

# INVESTIGATION OF PRISON CONDITIONS

Submitted by the Office of Government Relations and the Office of the Bishop Suffragan for the Armed Forces and Federal Ministries

## Membership

### OFFICE OF GOVERNMENT RELATIONS

Ms. Rebecca Linder Blachly, Director, Office of Government Relations

Ms. Lacy Broemel, Refugee and Immigration Policy Analyst

Mr. John Cobb, Domestic and Environmental Policy Analyst

Ms. Patricia Kisare, Legislative Representative for International Issues

Mr. Alan Yarborough, Office Manager and Communications Coordinator

### OFFICE OF THE BISHOP SUFFRAGAN FOR ARMED FORCES AND FEDERAL MINISTRIES

The Rt. Rev. Carl Wright, Bishop Suffragan for Armed Services and Federal Ministries

The Rev. Canon Leslie Steffensen, Canon to the Bishop Suffragan for Armed Services and Federal Ministries

Ms. Maggie Mount, Administrative Assistant to the Bishop Suffragan

## Mandate

Resolution 2015-D062 Investigation of Prison Conditions

*Resolved*, That the 78<sup>th</sup> General Convention call on the Bishop for the Armed Forces and Federal Ministries and the Office of Government Relations to investigate conditions of prisoners, parolees and probationers in the criminal justice systems of the countries which are represented in The Episcopal Church and develop a report outlining areas for advocacy and reform to the 79<sup>th</sup> General Convention.

## Summary of Work

The purpose of this report is to fulfill the request in Resolution 2015-D062 to investigate “conditions of prisoners, parolees and probationers” in the United States and in other regions where the Episcopal Church has a presence in order to outline “areas for advocacy and reform.” The report provides a brief overview of incarceration trends in the U.S. followed by advocacy recommendations that would address many of the most needed changes to the U.S. criminal justice system. The report also provides basic information about some of the challenges faced by non-U.S. Episcopal dioceses regarding

criminal justice and incarceration and provides recommendations where advocacy at the federal level and at the United Nations could address the systemic concerns in non-U.S. dioceses.

Over the years, General Convention has expressed strong support for criminal justice reform, in particular highlighting the need to address racial injustices throughout the system. General Convention Resolutions call for an end to mass incarceration, urge alternatives to the school-to-prison pipeline, highlight the need to ensure that disabled persons are not denied proper treatment and accommodations, encourage the removal of barriers to full and fair reentry after serving sentences and ask for support for families of the incarcerated. Resolutions also call for an end to immigrant and family detention, and call for divestment from private prisons and a moratorium to construction of maximum control prisons.

These resolutions demonstrate a clear commitment to ending mass incarceration and reforming many aspects of a broken system. Their call to action has allowed the Office of Government Relations to take on meaningful and powerful evangelism in this arena, advocating the Church's positions and goals to Members of Congress and Presidential Administrations. Individuals, parishes, and dioceses working within their communities and states complement and reinforce the work of the Office of Government Relations, particularly concerning state and municipal angles to criminal justice reform.

This report identifies areas for new General Convention resolutions that would allow Episcopalians throughout the Church to engage in advocacy to support meaningful reform efforts on mass incarceration. These recommendations are framed primarily from the federal perspective but could be adapted to subnational efforts. State and local reforms will be critical in affecting nationwide change, but the strategies, tactics and solutions will vary considerably throughout different municipalities and states. The overarching aim of these recommendations is to encourage reforms that help to create a more just and equitable system, in particular recognizing the role that racism and racial disparities play in current incarceration trends. In short, the Church seeks criminal justice reform that is aligned with our broader dedication to the creation of the Beloved Community.

Even within the narrow focus of this report, issues relating to incarceration, criminal justice, and systematic reform are often contested, requiring specialization, in-depth expertise, and resources to carry out extensive and detailed research and to understand the nuances of the debates. While the Office of Government Relations engages in advocacy and the Office of the Bishop Suffragan for Armed Services and Federal Ministries supports prison chaplaincy, the offices are not structured or mandated to undertake a comprehensive review of issues related to mass incarceration. As a result, this report is limited to a high-level overview of key issues, whenever possible, highlighting resources from universities, think tanks, public policy research centers and advocacy groups that have career experts devoted exclusively to criminal justice reform efforts.

## U.S. PRISONS AND CRIMINAL JUSTICE SYSTEM

The U.S. criminal justice system is a highly decentralized patchwork of federal, state and municipal jails and prisons, governed by a Venn diagram of federal, state, and local laws, regulations, courts and correctional bureaucracies. According to the Bureau of Justice Statistics, “Jails are locally operated short-term facilities that hold inmates awaiting trial or sentencing or both, and inmates sentenced to a term of less than one year, typically misdemeanants. Prisons are longer-term facilities run by the state or the federal government that typically hold felons and persons with sentences of more than one (1) year.<sup>1</sup>” Conditions vary widely across states and municipalities. Different municipal, state, and federal laws and regulations lead to different impacts on incarceration, conditions, parole, and probation.

General Convention has highlighted the racial disparity in incarceration rates, and called for an end to all forms of discrimination. Indeed, minorities are incarcerated at much higher rates than whites at the national level (Figure 1), with African Americans and Hispanics making up approximately fifty-six (56) percent of the total incarcerated population in 2014.<sup>2</sup> In 2016, these two (2) demographics made up slightly less than one third of the U.S. population. The disparity between rates of whites and African Americans is particularly high, with African Americans being five (5) times more likely to be incarcerated than whites.<sup>3</sup> In addition, numerous studies have demonstrated the uneven sentences given to people of color compared to white offenders who commit the same crimes.<sup>4</sup>

