

Sixteen for '16 - Number 11: An End to the Prison State

By [Salvatore Babones](#), [Truthout](#) | Op-Ed

On any given day, nearly 7 million adult Americans are under the supervision of the nation's criminal justice systems: in prison, on probation, or on parole.(1) That is more than 2 percent of the entire population and nearly 3 percent of the adult population.

If the US prison system were a state, it would be the 14th largest, just behind Washington and well ahead of Massachusetts.

Drill down and the numbers get even worse, particularly for men. More than 5 percent of all adult American men are currently under the supervision of the criminal justice system. Men make up over 90 percent of all prisoners, nearly 90 percent of people on parole and about 75 percent of people on probation.

All in all, about 1.3 percent of American men are hidden behind bars, completely out of sight of society. (2) Among black men ages 25-39, this figure rises to more than 6 percent in jail at any one time.(3) The proportion of black men who spend at least some part of their lives in jail is even higher, probably around one-quarter.

Our prisoners are increasingly being held in for-profit prisons operated by big prison services companies. Government statistics show that 8.7 percent of all prisoners and 18.6 percent of federal prisoners are held in private prisons. (4) Now that the genie is out of the bottle, industry lobbying will ensure that these numbers only go up.

This is no way to run a country. Too many people are in prison for too long, and too many people are in prison for crimes they did not commit or for activities that should never have been classified as crimes in the first place.

The good news is that the prison state is now officially in decline. A recent government report found that "1 in every 35 adult residents in the United States was under some form of correctional supervision at year end 2012, the lowest rate observed since 1997." (5)

New incarcerations are down too. In 2012, an estimated 444,591 people were newly committed to prison by the nation's courts, down from nearly half a million in 2006 - a drop of about 10 percent.

The bad news is that these declines are only occurring because states can no longer afford their bloated prison systems. Most of the decline occurred in California, where the state's Public Safety Realignment policy simply diverted nonviolent criminals from state prisons to local jails and parole offices.

Even the lower flow of new inmates to prisons in 2012 was three times as high as the number of people who were sent to prison each year in the 1970s.(6) The 1970s was the decade of the angry young man. Now we warehouse angry young men until they become cantankerous but harmless old men.

It is true that crime rates have come down since the 1970s. The murder rate today is half of what it was then. But it is not clear that this decline is due to mass incarceration. After all, people are usually imprisoned after they commit murder, not before.

In any case, most prisoners are imprisoned for far more prosaic crimes than murder. Some 70 percent of new admissions to state prisons and the vast majority of new admissions to federal prisons are for nonviolent crimes.(7) No one is suggesting probation for murder or rape, but imprisonment may not be the best way to deal with identity theft or cocaine possession.

Or protesting. One of the most unsavory aspects of the American criminal justice system is its penchant for locking people up if they exhibit anything but complete and utter submission to the will of the police.

The most recent notorious case of imprisonment for protest is that of Cecily McMillan, 25, imprisoned for accidentally elbowing a police officer during the chaos of a 2012 Occupy New York protest. She follows in a long line of young people imprisoned, Tasered, or shot for not immediately and obediently complying with police (or self-appointed watchmen) commands.

In the wake of the Trayvon Martin shooting in Florida, there have been anecdotal reports of a national epidemic of police and security guard shootings of young, unarmed suspects. No one knows for sure whether these anecdotes are based on reality because the government does not keep statistics on the number of people it kills accidentally.

The government does keep detailed statistics on the number of people it kills on purpose. Between 1930 and 2011, a grand total of 5,296 people were executed by federal and state governments, including military executions.

For 10 years in the middle of that period (1967-1976), there were no executions at all. From the time executions resumed in 1977 through 2011, there have been 1,277 executions, or about 35 to 40 per year. (8)

The number of people whose convictions or sentences have been overturned since the end of the moratorium on executions? - 3,059. Since 1977, more than twice as many people on death row have been exonerated as have been executed. (9)

In fact, more than one-third of all people sentenced to death by American governments since 1973 have been exonerated - so far. Since it takes years of legal appeals to have a sentence overturned, the lifetime exoneration rate is well over 50 percent.

Considering how difficult it is to overturn a wrongful conviction, the true innocence rate is presumably even higher.

