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Bringing an End to the Incarceration Generation

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In the not so distant past, election cycles inevitably saw a political race to incarcerate where candidates competed to be the toughest on crime. Making history as the first candidate to raise the issue of ending the "incarceration generation" during a presidential election, Hillary Rodham Clinton has effectively repudiated the very policies her husband and others designed and implemented during the drumbeat of the lock 'em policies of the 1990s. The hallmark of that effort was the 1994 Omnibus Crime Bill, which was signed by Bill Clinton and resulted in increased federal funding for police and prisons, and encouraged longer prison sentences.

The political landscape has changed dramatically, and leaders from all across the spectrum are finally embracing "smart on crime" reforms to reduce the costs and size of a criminal justice system widely recognized to be broken and ineffective. In just the last few months, amidst calls for racial justice and policing reforms in communities like Baltimore and Ferguson, over six hundred interested lawmakers, advocates, faith leaders and researchers attended a national bipartisan summit in Washington calling for criminal justice reform.

The radical shift in rhetoric, however, has yet to be followed by the kinds of sweeping, comprehensive reforms that would result in a serious dent in our nation's prison population. By contrast, when the tough on crime movement took hold in the '90s, it was followed by expansive and widespread policy changes at every level of government that resulted in an explosion in the prison population. With the exception of a two-year dip, prison and jail populations nationally have continued to rise. As of 2013, there were 2.2 million people in prisons and jails and 4.8 million in the community on probation or parole, for a grand total of nearly 7 million people under the justice system's control. If we are serious about ending the failed era of mass incarceration, we need to have the rhetoric followed by concrete policies and implementation.

The need for these changes has been evident for decades, and finally is getting the attention it deserves. Sadly, it has taken recent tragic events to put a national spotlight on problematic policing practices with racially disparate impact, neither of which is a new problem. That said, while policing reforms are critically important to eliminating the use of excessive force and reducing the number of people coming into the justice system, they remain part of a larger criminal justice approach that has devastated already vulnerable communities, and targeted people of color.

None of these problems are new and have been documented before, including by the Kerner Report issued in 1968 following unrest in communities of color across the country. Finding that the unrest in African American communities was largely the result of frustrations due to a lack of economic opportunity, the report called for investments to create jobs, improve housing and address de facto segregation in our communities.

Now, almost 50 years later little has changed and we see many of the same pervasive problems existing in cities across the country. And in fact, maybe the biggest change is that in addition to the problems of the past, we have now added mass incarceration to the list of problems plaguing these communities. For example, in a recent analysis, the Justice Policy Institute and the Prison Policy Initiative found that Maryland spends \$300 million to incarcerate people from the city of Baltimore, who make up one out of three people in state prison. Freddie Gray's neighborhood of Sandtown-Winchester/Harlem Park has an incarceration rate eight times that of the state of Maryland, with the result being that \$17 million in taxpayer dollars are spent each year to incarcerate people from that small community.

The same neighborhood has some of the city's worst indicators for public health, including lower levels of income and education, a high exposure to lead paint, and a shorter life expectancy than neighborhoods within a short radius, essentially the same types of conditions documented in the Kerner Report. The only "investment" with a clear impact in that neighborhood is the criminal justice system, which touches nearly everyone in Sandtown-Winchester in some way.

As the camera crews pull away from Baltimore, few have noted that policymakers in Annapolis and federally took no meaningful steps in the last legislative session to reduce prison or jail populations.

Without a dramatic change, spending on prisons and a criminal justice approach as the first response to economic challenges will continue to undermine the social fabric of the most vulnerable neighborhoods. And even millions of dollars invested in social services will do little to improve circumstance if the criminal justice system continues to touch nearly every element of people's lives.

Efforts to reform the justice system are not new, and many of the political leaders championing changes today are followers rather than the innovators. Some are even trying to undo the consequences of their own actions taken in the 90s. Those in the field know that ending mandatory minimum sentences by giving judges more sentencing discretion, reversing "truth in sentencing" laws that result in unnecessarily long times in prison, and providing treatment rather than incarceration to drug offenders are the types of changes that are needed.

It is important to recognize that progress has in fact been made in some states. The state of New York was able to reform its draconian Rockefeller Drug Laws in 2009, and saw an 18 percent decrease in the prison population without compromising public safety. California recently shifted a series of offenses from felonies to misdemeanors, which will mean fewer people can be sent to state prison. But mandatory minimums that keep people in prison too long remain on the books in both states.

No single category of reform will turn around the era of incarceration generation. Appropriate practices in policing that serve the community rather than fight it are essential to neighborhood and community interactions. Providing robust treatment and mental health options to keep people outside of the prison system is essential. Allowing people who have served their time to successfully reintegrate into communities is critical to allowing people to stay out of the system. To make a significant reduction in the population of people in prison would also require a tough and unflinching look at who is in prison, for how long, and to what benefit.

An examination of violent offenses more broadly shows that, according to a recent report by the National Institute of Justice, even though burglary is categorized as a property offense, it is most often prosecuted as a violent offense. Looking at the aging population of prisoners, who research suggests are unlikely to ever offend again, would provide another class of individuals who could be returned to the community with minimal public safety risk.

Looking closely at the category of "sex offender," for example would reveal that many who are on registries are not the predators they are imaged to be. "Romeo and Juliet" crimes can fall in that category, as can exposure in public. And providing developmentally-appropriate approaches to 18-24 year-olds, who are neurologically wired to change, is another entire category of people who could be managed more effectively and save precious tax dollars.

The '90s saw impassioned rhetoric followed by sweeping changes and a rapidly different prison population. While no one is advocating for the knee-jerk policies of the past, we are still waiting for a comprehensive national reform agenda that looks closely at each point of the system, from the first contact with police to diversion, sentencing, or prison to reintegration after contact. We moved the ship but are still waiting for the tide to turn.

The good news is that more today is known than ever before about what works and doesn't work to address offending and promote safety. We have the information and research to support making big changes. We now need the leadership to usher in a new age.