May 2018. <http://work.chron.com/disqualifies-being-fireman-5400.html>.
- Erin Torneo, Jennifer Thompson, Ronald Cannino. 2010. *Picking Cotton: Our Memoir of Injustice and Redemption*. New York: St. Martin's Press.
- Fulkerson, Andrew. 2009. "The Drug Treatment Court as A Form of Restorative Justice ." *The Contemporary Justice Review* 253-267.
- Grim, Ryan. 2016. *Huffington Post*. April 15. Accessed May 2018. [https://www.huffingtonpost.com/entry/mississippi-prisons-budget-marshall-fisher\\_us\\_57112e8fe4b06f35cb6f8173](https://www.huffingtonpost.com/entry/mississippi-prisons-budget-marshall-fisher_us_57112e8fe4b06f35cb6f8173).
- Hassine, Victor. 1996. *Life Without Parole*. Los Angeles : Roxbury Publishing Company.

- HHS, US. 2017. *US Department of Health and Human Services*. Decemeber . Accessed May 2018. <https://www.hhs.gov/opioids/about-the-epidemic/>.
- Hward, Victor B. 2001. "Black Prisoners and Their World: Alabama, 1865-1900." *History: Reviews of New Books* 59.
- Ingraham, Christopher. 2015. *The Washington Post* . December 15. Accessed May 2018. [https://www.washingtonpost.com/news/wonk/wp/2015/12/14/courts-are-forcing-marijuana-users-to-get-drug-treatment-they-probably-dont-need/?noredirect=on&utm\\_term=.e10eed4b8de9](https://www.washingtonpost.com/news/wonk/wp/2015/12/14/courts-are-forcing-marijuana-users-to-get-drug-treatment-they-probably-dont-need/?noredirect=on&utm_term=.e10eed4b8de9).
- INPUD. 2014. *UNODC.Org*.  
[https://www.unodc.org/documents/ungass2016/Contributions/Civil/INPUD/DUPI-Violations\\_of\\_the\\_Human\\_Rights\\_of\\_People\\_Who\\_Use\\_Drugs-Web.pdf](https://www.unodc.org/documents/ungass2016/Contributions/Civil/INPUD/DUPI-Violations_of_the_Human_Rights_of_People_Who_Use_Drugs-Web.pdf).
- Johnson, Carrie. 2016. *NPR*. August 18. <https://www.npr.org/sections/two-way/2016/08/18/490498158/justice-department-will-phase-out-its-use-of-private-prisons>.
- Jr., James Forman. 2012. "Racial Critiques of Mass Incarceration: Beyonce the New Jim Crow." *Yale Law School Legal Scholarship Repository* 49.
- Justice, Bureau of. 2014. *Office of Justice Programs* . April 5. <http://www.bjs.gov/>.
- Katz, Josh. 2017. *The New York Times*. June 5. Accessed May 2018. [https://www.nytimes.com/interactive/2017/06/05/upshot/opioid-epidemic-drug-overdose-deaths-are-rising-faster-than-ever.html?\\_r=0](https://www.nytimes.com/interactive/2017/06/05/upshot/opioid-epidemic-drug-overdose-deaths-are-rising-faster-than-ever.html?_r=0).
- Keller, Bill. 2017. *The Marshall Project* . July 17. Accessed May 2018. <https://www.themarshallproject.org/2017/07/19/nine-lessons-about-criminal-justice-reform>.
- Lageson, Sarah Esther. 2016. "Find out and Opting Out: The Consequences of Online Criminal Record For Families." *The ANNALS of The American Academy of Political and Social Science* (SAGE Journals) 665 (1).
- Lewin, Tamar. 2016. *The New York Times*. March 6. <https://www.nytimes.com/2012/03/06/education/black-students-face-more-harsh-discipline-data-shows.html>.
- Little, Becky. 2017. *History.com*. August 4. Accessed May 2018. <https://www.history.com/news/why-the-u-s-made-marijuana-illegal>.

