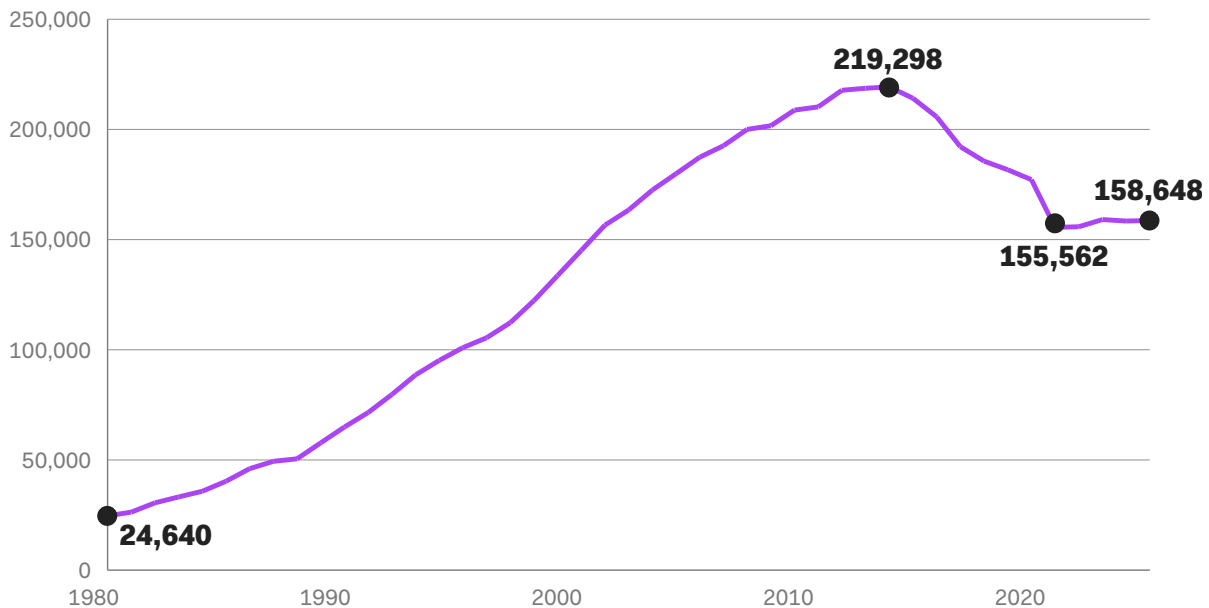


The Federal Prison Population *Is at an Inflection Point*

As of August 2024, there were over 158,000 people in the federal prison system, making it the largest prison system in the country.¹ Indeed, one in eight people in prison in the U.S. is in federal custody.² This represents a 2% increase since 2020, reversing a seven-year downward trend. We must ensure that this upward trend does not continue.

The federal prison population is at an inflection point

Federal Prison Population, 1980–2024



Source: Federal Bureau of Prisons. Population Statistics and Past Inmate Population Totals. Accessed July 11, 2024. https://www.bop.gov/about/statistics/population_statistics.jsp

The federal prison population by the numbers

Federal Prison Population, July 2024

Federal Prison Population	In Federal Prison and Over 50 Years Old	In Federal Prison for Drug Offenses	In Federal Prison and Female
158,648	31,572	64,424	10,516

Source: Federal Bureau of Prisons. Population Statistics and Inmate Statistics. Accessed July 11, 2024. https://www.bop.gov/about/statistics/population_statistics.jsp and https://www.bop.gov/about/statistics/statistics_inmate_age.jsp

Racial Disparities Continue to Define the Federal Prison System

Racial disparities are present at virtually every stage of the criminal justice system. Black people make up less than 14% of the U.S. population, yet they represent more than 27% of those arrested, 31% of those under community supervision, and over 32% of the prison population nationally.³ Moreover, Black individuals are 4.5 times more likely to be incarcerated than their white counterparts.⁴ These disparities are even more pronounced within the federal prison system, where nearly 40% of the incarcerated population is Black.⁵

Racial Disparities in the Federal System by the Numbers

BLACK PEOPLE ARE:

14% of the U.S. population

39% of the people in federal prisons

32% of the people in federal prison for drug offenses

BLACK MEN ARE:

