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*Etceteras . . .*

## Lock ‘em Up!

Let’s play the old form-a-line game. Suppose you took all the people incarcerated in U.S. jails and prisons as of June 30, 1998, and formed them into a line, with the individuals standing one yard apart. How far would the line stretch? Starting from Boston, it would reach almost to Atlanta. You can form a long line with 1,802,496 individuals.

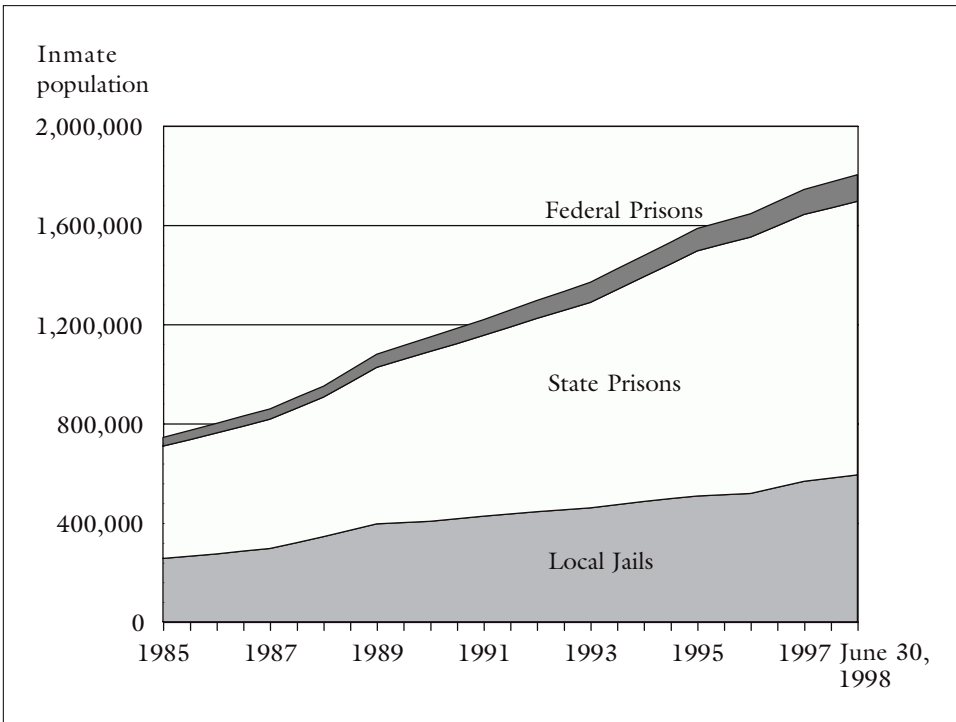
Back on December 31, 1985, the line would have stretched less than half that far, only from Boston to the southern suburbs of Baltimore. (See figure 1 for a graphic history.) But during the next twelve and a half years, the incarcerated population grew at an average annual rate of 7.3 percent. (The entire U.S. population increased about 1 percent per year.) At the end of 1985, of every 100,000 persons, 313 were confined; by the middle of 1998, the incarceration rate was 668. If the incarcerated population continues to grow at the rate experienced since 1985, then by the middle of 2008 our imaginary line will be long enough to extend from Boston to Atlanta, then turn west and continue all the way to San Antonio, Texas.

Here’s another way to picture the prisoners. If you gathered all of them together in a formerly vacant location, you would have an agglomeration about as populous as Houston, the fourth-largest U.S. city. Add the more than 3 million persons on probation, and you would have an aggregation larger than any U.S. city except New York. (Of course, New York City itself would be a good deal smaller once its convicts and probationers had been relocated.)

(Sources of data for the preceding calculations include the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Bulletin*, NCJ 173414, March 1999; the *1996 Rand McNally Road Atlas*; and the *Statistical Abstract of the United States 1997*.)

In 1998, men constituted the great bulk—about 92 percent—of the nation’s incarcerated population, but as in so many other areas of American life, the women have been catching up. In the state and federal prisons, females accounted for 4.1 percent of all inmates in 1980, 5.7 percent in 1990, and 6.4 percent in 1998. In the jails—the locally operated penal institutions, as opposed to the federal and state prisons—females accounted for 9.2 percent of the adult inmates in 1990 and 10.9 percent in 1998 (Bureau of Justice Statistics, *Bulletin*, NCJ 173414, 4, 6).