Resolution 2015-A183 urges Episcopalians to study Michelle Alexander’s 2010 book, *The New Jim Crow: Mass Incarceration in the Age of Color Blindness*. In her work, Alexander, a former civil rights lawyer, gives a powerful portrayal of what it means to be African American in the criminal justice system. Alexander demonstrates that African American communities (particularly in urban areas<sup>5</sup>) have been disenfranchised and denied basic rights through interactions with the criminal justice system. Alexander concludes that while “it is no longer socially permissible to use race explicitly as a justification for discrimination... it is perfectly legal to discriminate against convicted criminals.” These forms of discrimination mirror forms of discrimination during the period of Jim Crow laws.<sup>6</sup> The recommendations emerging from General Convention in 2015 have highlighted many of the critical insights from Alexander’s work, and those dioceses, congregations, schools, and other faith communities who have not yet studied the book would benefit from doing so. Given the extent of resolutions that already incorporate many of Alexander’s recommendations, this report identifies new areas for advocacy, with the understanding it is imperative Episcopalians continue to advocate for the reforms laid out by General Convention, in particular Resolution 2015-A011. This Resolution includes fourteen (14) possible initiatives, including the following advocacy recommendations:

- Advocating for alternatives to incarceration for those who are addicted, and increased funding for treatment programs;

- Advocating for alternatives to incarceration for those who are mentally ill, and increased funding for treatment programs;
- Advocating for protection of the civil rights and provision of appropriate support and accommodation for people with disabilities who are arrested and incarcerated;
- Advocating for funding for job training and apprentice programs for those who are at risk of incarceration and those who are formerly released from prison;
- Advocating for the repeal of mandatory-minimum sentences for nonviolent offenses;
- Calling for the abolition of the sentencing disparity between crack-cocaine and powder-cocaine offenses and, as an intermediate step, urging the U.S. Congress, in accordance with the recommendation of the U.S. Sentencing Commission, to make retroactive the 2010 Fair Sentencing Act, which reduces the disparity in sentencing from previous levels;
- Advocating to eliminate “three strikes” sentencing protocols;
- Joining local “Ban the Box” campaigns to remove questions about arrest records in on-line and written job application forms;
- Opposing the creation of “for profit” prisons and immigration detention centers, and, where they exist, organizing against guaranteed nightly numbers of prisoners and detainees, and advocate for access to education and rehabilitation programs for those being incarcerated or detained;
- Reforming monetary bail bond systems, which rely upon often-unlicensed and unregulated bail bond agents and on conditioning release from pre-trial incarceration solely on the ability to pay;
- Advocating for immediate return of the right to vote for those who have served their sentences and left prison;
- Calling for the exploration and creation of restorative justice programs to transform juvenile justice systems.

These continue to be critical areas in need of reform, and Episcopalians, parishes, dioceses, and Church center staff should continue to reference and advocate on these issues that have already been identified as priorities.

#### **SCHOOL-TO-PRISON PIPELINE**

The Episcopal Church has sought to address the negative impacts of the school-to-prison pipeline, an effort highlighted in General Convention Resolution 2015-Do68. The trend of children encountering the criminal justice system at a young age means that many will have a higher likelihood of incarceration, often with highly disproportionate impact on communities and children of color. If schools respond to, in some cases, routine adolescent misbehavior by children and teenagers through

a law enforcement lens, children are not well served. Zero tolerance policies for fighting or the criminalization of truancy turn fairly routine teenage misdeeds into criminal matters. Rather than working to teach, mentor and transform misbehaving teenagers into productive adults, these policies start a domino effect that often ends in prison. While there are tragically serious threats and justifications for law enforcement to be in schools, communities must be careful not to criminalize school disciplinary issues, as these decisions can have a profound impact on a child's future.

Disciplinary issues should be addressed as much as possible through mediation, counseling, and education. Schools should focus on educating and reforming children rather than criminalizing their adolescent mistakes. Criminalization sets a chain of events that leads to children missing their education and as a result facing a future that too often follows cyclical problems that lead to incarceration. This cycle disproportionately affects children of color in public school systems. Due to the strong policies of General Convention, Episcopalians are engaged in advocacy on this critical topic, though considerable work remains at state capitols and on school boards across the country.

#### **POVERTY AND INCARCERATION**

Incarceration also disproportionately affects low-income Americans. Indeed, the Prison Policy project determined that, “in 2014 dollars, incarcerated people had a median annual income of \$19,185 prior to their incarceration, which is 41% less than non-incarcerated people of similar ages.”<sup>7</sup> This divide also cuts across race, ethnicity, and gender—all incarcerated groups had lower pre-incarceration incomes than their non-incarcerated peers in the same demographics. This demonstrates that the criminal justice systems often traps people in a cycle of poverty, not just as they come out of prison and struggle to find work, but prior to incarceration as well. General Convention policies that call on the Church to address poverty – through access to healthcare, progressive taxation and a social safety net, are also a critical component of reducing incarceration rates and helping communities with the highest rates of incarceration. The Church is already aware of the need to provide support to the most vulnerable – when it comes to incarceration, this is not only those who are formerly incarcerated, but low-income people who are also at risk.

#### **PRE-TRIAL DETENTION AND BAIL**

Pre-trial detention is a significant component of the U.S. correctional system, estimated to be around seventy (70) percent of the entire local jail population (see figure 2). Pre-trial detention is the “detaining of an accused person in a criminal case before the trial has taken place, either because of a failure to post bail or due to denial of release under a pre-trial detention statute.”<sup>8</sup> Many see pre-trial detention as unjust and contrary to the Constitution's Presumption of Innocence clause in the Sixth Amendment, which declares that individuals be presumed innocent until proven guilty. Pre-trial detention can negatively affect almost all aspects of an accused individual's life such as employment, housing, child custody or access to adequate healthcare. While crime rates are at historic lows<sup>9</sup>, the number of accused in pre-trial detention has steadily increased, contributing to a consensus among

criminal justice professionals - including the American Bar Association, the International Association of Chiefs of Police, the Association of Prosecuting Attorneys, and the American Council of Chief Defenders - that reform must take place.<sup>10</sup>

Traditionally, it is argued that those who present a flight risk or who pose a threat to public safety should not be released on bond or bail. However, reports<sup>11</sup> have noted that many inmates detained could be released as they pose neither a flight risk nor real threat to public safety. Furthermore, many studies have shown African Americans and Hispanics are “more likely to be detained pretrial than white defendants and less likely to be able to post money bail as a condition of release.”<sup>12</sup> Critics note that excessive bail levels can prove to be disastrous for defendants, causing cyclical financial devastation on them and their families. In addition to loss of income, employment, inability to pay rent and associated impacts on their families; those detained prior to trial face the stigma of being incarcerated, even if found innocent, well after they are released.