65% more likely to be charged with offenses that carry mandatory minimums by federal prosecutors than comparable white men

53% of men serving sentences of 20+ years for drug offenses in federal prison

BLACK MEN RECEIVE SENTENCES THAT ARE:

13% longer than their white counterparts

Sentencing for drug offenses, which make up the top crime of conviction for 44% of people in the federal prison system, compound these disparities.⁶ Thirty-two percent of people in federal prison for drug offenses are Black, and 53% of men in federal prison serving drug sentences of 20 years or more are Black.⁷ The much criticized crack-powder cocaine sentencing disparity plays an outsized role in these outcomes: **Black men convicted of crack cocaine offenses account for 1 in 3 men sentenced to 20 years or more for a federal drug offense.**⁸ Furthermore, research shows that federal prosecutors are 65% more likely to charge Black men with offenses that carry mandatory minimum sentences than similarly situated white men.⁹

Hispanic people are also disproportionately imprisoned in the federal system. Hispanic people make up 20% of the US population, but represent 29% of people in federal prison and 39% of people in federal prison for drug offenses.¹⁰ Hispanic men are 27% less likely to receive a probationary sentence than white men and Hispanic women are 30% less likely than white women. People of color also receive longer sentences overall than their white counterparts: **Hispanic men receive sentences that are 11% longer than white men and Hispanic women receive sentences that are 28% longer than white women.**¹¹

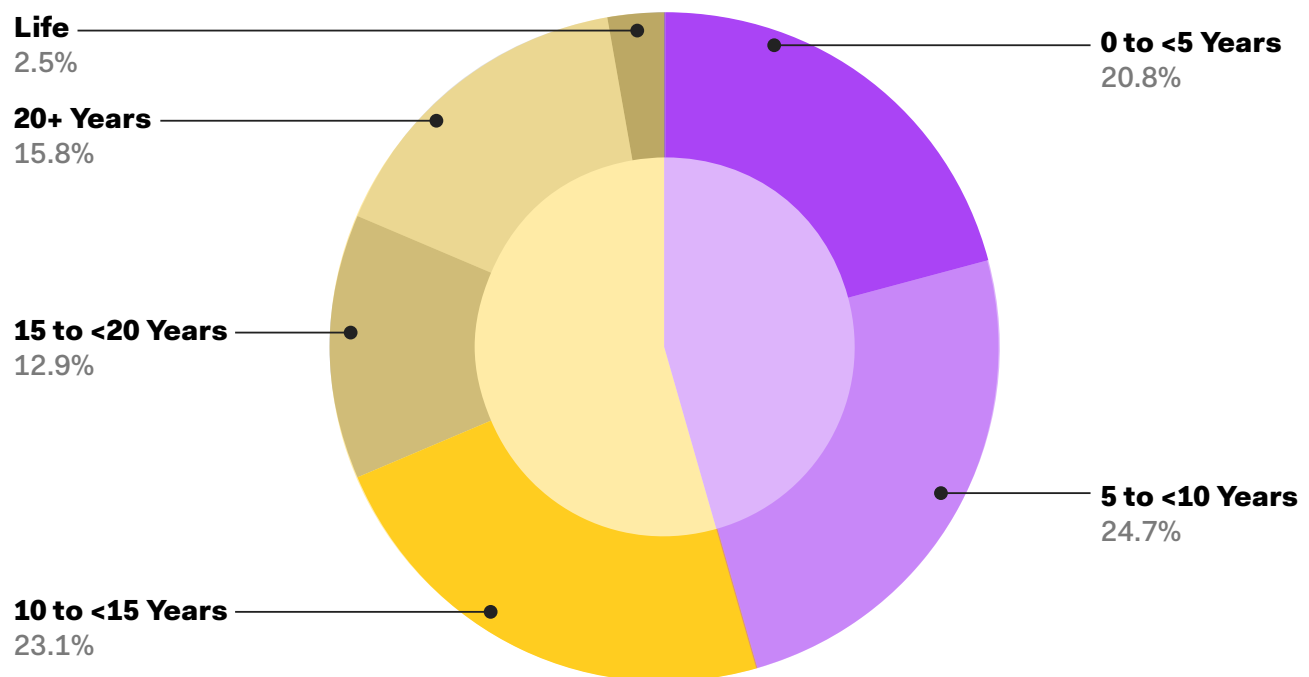
Disproportionately Long Sentences Drive the Federal Prison Population

