

New York Should Pass Second-Look Law to Reduce the Prison Population

Incarceration does not keep communities safe. Recognizing this, New York recently made significant strides to reduce its incarcerated population by passing bail, discovery, and speedy trial reforms. Since these reforms were enacted, there are nearly 40 percent fewer people in New York jails.¹ But to end mass incarceration, New York must address both the number of people entering jails and prisons and the amount of time they spend there—and this includes addressing lengthy, punitive sentences.

Overly punitive sentencing does not promote public safety

New York's overreliance on punishment has made its prison system one of the largest in the country. Twenty-two percent of the more than 30,000 people incarcerated in New York prisons are sentenced to 10 years or more.² Social scientists agree that lengthy prison sentences do little, if anything, to keep communities safe.³ Incarcerating large numbers of people for years creates more harm than good by destabilizing communities.⁴ It can even increase crime rates as a result of the social, familial, and economic effects of incarceration.⁵ Studies show that people age out of crime beginning in their mid-twenties, with reductions continuing with age.⁶ Approximately 48 percent of those who have served at least seven years in New York prisons are at least 30 years old.⁷ Research also shows that lengthy prison sentences have little to no deterrent effect on future conduct when compared with noncustodial sentences such as probation.⁸

Second-look laws address overly punitive sentences

Second-look laws are essential to reassess lengthy, punitive sentences by allowing courts to reexamine a person's sentence after a period of incarceration and determine if incarceration still serves the interest of justice. During this process, judges consider a person's history, character, participation in programs, demonstrated rehabilitation, and fitness to reenter society. If the judge determines that the person is not a danger to the community, the judge can reduce the sentence.

Second-look laws would reduce New York's prison population and allow for reinvestment in our communities

Second-look laws can be either petitioner-initiated or prosecutor-initiated. Prosecutor-initiated versions give either the court or a district attorney the power to petition for resentencing. Petitioner-initiated versions give incarcerated people the right to petition after the required incarceration period.

A petitioner-initiated second-look law that allowed resentencing after 10 or 15 years of incarceration would make more than 4,000 of the 30,803 people currently incarcerated in New York prisons eligible to petition.⁹ If just 25 percent of this group was granted release, New York's prison population would decline by about 1,000 people.¹⁰ This reduced prison population would be accompanied by significant cost savings. In 2015, New York spent an average of \$69,355 per incarcerated person.¹¹ A reduction of 1,000 people could potentially save \$69.3 million.¹²

For decades, New York has relied on incarceration to address mental health, substance use, poverty, and other social challenges. It has become clear that this approach has not addressed those issues or increased public safety. Community-based programs that focus on violence interruption, alternatives to incarceration, and restorative justice effectively prevent harm and hold people accountable in the community for the harm they cause without the use of incarceration.¹³

Second-look laws would address racial disparities in New York’s sentencing regime

Black and Latinx New Yorkers are disproportionately affected by punitive, lengthy prison sentences. Black men are almost three times more likely to be sentenced to 15 years or more than white men, while Latinx men are about one-and-a-half times as likely.¹⁴ If New York passed a second-look bill, more than 75 percent of those eligible for sentence reconsideration would be Black or Latinx.¹⁵

Recommendations

1. **Decarcerate** New York State prisons by passing a petitioner-initiated second-look law.
2. **Shift money** from prison budgets and invest in community-based public safety solutions.
3. **Mandate racial impact statements.** Racial impact statements evaluate the effect legislation will have on racial disparities. Requiring these statements (1) acknowledges that most legislation that creates new crimes or makes sentences harsher will likely exacerbate racial disparities; and (2) forces legislatures to consider this data and determine whether to change course.

About

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Endnotes

¹ Vera Institute of Justice, *Empire State of Incarceration* (New York: Vera Institute of Justice, 2021), <https://www.vera.org/empire-state-of-incarceration-2021>.

² To calculate these statistics, Vera conducted a quantitative analysis of prison sentences using monthly scrapes of the published NY Department of Corrections and Community Supervision Inmate Lookup Data from June 14, 2021 to November 11, 2021. DOCCS, “Inmate Lookup,” database, <http://nysdoccslookup.doccs.ny.gov/>, accessed January 19, 2022.