**Figure 1**  
**Inmates in U.S. Prisons and Jails**



Nationally, the jail population in 1998 was 41 percent white, 41 percent black, 16 percent Hispanic, and 2 percent other ethnicities. Unfortunately, this black–white equality is not exactly the sort for which people of good will have been yearning, because relative to their numbers in the overall population, blacks are six times more likely than whites to be in jail (Bureau of Justice statistics retrieved on March 26, 1999, from the Internet at <http://www.ojp.usdoj.gov/bjs/glance/corr2.txt>).

At current rates of imprisonment, federal and state prisons will house 285 of every 1,000 black men, 160 of every 1,000 Hispanic men, and 44 of every 1,000 white men at some point in their lives. For black men, doing time is fast approaching the norm. “The stigma against going into the criminal-justice system is almost gone,” according to Harlem youth worker Geoffrey Canada. “It’s like going away to war. Everyone gets called. You go, you do your time. It’s no big thing” (Canada as quoted in “Frustration with Crime Wave, and Criminals, Led to a Huge Surge in the Construction of Jail Cells,” *Wall Street Journal*, October 27, 1998).

If the total incarcerated population continued to grow by 7.3 percent annually, it would double about every ten years, whereas the total population, growing at 1 percent annually, would need about seventy years to double. Thus, in the decade of the 2080s—within the lifetime of many people already born—the prison population

would overtake the total population. I leave it as an exercise for the reader to determine who would serve as guards.

## Why the upsurge of imprisonment?

Here is a one-word clue: *drugs*. Of the federal prisoners in 1996, fully 60 percent were serving time for drug offenses; of the far more numerous state prisoners, 23 percent had drug convictions. Virtually all the growth of the federal inmate population since 1988 has resulted from the addition of drug offenders. Between 1985 and 1995, state prisons added 537,000 inmates altogether, increasing their overall population by 119 percent. They took in an additional 186,000 inmates convicted of drug offenses, swelling that category by 478 percent. (See the Bureau of Justice Statistics sources cited earlier.) But drug prohibition explains even more of the upsurge than the foregoing data indicate, because many of those imprisoned for violent or property offenses would never have committed their crimes but for the illegality of the drug trade, which prompts sellers to settle disputes violently and leads some heavy consumers to steal in order to get the wherewithal to pay for high-priced goods on the black market.

In the 1980s, Americans allowed their political leaders and the news media to stampede them into a full-blown “war on drugs”—more precisely, an attack on the users, buyers, and sellers of a few substances officially designated as diabolical. Congress and the states passed mandatory minimum sentencing laws that required the imprisonment of even first-time drug offenders, individuals guilty, in many cases, of nothing but possessing the illicit substance. Citizens who have supported this holy war can now take pleasure in pondering the multitude of POWs it has produced.

The simpletons who expected the jihad to create a drug-free society must be disconcerted, however, that notwithstanding the more than 400,000 persons imprisoned for drug offenses, the drug trade continues to flourish. Although crime rates have dropped sharply in recent years for many categories of crime, including murder, robbery, and assault, close observers report that “drug use has not budged for ten years” (Timothy Egan, “Less Crime, More Criminals,” *New York Times*, March 7, 1999). As the FBI agent Burdena Pasenelli commented after police in downtown Seattle had made 125 arrests in a “buy/bust” operation in just three days, “the minute a suspected dealer is arrested, another person quickly moves into the area and resumes sales” (Pasenelli as quoted in “125 Suspects Arrested in Seattle Drug Sweep,” *Seattle Times*, September 20, 1997).

## Cui bono?

“We have a failed social policy and it has to be re-evaluated,” says General Barry R. McCaffrey, the nation’s drug czar. “Otherwise, we’re going to bankrupt ourselves. Because we can’t incarcerate our way out of this problem.” Echoing the czar’s refrain,

the criminologist Julia Glover Hall declares, “It’s a stupid game we’re playing. We’re locking up all these nonviolent offenders, pouring money down a rat hole” (McCaffrey and Hall as quoted in Timothy Egan, “The War on Crack Retreats, Still Taking Prisoners,” *New York Times*, February 28, 1999). But one man’s failed social policy is another man’s road to riches, or reelection. At the bottom of a rat hole, don’t be surprised to find a rat.