The U.S. is a global outlier both in the length of prison sentences and the number of long sentences imposed, and long sentences have increased in recent decades.¹² This is especially true in the federal system, where the prison population has been driven in large part by mandatory minimums and lengthy, often disparate, sentence recommendations. Almost 80% of people in federal custody are serving sentences over 5 years, and over half are serving sentences over 10 years. Over 26,000 people in federal custody are serving sentences over 20 years.¹³

Given the prevalence of lengthy sentences and the absence of parole in the federal system, the prison population is also growing older. Over 31,000 people in federal prison are over the age of 50, driving increased medical costs and despite the overwhelming research that people age out of crime and are far less likely to recidivate at older ages.¹⁴

Over half of the federal prison population is serving sentences of 10+ years, and almost 80% are serving sentences of 5+ years

Federal Prison Population by Length of Sentence



Source: Federal Bureau of Prisons. Statistics. Accessed July 11, 2024. <https://www.bop.gov/about/statistics/>

Today's Federal Prison System Remains a Product of "Tough on Crime" Policies

There are thousands of people—fathers, mothers, sons, and daughters—serving federal sentences for crimes that would result in a shorter sentence if they were convicted today, with many having spent decades in prison and nearing or past the age when many Americans retire.

For example, in 2018 Congress passed the First Step Act (FSA), which, among other things, narrowed certain sentence enhancements for people convicted of multiple drug offenses. The FSA, however, failed to make the changes retroactive, meaning that **there are currently over 3,500 people serving an average sentence of 21 years (excluding people serving life sentences) who would likely receive significantly lower sentences today.** Indeed, the US Sentencing Commission estimated that retroactive application of these changes would reduce sentences by approximately 7 years for people serving life in prison and 5 years for people serving an average of 21-year sentences, saving over 20,000 years of prison sentences in total.¹⁵

Similarly, in 2010, Congress took steps to address the crack-cocaine sentencing disparity by reducing the disparity from 100:1 to 18:1.¹⁶ This change, however, did not go far enough: the 18:1 sentencing disparity for crack cocaine versus powder cocaine continues to drive lengthy prison sentences. The Sentencing Commission estimates that if the disparity were to be eliminated and the change were to be applied retroactively, **more than 7,500 people could potentially receive a reduced sentence, shortening the average sentence from almost 14.5 years to just over 8 years, saving over 46,000 years in prison sentences in total.**¹⁷ Without legislative or executive action, these people will remain behind bars, serving disproportionately long sentences.

The Way Forward

There is substantial public support for criminal justice reform. According to [a recent poll by FWD.us](#), nearly three quarters of likely voters believe it is important to reduce the jail and prison population in the U.S., including over 60% of Republicans, 84% of Democrats, and large majorities of Americans of color, particularly Black voters. There are important steps we can take now, including:

- **Executive Clemency**

The 2014 Clemency Initiative launched by the Obama administration was a tremendous success, resulting in almost 1,700 commutations of federal prison sentences and almost 20,000 years of prison sentences saved in total.¹⁸ President Biden can continue this legacy to address disproportionately long sentences and safely return people to their families and communities.

- **The Eliminating a Quantifiably Unjust Application of the Law Act (EQUAL Act)**

The EQUAL Act is bipartisan legislation that would finally eliminate the unwarranted disparity between crack cocaine and powder cocaine in federal sentencing. The bill would also provide people who have already been sentenced under the current law the opportunity to seek a reduced sentence.¹⁹

- **The First Step Implementation Act of 2021 (FSIA)**

One of the most important things FSIA would do is make the FSA's narrowed enhancements for federal drug offenses retroactive, impacting thousands of people currently serving disproportionately long drug sentences.²⁰

The federal prison population is at an inflection point, with staggering racial disparities and disproportionately long sentences. We must chart a new path forward and take steps to safely reduce the federal prison population.

