

Swing States: Crime, Prisons and the Future of the Nation

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NOTE: The full version of this report can be found online at www.justicepolicy.org

Polls indicate a close presidential race, with an even split between states that lean Democratic and states that lean Republican. In the middle are 17 “swing” states that could go either way. The Justice Policy Institute examined these swing states for indications about what direction the nation has taken and may take in criminal justice policy in coming years. We focused on rates of incarceration and rates of crime, as well as related social measures relating to health care and education. JPI also collected information about the disenfranchisement of people convicted of felonies, whose numbers could prove decisive in the upcoming presidential election.

2004 ELECTION ELECTORAL MAP

SWING		REPUBLICAN		DEMOCRAT	
Arizona	New Hampshire	Alabama	Nebraska	California	Maryland
Arkansas	New Mexico	Alaska	North Carolina	Connecticut	Massachusetts
Florida	Ohio	Colorado	North Dakota	Delaware	New Jersey
Iowa	Oregon	Georgia	Oklahoma	District of Columbia*	New York
Maine	Pennsylvania	Idaho	South Carolina	Hawaii	Rhode Island
Michigan	Washington	Indiana	South Dakota	Illinois	Vermont
Minnesota	West Virginia	Kansas	Tennessee		
Missouri	Wisconsin	Kentucky	Texas		
Nevada		Louisiana	Utah		
		Mississippi	Virginia		
		Montana	Wyoming		
Total Electoral Votes: 180		Total Electoral Votes: 190		Total Electoral Votes: 168	
Electoral Votes Needed to Win the Presidency: 270					

*The District of Columbia was excluded in this study. Recent reorganization of the D.C. prison system made it impossible to compare trends over time. Source: The New York Times 2004 Election Guide Online, www.nytimes.com

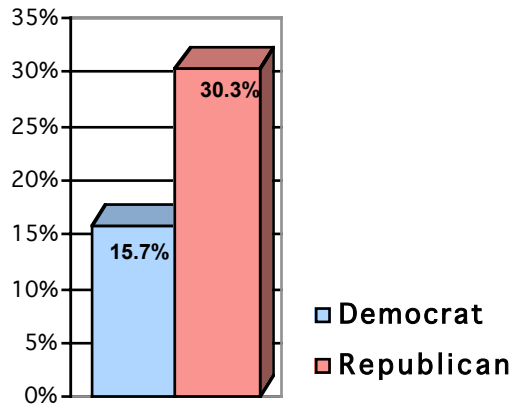
Our analysis reveals a nation deeply divided. The Republican and Democrat states, as groups, show clear and competing trends in their use of incarceration as a tool to reduce crime. Republican states tended to favor prison and jail. They put more people behind bars, and they spent more money to do so. Republican states’ average rate of incarceration increased twice as much as rates in Democratic states between 1993 and 2002 (30.3% compared to 15.7%).

Democrat states, however, showed better results in terms of reducing crime as measured by the FBI. As the chart below indicates, crime decline in Democrat states exceeded crime declines in Republican states in all of the major categories—overall “index” crimes, violent crimes, homicide crimes and property crimes. Swing states tended to fall between Republican and Democrat states regarding their reliance on incarceration.

INCARCERATION VS. CRIME RATE CHANGES, 1993-2002

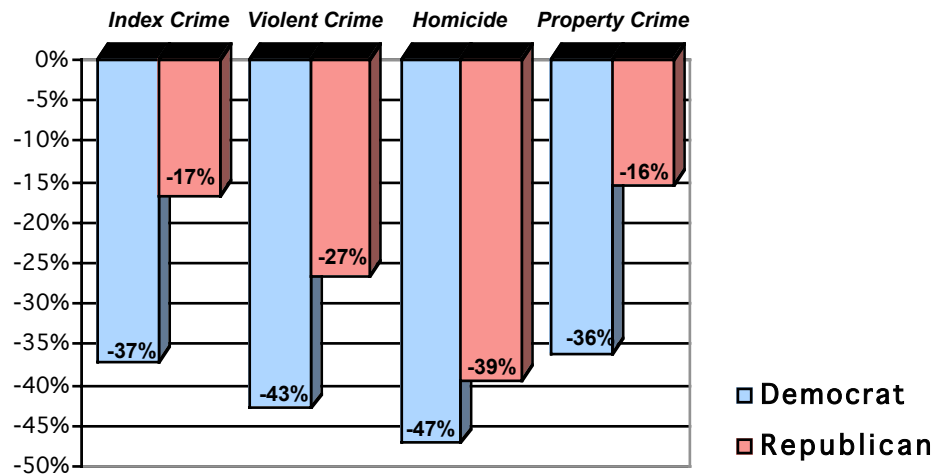
Republican states put more people in prison and jail...

**Increase in Incarceration Rate
Per Capita, 1993-2002**



But Democrat states experienced greater declines in crime...

**Decrease in Crime
Per Capita, 1993-2002**



Incarceration was only responsible for a fraction of the decline in crime in the 1990's. A booming economy, stabilization of the crack trade, targeted law enforcement and demographics were bigger factors.