- Lowe, Jaime. 2017. *New York Times*. August 31. Accessed May 2018.  
<https://www.nytimes.com/2017/08/31/magazine/the-incarcerated-women-who-fight-californias-wildfires.html> .
- n.d. "Marihuana Tax Act 1937, 26 U.S.C.S. §§ 4751-4753."
- Miller, Justin. 2017. *The American Prospect* . October 17. Accessed May 2018.  
<http://prospect.org/article/both-red-and-blue-states-rely-prison-labor>.
- NAACP. 2018. *NAACP.ORG*. May. Accessed May 2018. <http://www.naacp.org/criminal-justice-fact-sheet/>.
- n.d. "Narcotic Control Act 1956, 70 U.S.C.S. §§ 567-629."
- National Institute on Drug Abuse. 2018. *Opioid Overdose Crisis*. Advancing Adiction Science . March. <https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis>.
- Nellis, Ashley. 2016. *The Sentencing Project* . June 14. Accessed May 2018. 29.  
<https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.
- NORML. 2018. *NORML Working To Reform Marijuana Laws*.  
<http://norml.org/about/intro>.
- Pagano, Alyssa. 2018. *Business Insider* . March 2. Accessed May 1, 2018.  
<http://www.businessinsider.com/racist-origins-marijuana-prohibition-legalization-2018-2>.
- Patrick A Langa, David Levin. 2002. *Bureau of Justice* . June. Accessed May 2018.  
<https://www.bjs.gov/content/pub/pdf/rpr94.pdf>.
- PBS. 2014. *PBS Frontline* . Accessed May 2018.  
<https://www.pbs.org/wgbh/pages/frontline/shows/drugs/cron/>.
- Presidents Advisory Commission . 1963. *Final Report*. Washington, U.S. Gob't Print Off.
- Project, The Sentencing. 2016. *The Sentencing Project: Drug Policy*. June. Accessed May 2018. <https://www.sentencingproject.org/issues/drug-policy/>.
- Robinson, Melina. 2018. *Business Insider*. April 20. Accessed May 2018.  
<http://www.businessinsider.com/legal-marijuana-states-2018-1>.
- Sawyer, Wendy. 2017. *Prison Policy Initiative*. April 10. Accessed May 2018.  
<https://www.prisonpolicy.org/blog/2017/04/10/wages/>.

- Shenkus, Sarah. 2015. *The Guardian*. December 9. Accessed May 2018.  
<https://www.theguardian.com/sustainable-business/2015/dec/09/prison-work-program-ohsa-whole-foods-inmate-labor-incarceration>.
- Smith, Noah. 2017. *Bloomberg*. June 2. Accessed May 2018.  
<https://www.bloomberg.com/view/articles/2017-06-02/paying-inmates-minimum-wages-helps-the-working-class>.
- The PEW Charitable Trust. 2015. "Pew Trust." *Pew Trust Federal Drug Sentencing* . August 27. Accessed May 2018. <http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/08/federal-drug-sentencing-laws-bring-high-cost-low-return>.
1935. "Uniform Narcotic Drug Act ." § 474.010 . Oregon. 905-914.
- n.d. "United Staes Constitution. Amendment. XII."
- n.d. "United States Constitution Amendment X."
- US Department of Health & Human Services. 2015. *National Institutes of Health*. October 21. Accessed May 2018. <https://www.nih.gov/news-events/news-releases/prevalence-marijuana-use-among-us-adults-doubles-over-past-decade>.
- Violent Crime Control and Law Enforcement Act. n.d. "Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355, Pub.L. 103–322."
- Wallenstein, Peter. 2004. *Blue Laws and Black Codes*. Morgantown: University of West Virginia Press .
- Yates, Sally Q. 2016. *United States Department of Justice Archives* . August 18.  
<https://www.justice.gov/archives/opa/blog/phasing-out-our-use-private-prisons>.
- Zehr, Howard. 2002. *The Little Book of Restorative Justice*. New York: Good Books.