Consensus has grown around the understanding that a monetary-based bail system is unjust and discriminatory. The Church formally recognized this through General Convention Resolution 2015-A011. The Resolution calls for reform of “monetary bail bond systems, which rely upon often-unlicensed and unregulated bail bond agents and on conditioning release from pre-trial incarceration solely on the ability to pay.”<sup>13</sup> Many within the Episcopal Church have advocated for the urgent need to reform this system, which discriminates against low-income Americans and people of color, resulting in a two (2) tiered system of justice: one for the wealthy and another for those without sufficient means to make payments.

### **SENTENCING REFORM**

Sentencing reform, in particular eliminating mandatory minimum sentences for nonviolent drug offenders, is often seen as the primary way to reduce prison populations. Historically, sentencing and mandatory minimums have disproportionately impacted people of color and lower socioeconomic status. Perhaps most notably, the Fair Sentencing Act [FSA], passed in 2010, sought to ease the disparity of sentencing between crack and powder cocaine. The American Civil Liberties Union [ACLU] reported that before the FSA was instituted, the disparity between crack and powder cocaine was 100:1 and after FSA's implementation is 18:1.<sup>14</sup> Critics frequently characterized the disparity as an example of structural racism as the vast majority of those imprisoned for crack-cocaine use are African American while those imprisoned for powder cocaine are predominately white. There have been ongoing efforts since the FSA's inception to make the bill retroactive, most recently being the Smarter Sentencing Act of 2017, which is, as of September 2017, in the Senate Judiciary Committee. Ultimately, due to the majority of prisoners being held below the federal level, these efforts, while critically important, will affect only a small portion of the total population across the various prison systems in the U.S.

Some researchers have highlighted that nonviolent drug offenses and mandatory minimum sentences are not the sole reason for the growth in the U.S. prison population and critique narratives that overemphasize mandatory minimums and private prisons as the cause for growing incarceration rates. For instance, drug offenders make up roughly twenty (20) percent of the prison population<sup>15</sup> (see figure 3), while violent offenders in the prison population are roughly fifty (50) percent<sup>16</sup>. Researchers have pointed to the need to address violent crime, which is an especially politically challenging issue and area for reform. Indeed, many politicians are willing to consider reducing or eliminating mandatory minimums and to make other concessions for non-violent offenders, but only by offsetting with increased levels of sentencing for those convicted of violent crimes.

It is important to note that while violent crime is frequently reported and politicized, violent crime rates in the United States have dropped over the past quarter century. Both an annual report by the FBI and a report commissioned by the Federal Bureau of Justice Statistics confirm that there has been a “substantial drop” in the violent crime rate since the peak in the early 1990s. Nevertheless, rates remain high and are a contributing factor to high incarceration rates in the U.S.

### **PRISON MANAGEMENT CHALLENGES**

Given the diverse and decentralized nature of prisons throughout the U.S., physical conditions vary widely and reporting is inconsistent and decentralized. For many municipalities, states and federal facilities, several common challenges emerge such as overcrowding, violence and inhumane treatment of prisoners. Across all levels of prison systems in the U.S., the most common challenge is overcrowding. Following the 2014 fiscal year, the U.S. Government Accountability Office [GAO] produced a report acknowledging the aging infrastructure of the Bureau of Prisons [BOP]. The report cited that around 1/3 of BOP’s one hundred and twenty-one (121) facilities are fifty (50) years or older.<sup>17</sup> Additionally, the BOP was faced with a backlog of more than two hundred and twenty (220) major repair projects.<sup>18</sup>

While significant debate continues over the need for new prison construction and methods to reduce overall population within prisons and jails; the government has a moral responsibility to ensure that prisons are safe, not overcrowded, and that those who are incarcerated have services, facilities and healthcare that meet certain standards. To fulfill this, facilities must be funded to keep up with routine maintenance, operate at capacity, provide proper training and provide the services necessary to not only care for but also to rehabilitate prisoners. Resolution 2015-A011 addresses much of this in calling for sufficient funding for drug rehabilitation, disability rights, training programs and other necessary services.

### **MENTALLY ILL IN THE PRISON SYSTEM**

Resolution 2015-A011 highlights a particularly important issue in calling for proper care and treatment for those inmates with mental health needs. One of the main concerns of prison administrators is the

lack of resources in detention facilities to treat and house the disproportionate number of prisoners that suffer from some form of mental illness. Nationally, about one third of inmates receive psychiatric treatment and some industry experts believe that number could be underreported as some go without diagnosis or treatment. With such a significant portion of inmates in need of specialized mental health treatment facilities, prisons are often under prepared in both professional staffing and specialized facilities for those requiring care.

In keeping with the Resolution, the Office of Government Relations and Episcopalians across the country recognize that the proper care for those individuals incarcerated with mental illnesses, is a critically important area for advocacy. Easily acknowledged as a contributing factor to many criminal activities, inmates are entitled to healthcare; including mental health services, while under the care of the state. The intersection of mental health and the criminal justice system is best represented by the Los Angeles County jail system, which has become the nation's largest mental health facility.<sup>19</sup>

Community advocacy cannot be limited to ensuring the appropriate treatment while inmates are wards of the state. Inmates receiving mental health treatment must be cared for during and after their re-entry into the community. While the state is responsible for treating inmates under its care, these efforts are futile if patients abruptly lose access to treatment upon release. Failure to ensure the continuation of treatment after release is not just immoral but a profound abdication of the public interest as financial investment in treatment during incarceration is lost and the potential for recidivism increased.