Source: U.S. Department of Justice, Federal Bureau of Investigation, Crime in the United States: Uniform Crime Reports. Changes were calculated from reports of 1993 and 2002 data. U.S. Department of Justice, Bureau of Justice Statistics, series on Prisoners and Probation and Parole. Changes were calculated from reports of 1993 and 2002 data.

Increased crime control with less use of prison may be counter-intuitive because prisons are supposed to control crime. Prison builders often claim credit for the reductions in crime throughout the nation in the 1990's, but it is not so simple. Research suggests that crime dropped in the 1990's primarily as a result of demographic shifts, economic prosperity and the waning of the crack epidemic. Law enforcement was not irrelevant, but focused strategies such as attention to high crime areas and specific accountability to communities for results had a greater impact than mass incarceration. Indeed, the data indicate that states that locked up more people actually did not fare as well as states that locked up fewer people and chose to spend their resources differently.

Despite the poor correlation with crime control, the number of people in prison continues to increase. The largest number of new admissions in recent years were people convicted of relatively low-level, non-violent offenses, even though this practice is inefficient in terms of controlling crime and inconsistent with America's self-image as a free and equal society. The latest data reflect:

- Nearly 7 million (6,889,800) people in the United States live in prison or jail, or on probation or parole. That is more people than in our eight least populous states combined; organized differently, they would have 16 votes in the U.S. Senate.
- The U.S. prison and jail population increased by 2.9% between 2002 and 2003, adding 40,983 people. The largest growth was in the federal Bureau of Prisons, which experienced a 7% increase, accounting for over a fifth of the total national growth.
- On any given day, one in eight African American men in their twenties wakes up behind bars.

National Trends and State Differences on Major Issues

Health Care

Health care is a major item in most state budgets yet spending on health has not kept up with spending on law enforcement. The share of state spending on health has dropped even as the population has been aging and new technologies have improved treatments. Current data reflect:

- In 1995, state and local governments spent 9.7% of their budgets on health care. By 2001, spending on health had declined to 7% and spending on law enforcement had risen to the same share of the budget.
- Between 1977 and 2001, state and local spending on corrections increased more than twice as much as spending on health (1101% compared to 482%).

The shift from health care to law enforcement is ironic because drug abuse, a primary concern of law enforcement, is in many ways a public health problem. Treatment is often delivered via public health agencies and therapies typically include medical or psychological components. Prison experience and prison records, however, often exacerbate the challenges faced by people with drug problems when they return to society.

Education

Education is also a major item in state budgets, but corrections spending has outpaced education. Current data reflect:

- Between 1977 and 2001, state and local spending on corrections increased more than twice as much as spending on education (1101% compared to 448%). The bulk of this education spending goes to public primary and secondary schools, so young children lose the most in this trade-off.
- In Democrat states, the percentage of children who dropped out of high school *decreased* an average of 8.3% between 1991 and 2001. In Republican states, the percentage of children who dropped out of high school *increased* by an average of 1.0% during the same period.
- Regarding higher education, state expenditures from the general fund for corrections increased five times as fast as expenditures on higher education between 1985 and 2002 (183% compared to 35%).
- Nearly twice as many African American men in their early thirties have been to prison as have obtained a Bachelor’s Degree (22.4% compared to 12.5%).

The choices are ironic because the cost of a year in prison far exceeds the cost of a year at a private university. The average cost of locking a person in prison for a year was \$22,650 in 2001. The national average annual cost of undergraduate tuition in 2000 at a public university was \$4,800 and \$14,000 at a private college.

- If just 10% of the \$57 billion spent annually on incarceration were applied to education, it could fund approximately 100,000 new teachers in primary or secondary schools or create a full tuition scholarship to state college for more than one million high school graduates.

Disenfranchisement

Nationally, approximately 4.7 million Americans are denied the right to vote as a result of a felony conviction, and the number continues to rise in tandem with the expansion of the criminal justice system. The difference of popular votes in the 2000 presidential election was 539,947 votes.

FELON DISENFRANCHISEMENT

	Total Voters Disenfranchised	% Voters Disenfranchised	% African American Voters Disenfranchised
Democrat States	846,486	1.2%	5.4%
Republican States	2,074,837	3.0%	8.6%
Swing States	1,757,617	2.6%	8.4%
Florida Alone	827,207	7.0%	16.0%

Specific findings include:

- In 11 states, including nine swing states, the margin of victory in the 2000 presidential election was smaller than the number of people excluded from the electoral process as a result of a conviction. (The states are: Arizona, Florida, Iowa, Missouri, Nevada, New Mexico, Oregon, Tennessee, Virginia, Washington, Wisconsin).
- The swing state of **Florida** disenfranchises nearly as many people (827,207) as all Democrat states combined (846,486). George Bush's margin of victory in the 2000 presidential election in Florida, and hence the nation, was just 537 votes.
- In the swing state of **New Mexico**, 214 times more people were disenfranchised than Al Gore's margin of victory in the 2000 presidential election. In the swing state of **Iowa**, 24 times more people were disenfranchised than Al Gore's margin of victory in the 2000 presidential election.

