

THE JOURNALISTS' GUIDE TO  
Criminal Justice  
Reform 2013

PRESENTED BY



The main goals of the U.S. criminal justice system are to prevent crime and to deliver just and fair punishments when crime occurs. Our system is failing on both counts.

The U.S. overcriminalizes types of conduct that either should be considered innocent or could be handled through other social systems, such as public health and education; overpolices poor communities and communities of color; holds many people in jail awaiting trial simply because they cannot afford bail; uses incarceration far too often as a sanction; keeps people incarcerated too long; treats people inhumanely while they're incarcerated; and, perhaps most shamefully, continues to engage in the barbaric practice of execution.

We have far to go in repairing this broken system, and we will not solve all of our problems in 2013. But we *will* make progress. Here, we provide background information on some of the most vexing issues plaguing the criminal justice system today—excessive rates of incarceration, broad use of solitary confinement, and the death penalty—and suggest some areas that are ripe for reform.

**Note:** For more information about the studies and reports cited here, see the Resources list on the back cover of this guide or visit the ACLU online, at [aclu.org](http://aclu.org).

## BREAKING THE ADDICTION TO INCARCERATION

The last 40 years have witnessed an American penal system dominated by unrelenting growth, with incarceration aggressively implemented at almost every level, from local to federal. Under this punitive regime, penal reform has faced an impenetrable wall of legislative resistance, and the consequences are well documented: a fivefold increase in the country's overall correctional population, striking racial and ethnic disparities within that population, and tremendous social and financial costs.

However, these dynamics are shifting. In nearly every state, there is increasingly a political premium on containing correctional costs, scrutinizing proposals for further growth, and opening the door to consideration of strategies—most of them out of the question just a few years ago—for downsizing correctional populations and budgets. This shift represents an extraordinary opportunity.

### EXPERT insight

"The confluence of historically low crime rates, the fiscal crisis, and advocacy to promote data-driven rather than fear-driven criminal justice policy has created an unprecedented convergence of interests from across the political spectrum—presenting an opportunity to break America's addiction to incarceration, which has disproportionately impacted communities of color."

**VANITA GUPTA**

Deputy Legal Director of the ACLU and  
Director of the ACLU's Center for Justice

have similarly reduced the prison population by nearly 25%. In Michigan, reductions in parole revocations plus a higher parole-grant rate have lowered the prison population by 17%. And in California, beginning in 2007 with legislative efforts to increase the use of probation, and amid



THE U.S. PRISON POPULATION ROSE BY 700% FROM 1970 TO 2005, A RATE FAR OUTPACING THAT OF GENERAL POPULATION GROWTH AND CRIME RATES.

By various means, four states—New York, New Jersey, Michigan, and California—have significantly reduced their prison populations in the last several years. In New York, for example, reductions in felony arrests coupled with increases in nonprison sentences have shrunk the prison population by nearly 25%. In New Jersey, higher parole-grant rates due to litigation, reforms related to drug-crime sentencing, and reductions in parole revocations

financial incentives following a federal court order to depopulate, the state prison population has declined by nearly 25,000, or 13%. Other states, including Colorado and Washington, have also shown modest reductions.

## CONSUMED BY OVERCRIMINALIZATION AND OVERINCARCERATION

The United States has become the world's largest jailer, both in absolute numbers and

by percentage of population. That translates to one in 99 adults behind bars and more than 7 million children growing up with a parent who is either in prison or under correctional supervision.

The federal government and the states spend about \$70 billion each year on corrections, and projections suggest that the price tag will only go up if we choose to keep our current system afloat. In the average state budget, spending on corrections is roughly comparable to spending on higher education.

No other criminal justice system in the world has been allowed to expand the way the U.S. system has—especially in light of its failure rate. More than half of all people released from prison return within three years. Even though a sizable number return for technical parole violations (not for new crimes), the return rate tells us that something is not working. Indeed, evidence that incarceration reduces crime is minimal.

Of course, Americans have not experienced this increasing punitiveness in equal measure. Rather, more than 60% of those incarcerated

## EXPERT insight

“In 2013, we are seeing the growing trend of lawmakers around the country crafting reforms aimed at reducing incarceration, no longer willing to pay the fiscal and human costs of decades of state policies that have overcriminalized behavior while imposing disproportionately severe penalties. Recognizing that states have been able to significantly reduce their prison populations without seeing a rise in crime rates, these lawmakers are seizing the opportunity to put our criminal justice system back on course.”

