

Abolition Corner: The History of Incarceration

There are many threads throughout history that show the origin and history of incarceration in the U.S. We've chosen a few.

The Origin of Incarceration as punishment

For most of history, incarceration in Western white dominated society wasn't used as punishment but rather as a way to contain people *before* judgment and punishment. Punishment was often capital and corporal: it looked like time in the stocks, execution, etc.

About 250 years ago in 1773, the U.S. opened Philadelphia's Walnut St. Jail. There was no attempt at rehabilitation. In 1790 the jail added the "Penitentiary House." This was a religious-based change; instead of spending time in the stocks or held, your punishment was to go to the "penitentiary house" to be coerced into penance for breaking the law or "sinning". The idea here was that some people could be redeemed, through torturous conditions of solitary confinement. This religious-based reform from capital/corporal punishment to incarceration could be seen as progressive. It spread rapidly throughout the U.S and even to Norway.

Keep in mind, this was during Indigenous genocide, Colonialism, and enslavement of Black people so the incarcerated population was a white population. Not only white, but also able-bodied and male-presenting because those who did not fit into these categories were seen as unable to be "saved" or restored to "proper manhood." Instead, women were often sent to reformatories to reform them from wayward women into model housewives and mothers. Disabled people were sequestered to other institutions. This style of incarceration only existed for about 90 years. Then, after the Civil War (1861- 1865), the system of incarceration was majorly reformed into the system we know today.

Incarceration as we know it

About 160 years ago, we thoroughly shifted away from the religious reform of rehabilitation as penance. The system of incarceration, the

nature and population, radically changed. It became more punitive and strategically targeted, particularly affecting Black people and disabled people..

To make this clear we can look at the Black Codes - laws criminalizing certain behaviors but only for Black people (like curfews, missing work, gathering in small groups, being perceived as vagrant). Another example is the so-called "Ugly Laws" that literally criminalized disabled people for being disabled. Using the words of 1867 San Francisco Code & 1881 Chicago City Code, these laws outlawed anyone "diseased, maimed, and mutilated, or in any way deformed, so as to be an unsightly or disgusting object" from appearing in public.

The result of this reshaping of incarceration in the aftermath of the Civil War is clearly seen in the population change of prisons. In Alabama, 99% of people in prison were white before Emancipation, but after the Civil War and the Black Codes, Black people became the majority. In Georgia and Mississippi, the imprisonment rate for Black people rose 300%. Laws targeting Black people, like Jim Crow Laws, persisted and White Supremacy continued to be normalized and integrated into our laws, institutions, and society. Despite this, some people believe (and some history books teach) these racial underpinnings ended in the 60's, 100 years after the Civil War, when the Civil Rights Movement challenged Jim Crow Policies. The Nixon Campaign shows this is not true.

In 1968 the Nixon Campaign and Administration doubled down on this racially targeted system of incarceration. The Nixon Campaign is a good example of how policing and imprisonment became tools for incapacitating communities before they could demand social change. Nixon campaigned against Civil Rights organizing - what he called "mob rule".

"You want to know what this was really all about," John Ehrlichman, Domestic Policy Chief for the Nixon Administration said, referring to Nixon's declaration of war on drugs. "The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people. You understand what I'm saying. We knew we couldn't make it illegal

to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities. We could arrest their leaders, raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did."

Mass Incarceration

During this time, criminologists were concluding that prisons "did not significantly deter crime and predicted that the prison system would soon fade away." For example, in 1973 National Advisory Commission on Criminal Justice Standards and Goals found that "the prison, the reformative and the jail had achieved only a shocking record failure. There is overwhelming evidence that these institutions create crime rather than prevent it" and recommended facilities close with no more built. (Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New York Press, 2012), 8.)

Instead of responding to evidence proving incarceration harms rather than helps public safety, lawmakers and the media fanned "flames of fear" with Tough on Crime policies to create what we now call mass incarceration. In 1982, when neither the media or general public was concerned about drugs or crime, Regan followed Nixon's lead and launched his War on Drugs. This included the 1986 & 1988 Anti-Drug Abuse Acts which lengthened sentences, provided funding for the "war," and created the 100-to-1 sentencing disparity. Also the 1994 Violence Crime Control and Law Enforcement Act (1994 Crime Bill), which provided funding for more than one hundred thousand new police officers, dedicated \$9.7 billion for prisons, created 60 new death penalty offenses, and imposed longer including 3 strikes for federal crimes. 28 states + D.C. quickly accepted the opportunity to get federal money for harsher, longer, and more strict prison sentences. In 1998 with the Clintons, we saw rhetoric like

"super predators" referring to young Black boys that continued to fan the flames of mass incarceration.

These Tough on Crime / War on Drugs policies made no progress for public safety but did accomplish what John Ehrlichman revealed the true goal of the War on Drugs to be: controlling who they saw as a "threat" - "Black people."

According to The Sentencing Project, the state and federal prison population has grown nearly 600% from 1974 to 2014. Between 1980 and 2019, the number of incarcerated women increased by more than 700%.

We've seen that since the 1970s and until recently the United States has experienced a pronounced increase in its incarceration rate, largely due to our Tough on Crime policies. However, U.S. incarceration rate has been declining. Decreases in population are mostly from sentencing reforms at the state level explicitly designed to reduce incarceration rates. This means that although policy was a shovel that helped dig the hole of incarceration, it can also help dig us out.

What we Learn about the Origins of Incarceration

History shows us that the system of incarceration itself is not broken. It is working, it is just not working for safety or for us. We do not need to "fix" or reform something that is not working, we need to create something that is working for all of us.

Abolition Corner's approach to these topics is guided by *Prisons Make Us Safer And 20 Other Myths About Mass Incarceration* by Victoria Law and other sources gathered by [Initiate Justice's](#) Policy Analyst, Sarah Rigney. Written by Sarah Rigney. Edited by Michelle Cárdenas. Please request permission before reprinting.



Abolition Corner is a companion space to Initiate Justice's podcast, *Abolition is for Everybody*. This year, we will spend a few minutes in the beginning of each session demystifying a commonly upheld myth about incarceration before having a friendly, open conversation.

To RSVP and for more information: InitiateJustice.org/AbolitionCorner