Swing States Portend Future on Crime and Prisons

The swing states' use of incarceration tends to fall between the Democrat and Republican states, yet there is significant diversity among swing states. In some cases, neighboring swing states are moving in tandem and in other cases they are taking opposite courses.

The extreme examples include the states with the highest increased rate of incarceration (West Virginia 108%, Wisconsin 96%, and Oregon 75%) and the lowest increased rate of incarceration (Nevada 14%, Ohio 20% and Michigan 23%). The choices these states are making on their own and the preferences they assert in the national election will affect the nation's path in the future.

This is important because the excessive use of incarceration is a barrier to many functions of government. The expenditures limit our ability to educate our youth, make health care accessible, care for our elderly, and create programs to prevent the next generation of young people from spending their lives in and out of jail. It also converts discussion of struggling communities from how to help them succeed to how to punish them when they fail. Specific analysis of swing states found the following illustrative examples:

Pennsylvania and Ohio

- **Ohio** is moderating its use of prisons and seeking alternatives. It has increased prison terms for people convicted of multiple or violent crimes but reduced prison time for people convicted of less serious crimes. Ohio is also working to increase its capacity to supervise and redirect people under correctional control in the community. Ohio recently closed the century-old 1,724-bed Orient Correctional Institution, avoiding \$16 million in needed repairs and \$41.9 million annually in operating costs.
- **Pennsylvania** has continued to rely on prisons. Its incarceration rate increased more than twice as fast as **Ohio's** between 1992 and 2002 (53% compared to 20%), well above average for swing states. The average length of stay in **Pennsylvania** prisons is 5.75 years and moving upwards, compared to 2.5 years nationwide and moving downwards. In 2003,

Pennsylvania cut roughly 20 percent of its community-based treatment dollars, yet the rural areas of the state are experiencing an upsurge in heroin abuse and related problems.

- **Pennsylvania** general revenue spending on corrections increased *fourteen* times as fast as spending on higher education between 1985 and 2002. In **Ohio**, corrections spending increased six times as fast during the same period.

The Midwest

- **Michigan, Minnesota** and **Wisconsin** all had respectable declines in crime between 1993 and 2002, but **Wisconsin** stands out with a 95.5% increase in rate of incarceration during that period (**Michigan** was 22.9% and **Minnesota** was 39.8%).
- **Michigan's** Republican governor and Republican legislature recently voted to abolish many mandatory minimum sentences, moderate prison terms and increase consideration of the individual circumstances of each case. These modifications and were expected to generate \$41 million in savings in 2003 alone.
- **Wisconsin** has spent millions of dollars shipping people to prisons out of state. Its corrections budget more than quadrupled (up 312%) between 1985 and 2002, twice as much as the neighboring state of **Minnesota**. **Wisconsin's** higher education budget increased by one-tenth as much as the corrections budget and the number of children who dropped out of high school increased by 75%.

The West

- **Washington** led reform efforts by reducing sentence lengths and increasing the speed of release for people convicted of drug and property crimes. The Democratic governor working in close collaboration with the Department of Corrections developed new systems in 2002 to divert people convicted of drug offenses into treatment. **Washington** used part of the prison cost savings to fund improved treatment and supervision for people returning from prison.
- **Oregon** and **Washington** experienced similar declines in crime in the 1990's. However, **Washington's** rate of incarceration and corrections spending increased half as much as **Oregon's** between 1993 and 2002 (37% versus 75% rise incarceration, 123% versus 350% rise in corrections spending).
- **Arizona** is pioneering policies that divert people convicted of drug crimes from prison to treatment. **Arizona's** increase in incarceration was half as high as neighboring **New Mexico** (26.1% compared to 62.7%) between 1993 and 2002.

Conclusions and Recommendations

In the past three decades, states America ratcheted up punishment like never before, but now the tide is turning. Nearly half the states have passed some kind of reform intended to reduce overcrowding and relieve fiscal pressures. Many states are experimenting with alternative routes to safety, and crime has dropped considerably. Despite this, the prison population continues to grow. It remains to be seen whether and how that growth can be controlled.

Public Opinion has Shifted:

- Twice as many Americans surveyed in 2001 believed we should “attack the social and economic problems that lead to crime” rather than “improving law enforcement with more police, prisons and judges.”
- Support for change cuts across party lines and ideological affiliations. Last year, Reagan-appointed Supreme Court Justice Anthony M. Kennedy told the American Bar Association: “Our resources are misspent, our punishments too severe, our sentences too long.” Republican legislatures in Texas and Michigan have enacted some of the most sweeping de-incarceration reforms in recent years.

Policy Recommendations:

- Sentencing reforms to return discretion to judges so the punishment fits the offense and the offender.
- Release reforms to reward participation in rehabilitative programs and ensure that prison exits at least keep pace with prison admissions.
- Supervision reforms to minimize returns to prison for technical violations and to help people take responsibility for themselves in the community.
- Federal funding to evaluate the success of state generated innovations and to expedite the replication of successful approaches.
- Restoring the franchise to people who have paid their debt to society.

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