**CHLOE COCKBURN**  
ACLU Advocacy and Policy Counsel

issues are being made on the state level. Important reforms over the last year have included, among other measures, allowing parole for elderly prisoners, reducing criminal penal-

## PUBLIC OPINION SNAPSHOT **Americans Believe Too Many People Are Behind Bars**

American voters believe that we imprison too many people and that the U.S. spends too much on keeping people locked up, according to a report issued by the Pew Center on the States in June 2012. The report also found that voters overwhelmingly support a variety of policy changes that shift nonviolent offenders from prison to more effective, less expensive alternatives. Support for sentencing and corrections reforms (including reduced prison terms) is strong across regions and political parties, as well as across age, gender, and racial/ethnic groups.

belong to racial and ethnic minorities; most of them are black and Hispanic males. (Study after study has documented a strong negative correlation between the earning potential of black males and incarceration, and it is commonly accepted that the differential in black and white employment rates is at least in part attributable to the high rate of involvement of blacks with the criminal justice system.)

As noted above, moves to address these

ties for drug crimes, raising the threshold of misconduct for what constitutes a felony, using nonprison sanctions for technical violations of probation and parole, and eliminating mandatory minimum sentencing.

## POLICING REFORM IN 2013

Effective law enforcement depends on community trust to do a good job of preventing and solving crimes. The problems outlined below

erode any faith that the system operates in a fair manner.

### Selective Enforcement and Racial Profiling

According to a 2013 ACLU report, between 2001 and 2010 there were almost 8 million arrests for marijuana possession. In 2010 alone, there were over 780,000 arrests, 100,000 more than in 2001. Marijuana possession arrests now make up almost half of all drug arrests in the United States. Not only has the marijuana war resulted in a significant increase in arrests and convictions of people for possessing marijuana, it has also been waged as an assault primarily on poor communities of color.

Despite the fact that marijuana is used at comparable rates by whites and blacks, state and local governments have aggressively enforced marijuana laws selectively against black people and communities. (In many communities nationwide, minorities are stopped and searched at a higher rate than whites and yet are no more likely to be carrying or doing anything illegal.)

In 2010, a black person was 3.5 times as likely to be arrested for marijuana possession as a white person. In the states with the worst disparities, blacks were on average more than six times as likely to be arrested for marijuana possession as whites, while in the worst-offending counties blacks were over 10, 15, or even 30 times as likely to be arrested as a white resident of the same county. While the criminal justice system casts a wide and relentless net over marijuana use and possession by blacks, it has turned a comparatively blind eye to the same conduct occurring in many Caucasian communities.

### Militarized Police Employing Antiterrorism Tactics

Police have been using military tactics and

resources to wage the war on drugs for several decades. But the militarization of police departments has expanded significantly since 9/11, and we are now seeing it as well in the context of intelligence collection and surveillance in the name of national security.

Local police departments have been able to obtain military equipment from the Department of Defense since 1997, and the Department of Homeland Security now funnels billions of dollars to local police through such programs as the Homeland Security Grant Program. In addition, the National Guard partners with local police in an overt effort to use military power in

#### EXPERT insight

"Today's police need modern equipment and professional training to serve and protect society. However, the use of military-style weapons and antiterrorism strategies threatens our civil liberties and hurts our communities, especially poor communities and communities of color. The police should not be using military equipment and techniques to police our neighborhoods, schools, playgrounds, shopping malls, and homes."

**KARA DANSKY**  
Senior Counsel at the ACLU's Center for Justice

fighting the war on drugs locally. And of course the stakes constantly rise with the advent of increasingly sophisticated surveillance technologies such as drones and biometric screening equipment.

In 2013, the ACLU's Center for Justice is launching a nationwide project to request public records in an effort to find out just how serious this problem is. The center will produce

a report describing its findings.

### PRETRIAL REFORM IN 2013

More than 10 million adults are booked into jail each year in the U.S.—mostly for misdemeanor crimes. Below are the most pressing pretrial problems that contribute to overincarceration.

#### A Broken Bail System

On any given day, 60% of the U.S. jail population is composed of people who, not yet formally convicted, are being held as they await decisions about the charges against

### Overcrowded Prisons

Although jail overcrowding is an issue nationwide, one story to watch in 2013 will likely develop in California. With an average daily population nearing 22,000, the sprawling Los Angeles County jail system is one of the most troubled in the U.S. And because of the 2012 passage of AB 109, California's prison-realignment plan, the state will soon shift 7,000 more prisoners into the county's already swollen facilities—which include Men's Central Jail, a windowless dungeon in downtown L.A. that has long been plagued by a culture of savage deputy-on-inmate violence.



them. Many languish in jail simply because they cannot afford bail. Bail amounts of even a few hundred dollars can be too expensive for low-income individuals, and pretrial detention can wreak havoc on a person's life.