#### **SUPPORT WORKFORCE DEVELOPMENT AND EDUCATION**

A critical area for public investment and advocacy is the emphasis placed on workforce training and educational services provided to prisoners. Similar to mental health, preparation with the skills necessary to earn an honest and self-supporting wage are critical to allowing people the opportunity to change their lives. If a young man is incarcerated for a non-violent crime at twenty (20), taught no useful skills, not kept up to date with technological developments, and only familiar with criminal sources of income; he cannot be reasonably expected to succeed when released at age thirty-five (35). Given that the cost of community college tuition is often lower than a year of imprisonment, teaching prisoners useful skills and trades will not only prepare them for successful employment after release but also save money through lower recidivism rates.

Another area for local and state advocacy is the issue of licensing for trades and professions. In many jurisdictions, former prisoners are not allowed to be certified for positions. While some prohibitions are justified (for example, a person convicted of insurance fraud likely should not become an insurance agent) some are punitive or just contradictory. Often when wildfires require a state to seek additional staff to fight the fires, the state calls upon prisoners to provide assistance. Yet upon release, their criminal record prohibits them from servicing as regular firefighters. Felons face particular challenges



in finding employment since discrimination against them for employment is, in many cases, legal. This can lead to felons being unable to meet employment requirements of their parole or falling victim to unscrupulous employers exploiting their vulnerability. General Convention Resolution 2015-A011 established the Church's position in support of these programs and inspires significant efforts at every level of the Church and criminal justice system.

### **REFORM EFFORTS**

Public concern and calls for reform have grown as our nation continues to grapple with the devastating impact of such high incarceration rates. Unfortunately, despite public support, Congress has not enacted the kinds of large-scale legislative reforms that we needed. The 114<sup>th</sup> Congress (2015-2016) developed significant legislation to reform 1990's era mandatory minimums and other aspects of the criminal justice, sentencing, and reintegration systems at the federal level. Unfortunately, while the legislation passed out of Committee, it was considered too controversial to take up during the 2016 election. Several pieces of legislation have been re-introduced in the 115<sup>th</sup> Congress (2017-2018), in particular, sentencing reform, corrections, and incarceration of minors may be able to move forward. Advocates, including the Office of Government Relations, began work in the summer and into the winter of 2017 to build support for these bills in anticipation of an opportunity for their passage in early 2018.

In recent years, reform efforts have focused not only on reducing the prison population but also on addressing the school-to-prison pipeline, both areas where minority populations are overrepresented. The alliance of advocates working on criminal justice reform have included fiscal conservatives, who object to the high costs; libertarians, who oppose drug laws responsible for many inmates' sentences; and those who generally seek a more restorative judicial approach.

### **ADVOCACY RECOMMENDATIONS**

As previously noted, General Convention has spoken powerfully on various aspects of the criminal justice system and the need for reforms, from the pastoral and ministry perspective as well as highlighting areas for advocacy and systemic change. Below are recommendations where the Episcopal Church could meaningfully engage, where there is not yet General Convention policy. Given the complexity of the system, any advocacy efforts must address the issue of prison conditions and criminal justice reform more broadly at the local, state and federal level.

- Recognize the growing percentage of incarcerated women
  - While women make up less than ten (10) percent of the U.S. prison population, they are currently the fastest growing demographic of the jail population.<sup>20</sup> For reference, in 1970, only eight thousand (8,000) women were in jail, yet by 2014, that number was up to one hundred and ten thousand (110,000).<sup>21</sup> The vast majority of these women are in jail for nonviolent offenses, a very different reality from the male population.<sup>22</sup>

Because of these findings, questions have emerged surrounding how the criminal justice system is sentencing women in comparison to men as the majority of women are also behind bars with low-level offenses. Disparities in race exist amongst women too, as African American women are two (2) times more likely to be imprisoned than white women are.<sup>23</sup> Women are also more likely to be held in jails as opposed to prisons.<sup>24</sup>

- General Convention has not addressed this issue, beyond a 1988 resolution highlighting abuses at a particular facility.<sup>25</sup> Resolutions recognizing the particular needs of incarcerated women, as well as investigation into unjust sentencing or racial disparities, could be key areas of new policy.
- Eliminate or drastically reduce the use of solitary confinement
  - Solitary confinement is cruel, inhumane and has been shown to cause mental illness in some cases.<sup>26</sup> The UN Special Rapporteur Juan Menendez has called for a ban of any form of segregation more than fifteen (15) days, and advocates the use of solitary be banned entirely for those with mental disabilities and children.<sup>27</sup> A recent report, *Seeing into Solitary*, compared the use of solitary in thirty-five (35) jurisdictions globally and found that the U.S. is among the most punitive in its use of isolation.<sup>28</sup> Estimates range between eighty thousand (80,000) to one hundred thousand (100,000) inmates are held in solitary confinement at any given time.<sup>29</sup> Efforts to eliminate and drastically reduce solitary must also recognize the safety of guards and fellow inmates, and the concerns within the corrections community about the need to cope with those who have demonstrated they have the potential to harm themselves or others.
  - While General Convention has policy condemning torture, there is not specific language on solitary confinement. The Office of Government Relations, in collaboration with the National Religious Campaign Against Torture [NRCAT], will feature a solitary confinement virtual reality experience at the exhibit hall during General Convention 2018 in Austin. Additionally, guest speakers, who were formerly in solitary, will speak at a brown bag luncheon to educate those at General Convention about the issue and experiences of those who have survived solitary and the steps that can be taken to address its pervasive use.
- Participate in local elections for judges and prosecutors.
  - In his recent book *Locked In*, Jonathan Pfaff argues that more than any other single cause, prosecutorial discretion accounts for the rise in the U.S. prison population. The political consequences for leniency are often harsh, whereas there can be few political consequences for absurdly harsh punishments and charges. Prosecutors and judges running for re-election or for higher office want to be seen as tough on crime. Engaging in your local elections are important in successfully changing this rhetoric.