Just ask the Cleveland police, forty-four of whom were caught in an FBI sting in 1998 and arrested for taking payoffs from drug traffickers in exchange for providing security to those subterranean businessmen (Pam Belluck, “Police Caught in Sting,” *New York Times*, January 25, 1998). Call me magnanimous, but I’ll wager that the cops in other places are just as smart as those in Cleveland when it comes to seizing a convenient opportunity to supplement their salaries.

Indeed, the drug war has been a bonanza even to law-abiding cops, as the altered forfeiture laws have given the police free rein to seize private property more or less at will. If innocent people whose property is seized act quickly and avail themselves of astute lawyers, they may, after much toil and trouble, recover their possessions, but many unfortunates act too slowly or lack adequate legal counsel and therefore never retrieve what the police have snatched. As Bruce L. Benson and David W. Rasmussen have written, “The 1984 federal confiscations legislation followed a period of active advocacy by federal, state, and local law enforcement officials, who emphasized that it would foster cooperation between their agencies and increase the overall effort devoted to and the effectiveness of drug control.” Along with other researchers, Benson and Rasmussen have adduced evidence that “law enforcement agencies focus resources on enforcement of drug laws because of the financial gains for the agencies arising from forfeitures” (“Predatory Public Finance and the Origins of the War on Drugs, 1984–1989,” *Independent Review* 1 [Fall 1996]: 163–89; quotations on 176, 178). If in the process of padding their budgets the police arrest a throng of street-corner entrepreneurs who subsequently land in prison, well, *c’est la guerre*.

Consider also that every dollar of the estimated \$35 billion spent on fighting the drug war winds up in somebody’s pocket. Hence, we now have what some have dubbed “the prison-industrial complex,” in which workers, firms, and entire communities have acquired a vested interest in building and operating prisons. As if this situation were not bad enough, “unions representing prison guards are the fastest-growing public employee associations in many states” (Egan, “Less Crime”). With politicians, unions, and construction firms all sleeping in the same bed, the lock-em-up policy seems likely to remain ensconced indefinitely.

And make no mistake: the politicians know a good deal when they stumble onto one. Large majorities of voters continue to support the attack on drug users and dealers, despite the soaring costs of imprisoning more and more people. Says James Alan Fox, dean of the college of criminal justice at Northeastern University, “For politicians, the drug debate is driven by the three R’s—retribution, revenge, retaliation—

and that leads to the fourth R, re-election” (Fox as quoted in Egan, “The War on Crack”). Never underestimate the capacity of the American public to cough up money for drum-beating politicians to squander in righteous and futile assaults on sin.

Nor is money the only thing the American public longs to sacrifice. In a 1998 Gallup poll, 62 percent of the respondents agreed that in order to reduce drug use they “would be willing to give up some freedoms” (poll quoted in Egan, “The War on Crack”). The pollsters ought to have inquired about surrendering some *more* freedoms, because many already have been obliterated by the fearless drug warriors, who would never let a flimsy thing like the Bill of Rights stand in their way.

According to data from a recent National Household Survey on Drug Abuse, some 14 million Americans used illegal drugs in the month before the 1997 survey (Egan, “The War on Crack”). With one user per yard, a line formed by these people would extend from Boston to Atlanta to Los Angeles to Seattle to Boston and, starting over, nearly to Washington, D.C.—not the sort of image that eases a zealous drug czar into a peaceful night’s sleep. Yet the number of self-reported recent users surely falls short of the actual number; and millions of other people have enjoyed the forbidden substances in earlier times and may someday wish to indulge again. Despite the desires of many millions of consumers to acquire the products regularly, and of millions of others to acquire them occasionally, the governments of the United States seem hell-bent to continue law enforcement that results in the imprisonment of ever larger numbers of these consumers and the businessmen who cater to their demands.

These facts may incite some spectators to enter into a theological debate about whether a man has a God-given right to choose his own poison. I am inclined to view the whole sad spectacle from a zoological perspective, recalling H. L. Mencken’s observation that “men are the only animals that devote themselves, day in and day out, to making one another unhappy” (*A Mencken Chrestomathy* [New York: Vintage, 1982], 617).

ROBERT HIGGS