Problems with the current bail system are compounded by the commercial bail bond industry. Although bail bond agents may lend defendants the money needed to post bail, such loans are often made at high interest rates. Moreover, individuals held in jail while awaiting disposition of the charges against them are more likely to be convicted and sentenced than are those released pretrial. In 2013, efforts are under way to eliminate unnecessary bail schedules (i.e., the laws that prohibit judges from considering individuals' particular circumstances) and give judges alternative ways to ensure the appearance of the accused at trial.

The sheriff and the Los Angeles Citizens' Commission on Jail Violence are now engaged in negotiations to find a solution to what the commission calls "a persistent pattern of unreasonable force in the Los Angeles County jails that dates back many years."

#### Lack of Adequate Legal Defense for the Poor

The Sixth Amendment guarantees every person accused of a crime the right to an attorney for his or her defense, regardless of ability to pay, and the Fourteenth Amendment guarantees all citizens equal rights regardless of race or national origin. But all too often, existing indigent-defense systems leave low-income people, including many people of color, without adequate representation—putting them at risk of wrongful convictions.

When the U.S. Supreme Court some 50 years ago decided *Gideon v. Wainwright*—a

**STORIES TO WATCH IN 2013** Will More States Move Toward Legalizing Marijuana?

Following the legalization of marijuana by ballot initiative in Colorado and Washington last November, President Obama announced that federal enforcement of marijuana prohibitions in those states would be a waste of resources.

The ACLU's 2013 report on marijuana arrests found that between 2001 and 2010 there were almost 8 million such arrests nationwide. The price tag for this policing is astronomical: States spent around \$3.5 billion enforcing marijuana possession laws in 2010 alone. And the impact of these laws is felt unequally. Despite the fact that marijuana is used at comparable rates by whites and blacks, a black person was 3.5 times more likely to be arrested for marijuana possession as a white person in 2012.

Given these trends, one story to watch in 2013 is whether additional states follow suit, decriminalizing or legalizing possession of small amounts of marijuana and permitting its use medically. Another story to watch is whether federal law enforcement of marijuana laws shifts nationally in the wake of the Colorado and Washington reforms.

landmark case that reaffirmed the right to counsel for those facing incarceration—our criminal justice system was a fraction of the size it is now. And the importance of an adequate defense is today more urgent than ever, as a conviction for even a misdemeanor can result in lifetime ineligibility for federally subsidized public housing or federal financial aid for education, as well as loss of voting rights and disqualification for many jobs. Still, indigent defense remains a low public priority.

**SENTENCING REFORM IN 2013**

People sentenced to prison in the U.S. spend, on average, more time incarcerated than prisoners anywhere else in the world. U.S. jurisdictions—including all 50 states and the federal government—send far too many people to prison and leave them there far too long. Here are some of the contributing factors.

**Three-Strikes Laws**

The nationwide rise of “three-strikes” laws has led to a significant increase in the nation’s already swollen prison population, at enormous cost to taxpayers. The first such statute, enacted in Washington State in 1993, required that anyone convicted of a third “strike” (de-

finied by law to include only certain serious or violent felonies) must serve a mandatory term of life without parole. California followed suit in 1994, mandating a sentence of 25 years to life for anyone convicted of *any felony* after having previously been convicted of two serious or violent felonies. Eliminating—or even substantially reforming—laws like these would have a significant impact on correctional populations

**EXPERT insight**

“In *Gideon v. Wainwright*, the Supreme Court held that criminal defendants facing jail time are entitled to state-funded counsel if they cannot afford their own. Nevertheless, in almost every state today, poor people charged with crimes are still assigned to overworked, under-resourced, and untrained counsel. Ineffective assistance of counsel is an abomination masquerading as justice; it calls into question our nation’s willingness to uphold the Constitution for the poor people.”

**TANYA GREENE**  
 ACLU Advocacy and Policy Counsel

## PUBLIC OPINION SNAPSHOT **Marijuana Legalization and the War on Drugs**

A 2011 Gallup poll, as well as 2012 polls by Angus-Reid and Rasmussen, found that half of Americans now favor marijuana legalization. Further evidence of shifting public opinion can be found in a 2012 Rasmussen poll in which more than half of respondents said that alcohol is more dangerous than marijuana. What's more, in a poll released by Rasmussen that same year, 82% of those surveyed agreed that "the country is not winning the fight against illegal drugs."

by shortening the amount of time people spend in prison.