Notes

1. Federal prison population characteristics and data may be found on the Bureau of Prisons website. BOP does not specify if the prison population and population characteristics includes or excludes individuals on home confinement or in "other" facilities, percentage breakdowns may not add up to gross total due to missing data: Population Statistics: https://www.bop.gov/about/statistics/population_statistics.jsp, Inmate Statistics: https://www.bop.gov/about/statistics/statistics_inmate_age.jsp
2. Bureau of Justice Statistics, "Prisoners in 2022 - Statistical Tables," November 2023, <https://bjs.ojp.gov/library/publications/prisoners-2022-statistical-tables>
3. FWD.us, "Black Voters Want More Safety and More Justice," March 2024, <https://www.fwd.us/news/black-voters-want-more-safety-and-more-justice/>
4. Bureau of Justice Statistics, "Correctional Populations in the United States, 2022 – Statistical Tables," May 2024, <https://bjs.ojp.gov/library/publications/correctional-populations-united-states-2022-statistical-tables>
5. BOP, Population Statistics.
6. Id.
7. BOP, Population Statistics; Bureau of Justice Statistics, "Sentencing Decisions for Persons in Federal Prison for Drug Offenses, 2013–2018," p.4, July 2023, <https://bjs.ojp.gov/document/sdpfpdo1318.pdf>
8. Bureau of Justice Statistics, "Sentencing Decisions for Persons in Federal Prison for Drug Offenses, 2013–2018."
9. M. Marit Rehavi and Sonja B. Starr, "Racial Disparity in Federal Criminal Sentences," Journal of Political Economy, 2014, <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2413&context=articles>
10. United States Census Bureau, "Quick Facts," <https://www.census.gov/quickfacts/fact/table/US/PST045221>; BOP, Population Statistics; Bureau of Justice Statistics, "Prisoners in 2022 - Statistical Tables."
11. U.S. Sentencing Commission, "2023 Demographic Differences in Federal Sentencing," November 2023, <https://www.uscc.gov/research/research-reports/2023-demographic-differences-federal-sentencing>
12. Lila Kazemian, "Long Sentences: An International Perspective," Council on Criminal Justice, December 2022, <https://councilonj.foleon.com/tfls/long-sentences-by-the-numbers/an-international-perspective>. For example, from 1992 to 2016, the number of people serving life without possibility of parole sentences (LWOP) in the US increased by 320% and the US incarcerates 40% of people sentenced to life and 83% of people sentenced to LWOP worldwide, despite making up 4% of the world's total population.
13. BOP, Population Statistics.
14. BOP, Population Statistics; Emily Widra, "The aging prison population: Causes, costs, and consequences," Prison Policy Initiative, August 2023, <https://www.prisonpolicy.org/blog/2023/08/02/aging/>
15. The years in sentences saved represent reductions in prison sentences, not necessarily the amount of time saved compared to what would have been served without reforms/commutations. US Sentencing Commission, "Estimate of the Impact of Selected Sections of S. 1014, The First Step Act Implementation Act of 2021," https://www.uscc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/October_2021_Impact_Analysis_for_CBO.pdf. Number eligible and potential years saved are from 2021 for the FSIA and 2022 for the EQUAL Act. The current number of eligible people may be lower today, as some individuals have been released either due to sentence expiration or through early release mechanisms, such as compassionate release.
16. US Sentencing Commission, "2015 Report to the Congress: Impact of the Fair Sentencing Act of 2010," August 2015, <https://www.uscc.gov/research/congressional-reports/2015-report-congress-impact-fair-sentencing-act-2010>
17. US Sentencing Commission, "Estimate of the Impact of H.R. 1693, The Equal Act of 2021," January 2022, https://www.uscc.gov/sites/default/files/pdf/research-and-publications/prison-and-sentencing-impact-assessments/January_2022_Impact_Analysis_for_CBO.pdf.
18. US Sentencing Commission, "An Analysis of the Implementation of the 2014 Clemency Initiative," September 2017, https://www.uscc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20170901_clemency.pdf.
19. EQUAL Act, H.R. 1062, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/house-bill/1062>
20. First Step Implementation Act of 2023, S. 1251, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/senate-bill/1251>



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