Federal and state governments continue to execute people at a rate of about 40 per year. (10) Considering that there are about 16,000 murders committed every year in the United States and that about half of the people sentenced to death are probably innocent of the specific murders for which they have been convicted, it is difficult to see any good reason for continuing the death penalty lottery.

The death penalty may or may not be immoral. It may or may not be effective. But it is obviously and unquestionably ridiculous - from a criminal justice standpoint.

Where the death penalty makes sense is as the ultimate symbol of social control, of the police state. A government that has the power of life and death over its citizens is a powerful government indeed. Too powerful, as both progressives and libertarians can agree.

It doesn't take a conspiracy theorist to see that American governments of all levels - from small town sheriffs to the Department of Homeland Security - now have too much raw, physical power over our bodies and our lives. They push us around too much. All of us.

The National Employment Law Project estimates that 27.8 percent of the adult population, or about 65 million people, have criminal records that would show up in a routine employment check.(11) This implies that for an individual person, the lifetime probability of accumulating a criminal record is well over one-third.

Many of those criminal records may be well-deserved. But as a country are we really that bad? Or are our governments abusing their powers to arrest, prosecute, incarcerate and even kill us in the name of justice?

Our governments at all levels certainly seem to be arming themselves for some kind of Syria-style internal war.

In March 2012, a police aerial surveillance drone in suburban Montgomery County, Texas, crashed into the county's SWAT team and smashed a headlight on its armored personnel carrier. Amusing as this incident was to some, it should have raised three important questions.

Why does a suburban county of 500,000 people need an observation drone? Why does a suburban county of 500,000 people need an armored personnel carrier? And why does a suburban county of 500,000 people even need a SWAT team? We're talking about suburban Houston, not suburban Damascus.

Our governments want drones, tanks and SWAT teams for the same reason they want the death penalty: to keep us under control. That's what the Cecily McMillan case was all about. She didn't even defy the government. She just didn't obey quickly enough when police decided to arrest her. The police shouldn't be arresting protesters. They should be clearing traffic and closing streets to keep protesters safe. In a democratic society, the rights of protesters to have their say are frankly more important than the rights of commuters to get to work.

Despite his background in Constitutional law and his personal background growing up black and male in America, President Obama has embraced and expanded the police state. His successor should change course before private prison corporations become the next military industrial complex and local law enforcement agencies become the next CIA.

It is probably too late for a pacifist president to shut down the Pentagon. But it is not too late for a progressive president to change the culture of law enforcement in America. It should be easy to cut the domestic drone-and-APC budget in a time of austerity. And the next president can re-nationalize the federal prison system by making the terms of prison contracts unattractive to private sector firms.

In April 2014, Montgomery County crashed another surveillance drone, this time into a lake. We may have an effective military, but we are not very good at running a prison state. We're lucky about that. But we shouldn't push our luck.

Progressives, libertarians, and all sensible people should come together in 2016 to demand that all candidates for president agree to run the country on a purely civilian basis. Modern governments have at their disposal awesome powers of domination and control. We have to make sure that our federal, state and local governments don't dominate and control us.

Notes:

1. BJS, Correctional Populations in the United States, 2012 (publication NCJ 243936, December 2013).
2. BJS, Prisoners in 2012 (publication NCJ243920, December 2013), Table 17, combined with population statistics from the Census Bureau's American FactFinder website.
3. BJS, Prisoners in 2012 (publication NCJ243920, December 2013), Table 18.
4. BJS, Prisoners in 2012 (publication NCJ243920, December 2013), Appendix Table 7.
5. BJS, Correctional Populations in the United States, 2012 (publication NCJ 243936, December 2013), page 1.
6. BJS, Prisoners in 2012 (publication NCJ243920, December 2013), Table 1.
7. BJS, Prisoners in 2012 (publication NCJ243920, December 2013), Table 4.

8. BJS, Capital Punishment, 2011 - Statistical Tables (publication NCJ 242185, July 2013), Table 14.
9. BJS, Capital Punishment, 2011 - Statistical Tables (publication NCJ 242185, July 2013), Table 17.
10. Death Penalty Information Center, Executions by Year since 1976; there were 43 executions in 2012 and 38 in 2013.
11. National Employment Law Project, 65 Million "Need not Apply": The Case for Reforming Criminal Background Checks for Employment," March 2011.