America’s Mass Incarceration Problem
Can Prison Contractors Actually Be Part of the Solution?

Executive Summary
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MTC Institute
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America’s Mass Incarceration Problem: Can Prison Contractors Actually Be Part of the Solution? consists of a two-part full report and an executive summary:

- Part I explores the policies that led to mass incarceration in America, the role of correctional facilities in criminal justice reform, and ways in which contract prisons can be used as a tool for reversing the incarceration trend.
- Part II highlights the efforts of MTC correctional facilities to promote a culture of safety and rehabilitation, citing interviews with government partners, community members, and men and women who have served time in MTC correctional facilities.

To see the full report, click here
**EXECUTIVE SUMMARY**

It’s difficult to dispute the fact that the US has an incarceration problem. Over the last 45 years, the incarceration rate has more than quadrupled, making the US prison population by far the largest in the world.\(^1\) With re-arrest rates as high as 55 percent,\(^2\) millions cycle through the corrections system multiple times without having the underlying issues that put them in contact with the system in the first place fully addressed.

**HOW DID WE GET HERE? CAUSES OF MASS INCARCERATION**

What led to such a reliance on incarceration and failings in rehabilitating those that have violated our laws? Some have tried to blame mass incarceration on contract prison operators, claiming that the pursuit of profit has filled prisons and thwarts reform efforts. This simplistic view fails to account for the tough-on-crime mentality and decades of public policy decisions at all levels of government that have contributed to exceptionally high use of incarceration in the US (see figure 1).

Figure 1 Timeline and visual representation of the rise in the US incarceration rate: 1970 to 2015

Figure 1 notes: The green area chart plots annual changes in the incarceration rate of state and federal prisoners from 96 per 100,000 in 1970 to 458 per 100,000 in 2015, as reported by the Bureau of Labor Statistics.

While no single policy, practice, or entity is fully responsible for mass incarceration, tough-on-crime sentencing policies throughout the 70s, 80s, and 90s—including determinate sentencing, mandatory minimums, truth in sentencing, and three strikes—have all been found to play a role.\(^3\) In the 1990s and early 2000s, a 50 percent increase in the number of prosecutors nationally\(^4\) led to a 40 percent increase in admissions to prison.\(^5\)
Behind the tough-on-crime policies was a shift in the philosophy of corrections from rehabilitation to punishment and deterrence. This philosophy became solidified in 1974 when the results of a comprehensive study on rehabilitation appeared to show that “nothing works” in rehabilitation.6

**THE ROLE OF PRIVATE CONTRACTORS IN INCARCERATION**

Starting in the 1980s, severe overcrowding and unconstitutional prison conditions prompted some states and the federal government to contract for the construction and operation of prisons.7 Government correctional agencies retained full oversight of contract prisons, which must adhere to the same standards as publicly run prisons. Contract prison use peaked in 20128 and today, only eight percent of US prisoners are housed in contract prisons.9

Critics have claimed that “the private prison industry helped to create the mass incarceration crisis.”10 The truth is, even if all state and federal prison contracts were cancelled today, America would still have the largest prison population in the world and all of the problems associated with mass incarceration would still exist.

**WHERE DO WE GO FROM HERE? REVERSING THE MASS INCARCERATION TREND**

Public opinion on punitive criminal justice policies has been changing and there are currently bipartisan efforts at all levels of government aimed at reversing the incarceration trend.11 Policies that prioritize prison space for those who commit the most serious offenses have allowed governments to reduce prison populations without compromising public safety.12 As a result of these policy changes, the incarceration rate dropped three percent in 2015—the largest decrease since 1968.13

The Role of Prisons is to Rehabilitate

The primary roles of prisons in the mass incarceration era were to protect the public, punish offenders, and deter crime. Prisons now have a small but important role to play in reversing mass incarceration, but this requires a change in focus and purpose from punishment to rehabilitation.

Four decades of correctional research has shown that “there is sufficient evidence to reject the nothing works mantra.”14 Corrections agencies have the greatest influence over the rehabilitation of incarcerated men and women. The way correctional staff interact with inmates, the security and care they provide, and the programs and opportunities they provide are an essential part of rehabilitation. All correctional facilities—both publicly run and contract prisons—should promote a culture of safety and rehabilitation through:

- Strong leadership, training, and professional development for staff
- Access to high-quality, accredited medical care for all incarcerated people
- Evidenced-based programming to reduce recidivism
- Family and community connections to assist with successful transitions

Paul McAfee (right) credits the staff and programs at MTC’s Diboll Correctional Center with helping him turn his life around. Read Paul’s story in Part I of America’s Incarceration Problem: Can Contractors Actually be part of the solution?
**Contract Prisons Can Be Part of the Solution**

Ending mass incarceration will require comprehensive criminal justice reforms at all levels of governments. MTC supports many of the current reform proposals to safely reduce the prison population, such as alternatives sanctions for low-level offenses. While the role of contract prisons in the criminal justice system is small, they can play an important part in reform:

- **Contract prisons that promote safety and rehabilitation can be a part of the solution to mass incarceration by preparing incarcerated men and women to return to society and stay out of prison.** Part II of America’s Mass Incarceration Problem: Can Prisons Contractors Actually Be Part of the Solution highlights the efforts of MTC correctional facilities to promote a culture of safety and rehabilitation, citing interviews with government partners, community members, and men and women who have been incarcerated in MTC-operated correctional facilities.

- **Contracting for prison performance can encourage more rehabilitative practices in prison, improve safety and security, reduce recidivism, and spur innovation in corrections.** Contracting for performance involves defining specific measurable outcomes and tying incentives to those outcomes. Both public agencies and private operators could compete for prison contracts. This approach would require governments to see correctional contracts not as merely purchasing space for prisoners, but as purchasing correctional services that will improve the lives of men and women involved with the criminal justice system and reduce the need for prison space.

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3 National Research Council (2014). (p. 101)


5 Ibid (pp. 72-73)


9 U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. (December 2016). Prisoners in 2015. Appendix Table 2: Prisoners under the jurisdiction of state or federal correctional authorities held in the custody of private prisons and local jails, December 31, 2014 and 2015. (p. 28) Retrieved from https://www.bjs.gov/content/pub/pdf/p15.pdf


14 Przybylski (2008). (p. 35-36)