- General Convention has not addressed this critical component of incarceration rates, and the consequences of politicians feeling that they need to be tough on crime, above all other concerns.
- Oppose Collateral Punishment
  - Many challenges face citizens who are attempting to rejoin society after serving their sentences. While society should have an obligation to welcome and help returning citizens adjust and become productive and positive neighbors, legal and regulatory systems that are in place often prevent this. Many of these rules can divide families even after incarceration, limit job prospects, education opportunities and result in the demoralization and eventual recidivism by those with the best of intentions upon release.
  - At the federal level, many returning citizens are barred from social welfare programs. One such example applies to those convicted of felony drug crimes. Upon release, they are not allowed to live in federally supported public housing. As a result, if a former inmate's only family live in public housing they are unable to live with them or if they cannot afford market-based rent (due to discrimination stemming from their prison sentence) they cannot live in public housing on their own. The result is that even after being released individuals can find themselves legally separated from their families. This divides them from support networks and makes the process of building a life even harder. Further federal restrictions can prevent returning citizens from accessing food assistance or some student loans further hindering their development into independent and positive members of their community.
  - Additionally, there are many employment discrimination rules that seemingly serve no purpose other than continuing to punish people after they have served their punishment. While these rules are set by state or local governments, it is not uncommon for those with certain criminal records to be prohibited from serving their communities as firefighters or working in a small business as a barber. While it is reasonable that a person convicted of insurance fraud should not be employed at an insurance agency, the idea that a criminal record makes one unfit to rescue people and homes from a fire is unjustifiable – particularly since prisoners are often called upon to assist in battling wildfires.
  - Another collateral punishment and insult returning citizens regularly face is the denial of their voting rights and having to declare their former mistakes on employment applications. The Episcopal Church has opposed such efforts, including formally declaring its position through General Convention Resolution 2015-A011, though many of the broader and indirect collateral punishments, which vary with time and location, are not covered by the specific statements of Resolution 2015-A011.
- Encourage evidence-based policies to address and reform the criminal justice system

- One of the most effective actions Episcopalians can do is to demand data, evaluations, and constant effort to improve the delivery of justice within their communities. It is too easy for bad criminal justice policy to go unnoticed, so we must actively choose to go and see it. Choosing to be engaged and to witness the implementation and impacts of our judicial system requires not only ministering to prisoners but demanding public officials become literate and engaged in criminal justice studies and constant improvement.
- Recognize the need to address violent crime
  - While a great deal of energy is focused on sentencing reform, mandatory minimums, and ending discrimination against those formerly incarcerated, the need to address violent crime is also essential, although politically challenging. Reform and advocacy efforts looking at restorative and rehabilitative justice are also a critical piece of any comprehensive reform efforts.
  - A resolution from 1985 highlights the need to address violence, but updated language on violent crime in particular, recognizing the harm it does to communities but also the need for rehabilitation, is critical.<sup>30</sup>

### **PRISON CONDITIONS OUTSIDE OF THE U.S.**

Prisons and criminal justice systems throughout the non-U.S. diocese of The Episcopal Church face many similar challenges, including needing to address systemic racism, prison overcrowding, corruption, and violence. Aging facilities, physical and emotional abuse, and in some cases lawlessness, plague many facilities across the world. Acknowledging the various complexities that are sure to exist in each facility, this section hopes to give a brief overview on some of the challenges facing prisoners across non-U.S. dioceses.

While it may be unfair to compare any specific region or territory, overcrowding is one of the primary problems that appears to be facing almost all communities ranging from the most developed communities to the least. Similar to the U.S., the availability and consistency of data and third party analysis hinders the ability to understand problems and propose solutions in many circumstances.

### **NON-U.S. EPISCOPAL DIOCESES**

Recent studies and news reports<sup>31</sup> have documented the horrifying conditions in Venezuela's prisons. Prolonged incarceration, political detention and the lack of a functioning criminal justice system mean that Venezuelans who are arrested can disappear without any communication to their families or loved ones, often languishing in prison for years. Inmates are frequently physically abused or tortured, and civilians are regularly tried by military tribunals. According to Human Rights Watch:

Corruption, weak security, deteriorating infrastructure, overcrowding, insufficient staffing, and poorly trained guards allow armed gangs to exercise effective control over inmate populations within prisons. The Venezuelan Observatory of Prisons, a human rights group, reported that 6,663 people died in prisons between 1999 and 2015. As of July, average overcrowding of 210 percent plagued Venezuelan prisons, according to the Observatory.<sup>32</sup>

Prisons in Haiti are severely underfunded and overcrowded with inmates highly susceptible to disease. According to an AP investigative report earlier this year, eighty (80) percent of Haitian inmates are held in “prolonged pretrial detention waiting for their chance to see a judge.”<sup>33</sup> As a result, Haitian health experts are reporting that Haitian prisons’ “rate of preventable deaths” is at an all-time high with twenty-one (21) inmates dying in the span of just one (1) month earlier this year. The overcrowding is the worst in the world, with the University of London’s Institute for Criminal Policy Research recording a four hundred and fifty-four (454) percent occupancy level. The U.S. State Department has worked in recent years to provide support to Haitian correctional staff with training and funding. The Bureau of International Narcotics and Law Enforcement Affairs [INL] has also funded the construction of three (3) new prisons and local jails, meant to address the widespread issue of overcrowding.<sup>34</sup> These conditions are in part compounded by the loss of infrastructure resulting from the 2010 earthquake.

A report conducted earlier this year by the UN, human rights officials casted light on the overcrowding in Taiwan’s prison.<sup>35</sup> As of 2015, the prison population in Taiwan exceeds capacity by thirteen (13) percent. Since the report, the country’s Corrections Director has promised increased rehabilitation and more facilities in order to eliminate overcrowding in the short term.<sup>36</sup> The overcrowding is largely attributed to the rising number of drug offenders incarcerated each year.