³ Daniel Nagin, *Deterrence in the Twenty-First Century: A Review of the Evidence* (Pittsburgh, PA: Carnegie Mellon University, 2013), 7-8, <https://doi.org/10.1184/R1/6471200.v1>. See also Michael Cholbi, “Harsh Justice: Why Doesn’t Increasing the Severity of Punishment Lead to Less Crime?” *Psychology Today*, September 13, 2015, <https://perma.cc/JH9V-6U4W>.

⁴ Todd R. Clear, Natasha A. Frost, Michael Carr, et al., *Predicting Crime through Incarceration: The Impact of Rates of Prison Cycling on Rates of Crime in Communities* (Washington, DC: National Institute of Justice, 2014), <https://perma.cc/PVU6-MQ7H>; and Todd R. Clear, “The Effects of High Imprisonment Rates on Communities,” *Crime and Justice* 37 (2008), 97-132.

⁵ Clear, Frost, Carr, et al., *Predicting Crime through Incarceration*, 2014; and Clear, “The Effects of High Imprisonment Rates on Communities,” 2008.

⁶ David P. Farrington, “Age and Crime,” *Crime and Justice* 7 (1986), 189-250. See also Marc Mauer, *Long-Term Sentences: Time to Reconsider the Scale of Punishment* (Washington, DC: Sentencing Project, 2018), <https://perma.cc/5JN6-385K>.

⁷ To calculate these statistics, Vera conducted a quantitative analysis of prison sentences using monthly scrapes of the published NY Department of Corrections and Community Supervision Inmate Lookup Data from June 14, 2021 to November 11, 2021. DOCCS, “Inmate Lookup,” database, <http://nysdoccslookup.doccs.ny.gov/>, accessed January 19, 2022.

⁸ Damon M. Petrich, Travis C. Pratt, Cheryl Lero Jonson, and Francis T. Cullen, “Custodial Sanctions and Reoffending: A Meta-Analytic Review,” *Crime and Justice* 50 (2021), <https://www.journals.uchicago.edu/doi/pdf/10.1086/715100>. See also James Byrne, “After the Fall: Assessing the Impact of the Great Prison Experiment on Future Crime Control Policy,” *Federal Probation* 77, no. 3 (2013), 3-14, Table 1 (listing 26 studies), <https://perma.cc/U7T5-TLC2>.

⁹ To calculate these statistics, Vera conducted a quantitative analysis of prison sentences using monthly scrapes of the published NY Department of Corrections and Community Supervision Inmate Lookup Data from June 14, 2021 to November 11, 2021. DOCCS, “Inmate Lookup,” database, <http://nysdoccslookup.doccs.ny.gov/>, accessed January 19, 2022. Based on the number of people incarcerated as of November 11, 2021.

¹⁰ Ibid.

¹¹ Chris Mai and Ram Subramanian, *The Price of Prisons: Examining State Spending Trends, 2010-2015* (New York: Vera Institute of Justice, 2017), 8, <https://perma.cc/PZ6N-64NY>.

¹² In order to fully realize the potential cost savings of decarceration, the prison population must decrease by large enough numbers that the state can close whole facilities and reduce the number of employees. Ibid., 15. New York State has some experience in this: from 2010 to 2015, the New York prison population decreased by 10 percent and spending decreased by 8 percent. Ibid., 11.

¹³ For information on violence interruption programs, see Vera Institute of Justice, *Investing in Evidence-Based Alternatives to Policing: Community Violence Intervention* (New York: Vera Institute of Justice, 2021), <https://perma.cc/KUQ6-TW2Y>. For information on alternatives to incarceration, see Rachel Porter, Sophia Lee, and Mary Lutz, *Balancing Punishment and Treatment: Alternatives to Incarceration in New York City* (New York: Vera Institute of Justice, 2002), <https://perma.cc/9CNL-T4QS>. For information on restorative justice, see Vera Institute of Justice, *How Can District Attorneys’ Offices Use Restorative Justice?* (New York: Vera Institute of Justice, 2020), <https://perma.cc/7BSS-P4NB>.

¹⁴ To calculate these statistics, Vera conducted a quantitative analysis of prison sentences using monthly scrapes of the published NY Department of Corrections and Community Supervision Inmate Lookup Data from June 14, 2021 to November 11, 2021. DOCCS, “Inmate Lookup,” database, <http://nysdoccslookup.doccs.ny.gov/>, accessed January 19, 2022.

¹⁵ Ibid.