Colombia has struggled to ensure humane prison conditions. In 2017, the country’s watchdog called for the closure of two (2) Colombian prisons where overcrowding had turned into a humanitarian crisis.<sup>37</sup> The two (2) respective prisons were four hundred and fifty-two (452) percent and two hundred and eighty-three (283) percent over capacity according to *El País*. The problem is attributed to the more than ninety-three thousand (93,000) hearings backlogged in a broken Colombian justice system.

Both inmates and faith-based ministries have frequently described prisons in the Dominican Republic as harsh.<sup>38</sup> As of March 2017, capacity is currently one hundred and eighty-eight (188) percent with up to sixty-four (64) percent of those prisoners being in pre-trial detention.<sup>39</sup> The Dominican Republic is also home to the prison, La Victoria, a “historically crowded” prison, where rule is frequently questioned due the consistent instances of violence.<sup>40</sup> Disease is prevalent and sanitary conditions are generally poor, exacerbated by the fact that inmates are frequently forced to sleep “on the floor because there were no beds available.”<sup>41</sup> In 2015, the U.S. Embassy of the Dominican Republic reported

that while the Director General of Prisons claimed that all inmates received three (3) meals a day, many inmates turn to their families in order to be properly fed.

The government of Ecuador invested millions of dollars in 2012 for the construction of new correctional facilities to combat its historical problems of overcrowding and poor conditions. Yet, according to a human rights report conducted by the U.S. State Department, in spite of the improvements, inmates and human rights groups cited instances that inmates families were expected to deliver food and medication to the prison.<sup>42</sup>

The national prison and jail complex in Honduras has an official capacity for eight thousand six hundred (8,600) inmates,<sup>43</sup> yet there are estimates that nearly seventeen thousand (17,000) inmates are currently behind bars.<sup>44</sup> In response to the extreme overcrowding of its prison system, the Honduran government has indicated they would like to begin the construction of “mega prisons” in rural areas of the country, which has left many advocates concerned that this will further affirm the rising rate of inmates in the country. In a 2014 report, the U.S. government, pointed to “judicial inefficiency, corruption and insufficient resources” as one of the main issues in the number of inmates in pre-trial detention (approximately fifty (50)percent).<sup>45</sup> As a result, many prisoners are forced to stay behind bars well after their acquittal or completed sentences because officials aren’t able to process court orders fast enough.

Many European countries have prisons with better conditions, more accountability, and lower rates of recidivism than the U.S., but many countries still suffer from racial disparities in prison populations as well as challenges with capacity and violence. Further, there have been concerns about police abuse of power in response to an uptick in terrorism. In the United Kingdom, the prison complex has been under fire after Chief Inspector of Prisons, Peter Clarke released a report detailing a significant increase in violence, and a deteriorating state of facilities lacking staff.<sup>46</sup>

France is going through a unique issue with their prison population as they continue to deal with the fear of radicalized Islam spreading in their prison system. In recent years, many French prisons have decided to separate “radicalized” Islamists in fear of radicalized doctrine “contaminating” other inmates. While the French government is not allowed to record religious affiliations of inmates it is estimated that forty (40) to fifty (50) percent of inmates are Muslim.<sup>47</sup> Some have called for France to institute full-time Muslim clerics in prisons as way to combat radicalized teachings.<sup>48</sup>

#### **ADVOCACY RECOMMENDATIONS FOR PRISONS OUTSIDE OF THE U.S.**

In terms of addressing the particular challenges facing these dioceses, extensive knowledge of the criminal justice system and understanding of the mechanisms for change is essential. Advocacy can still be a key component of making change, however, such as highlighting abuses when the international media would otherwise miss them, and bringing attention to particular cases. Further,

the following broad-based recommendations about U.S. pressure and international and multilateral institutional engagement may direct those working to advocate to improve the conditions for prisoners.

- Continue to work through multilateral international bodies to advocate for the protection of human rights for all people.
- Support organizations such as Human Rights Watch and Amnesty International that document and bring to light abuses in prisons and detention centers.
- Engage the U.S. State Department to exert diplomatic leverage to ensure foreign countries invest in reforming criminal justice systems and prisons. Encourage support for training and capacity building.
- Encourage advocacy from Episcopal bishops and companion dioceses for each respective countries
- Use preexisting companion diocese relationships to highlight candidates.

#### **EPISCOPAL CHURCH POLICY**

- Resolution 2015-A011 - Urge Advocacy for Policy Changes to End Mass Incarceration Practices
- Resolution 2015-D068 - Support Ministries Against the School-to-Prison Pipeline
- Resolution 2015-D032 - Reaffirm Disabled Persons' Rights in the Criminal Justice System
- Resolution 2015-D067 - Divest from Private Corporations in the Prison Business
- Resolution 2012-A077 - Develop a Model Prisoner Ministry
- Resolution 2012-D026 - Urge Support for Bipartisan U.S. Commission on Criminal Justice
- Resolution 2012-B004 - Promote Alternative to the School-to-Prison Pipeline
- Resolution 2012-B004 - Reaffirm Commitment to Support Camps for Children of the Incarcerated
- Resolution 2009-C075 - Assist Dioceses in Establish Camps for Children of the Incarcerated
- Resolution 2006-D012 - Establish Summer Camp for Children of Persons in Prison
- Resolution 2003-A125 - Establish Ministries to Assist Prisoners and Their Families
- Resolution 2003-A125 - Promote Juvenile Justice Reform
- Resolution 2000-B003 - Endorse the Study of Restorative Justice in the Criminal Justice System
- Resolution 2000-B055 - Reaffirm Criminal Justice System Reform
- Resolution 1994-D035 - Support Ministry to the Incarcerated
- Resolution 1994-D087 - Encourage Parishes to Minister to Newly Discharged Inmates
- Resolution 1994-D010 - Request Moratorium on Construction of Maximum Control Prisons
- Resolution 1988-C037 - Request Federal Funding of Substance Abuse Programs

**FURTHER RESOURCES**

- National Religious Campaign Against Torture<sup>49</sup>
- Starter Kit for Teaching and Learning on Mass Incarceration<sup>50</sup>
- Stop Solitary for Kids Campaign<sup>51</sup>
- National Alliance on Mental Health<sup>52</sup>
- Prison Policy Initiative<sup>53</sup>
- Vera: Institute of Justice<sup>54</sup>
- Human Rights Watch<sup>55</sup>
- The Brennan Center<sup>56</sup>
- The Prison Fellowship<sup>57</sup>
- Kairos Prison Ministry Fellowship<sup>58</sup>
- Amnesty International<sup>59</sup>

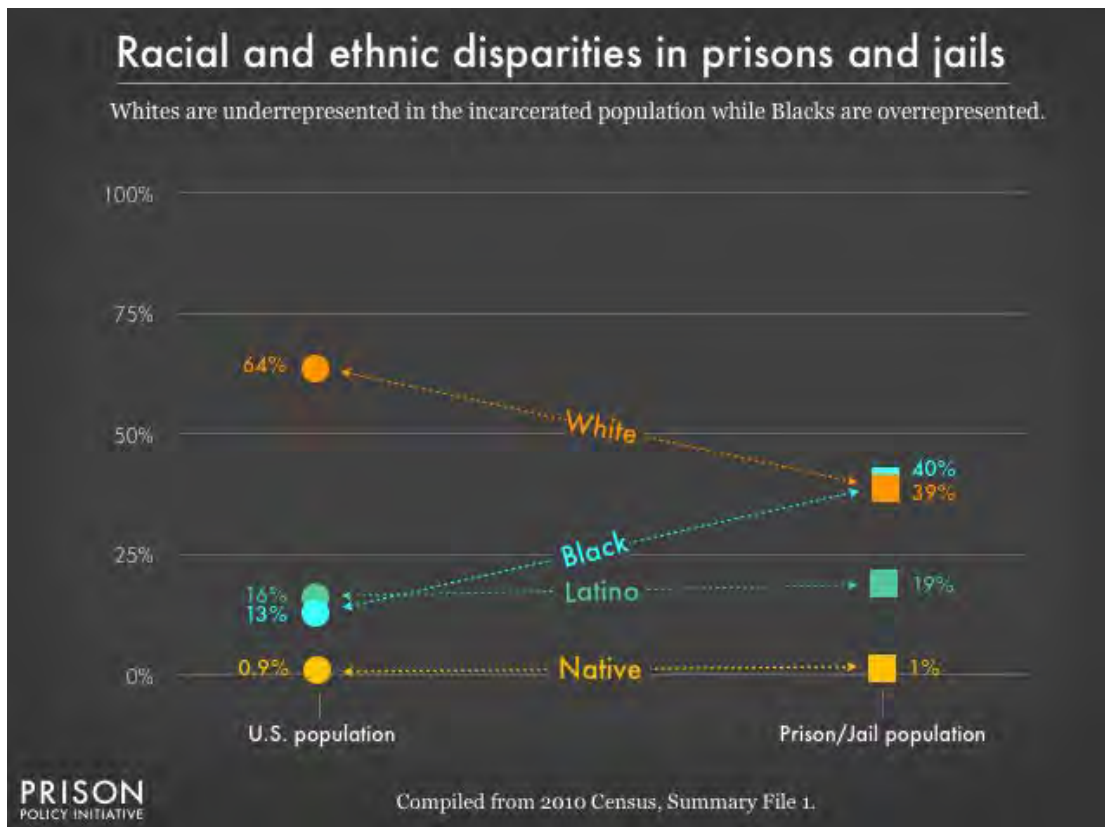


Figure 1



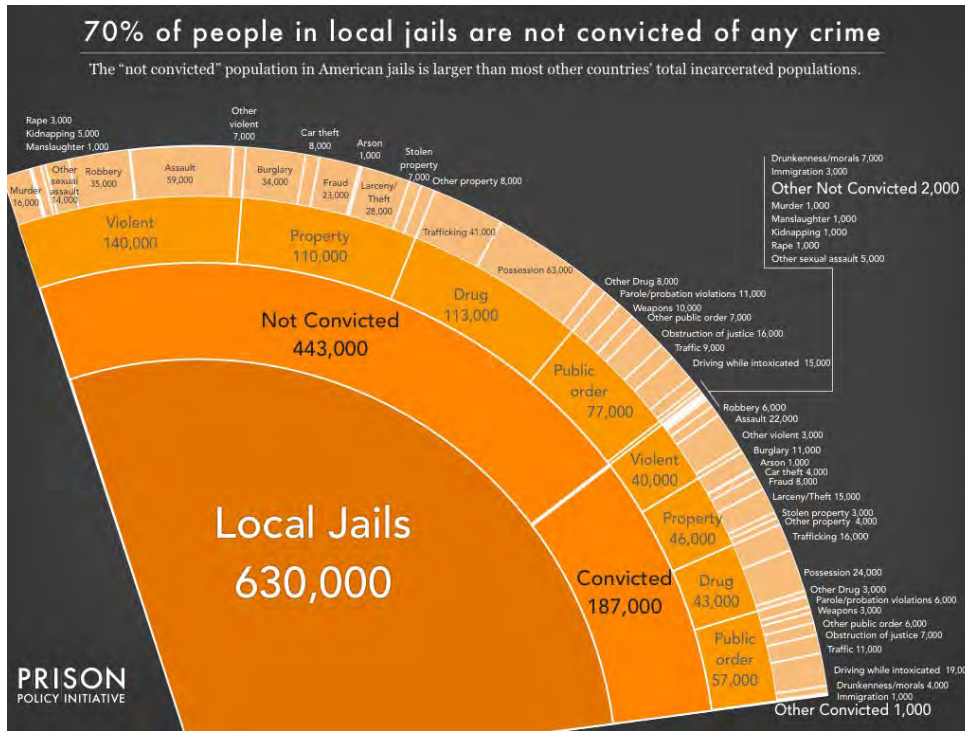


Figure 2

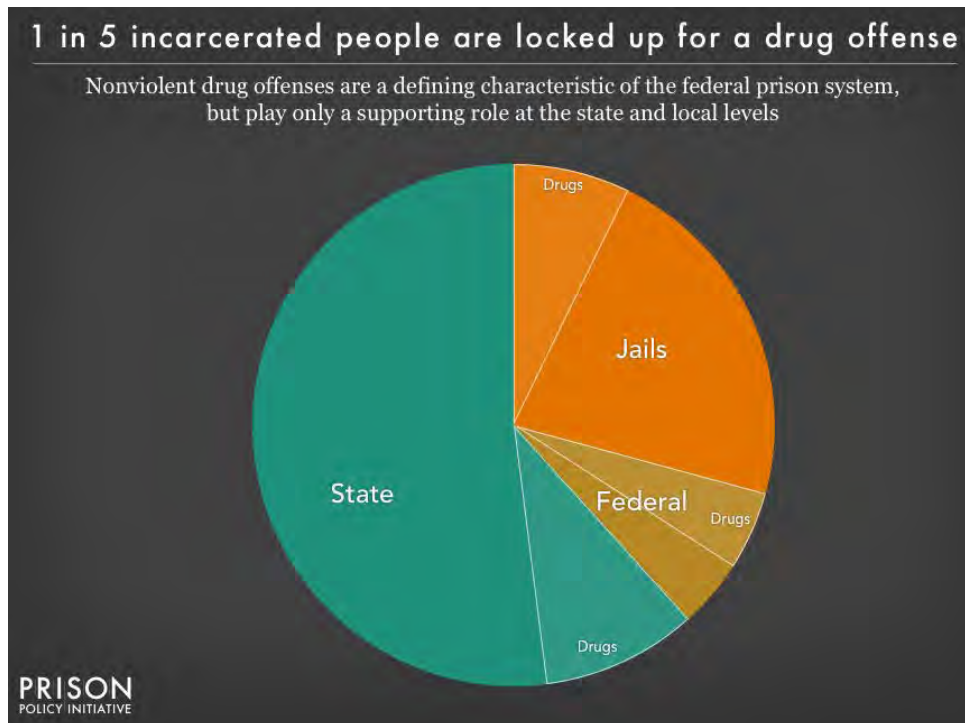


Figure 3

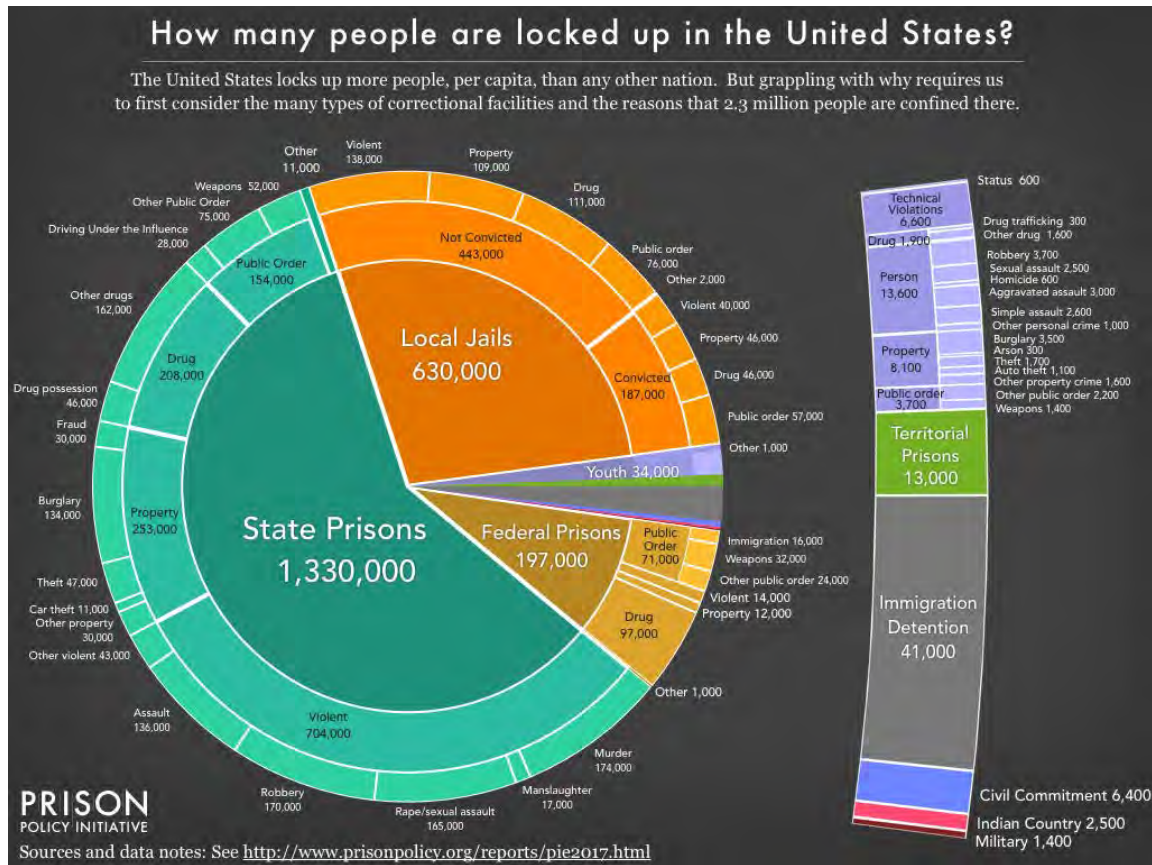


Figure 4

## End Notes

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