### Mandatory Minimum Sentences

Mandatory minimums require specific prison terms for certain offenses and give judges almost no discretion to consider the particular circumstances of the individual being sentenced. Nearly half of the federal prison population is serving lengthy sentences under mandatory minimum sentences for drug convictions. Many individuals sentenced under these laws have little or no history of violence or prior arrest; under a less punitive regime, they might have access to appropriate diversion programs

#### EXPERT insight

"Mandatory minimum sentencing undermines our notion of justice. It is both unwise and unfair for judges not to have discretion to consider the facts of each case and hand down sentences accordingly. This unwise practice inevitably leads to a disproportionate impact on minority communities, an end result that is un-American and unfair."

**JESSELYN MCCURD**  
ACLU Senior Legislative Counsel

and needed social services. Many are young men, and a disproportionate number of them are minorities, routinely treated unfairly by a

system rife with racial bias.

Senator Patrick Leahy, a former prosecutor and Chair of the Senate Judiciary Committee, announced in early 2013 that the time has come to reform mandatory minimums. His statement has opened a debate that many thought too politically difficult. "Our reliance at the state and federal level on mandatory minimums has been a great mistake," Leahy said. "I'm not convinced it has lowered crime. I know that we have imprisoned people who should not be there, and we have wasted money better spent on other things."

In May, the ACLU will release a report on the devastating trend of life sentences without the possibility on parole for nonviolent offenses.

### The Debtors' Prison Bind

The U.S. Supreme Court ruled 30 years ago, in *Bearden v. Georgia*, that so-called debtors' prisons violate the equal-protection clause of the Fourteenth Amendment. Nonetheless, poor people across the nation are routinely jailed for inability to pay the onerous sanctions often imposed after a criminal conviction.

Incarcerating people who are simply too poor to pay fines or fees creates hardships for those already struggling to reenter society after release from jail, and wastes resources in an often fruitless effort to extract payment from defendants who may be homeless, unemployed, or facing other life circumstances that leave them unable to pay. These individuals see their incomes fall, their credit ratings worsen, their



prospects for housing and employment dim, and their chances of ending up back in jail or prison increase.

*For more information, see the ACLU report "In for a Penny: The Rise of America's New Debtors' Prisons." The ACLU is conducting a number of investigations around the country to document and end debtors' prisons; some of these efforts may lead to litigation in 2013.*

### When Profits Create an Incentive to Incarcerate

It's an inescapable fact that the business models of private-prison companies depend on locking up more and more people. As described in the ACLU's 2011 report on private prisons, as incarceration rates skyrocket, the private-prison industry expands, holding ever more people in its facilities and generating massive profits. And while supporters of private prisons argue that governments can save money through

privatization, the evidence for savings is mixed at best—in fact, private prisons may in some instances cost more than governmental ones. Private prisons have also been linked to numerous reports of violence and atrocious conditions.

### SOLITARY-CONFINEMENT REFORM IN 2013

For the last two decades, corrections systems relied heavily on solitary confinement for controlling inmates—even building entire facilities, called "supermax" prisons, where prisoners are held in conditions of extreme isolation, sometimes for years or even decades. Many medical and legal experts criticize solitary confinement as both unconstitutional and inhumane, and there is little empirical evidence to suggest that it makes prisons safer. Indeed, emerging research suggests that supermax prisons actually have a negative

#### STORIES TO WATCH IN 2013 **Funneling Undocumented Immigrants into For-Profit Prisons**

The Federal Bureau of Prisons currently pays the biggest player in the private-prison industry, Corrections Corporation of America (CCA), \$5 billion a year to hold 23,000 immigrants in Criminal Alien Requirement (CAR) facilities. But even beyond CCA, incarcerating immigrants for profit is a growing trend: Nearly half of all civil immigration detainees are held in private facilities.

Despite a 40-year low in border apprehensions, the Bureau of Prisons continues to request incarceration of more low-security immigrants using CAR beds, as a result of Operation Streamline, whereby immigrants apprehended crossing the border without permission are charged with federal crimes. Defendants are sentenced en masse, in hearings that are as lacking in individualized due process as they are costly.

Operation Streamline, launched in 2005, has profoundly skewed the federal justice system. Prosecutions of this type are up 130% from levels reported in 2007. The burden falls disproportionately on Latinos, who have become for the first time the majority of convicted felons sent to federal prison—at a time when civil immigration proceedings could deport many of these migrants at far lower cost. Operation Streamline leads to crushing caseloads in the five Southern border district courts, which now handle half of all federal prosecutions, and diverts resources from the drug and gun cases that are real priorities. Judge Ruben Castillo, who served on the U.S. Sentencing Commission, concluded that Streamline is "a use of criminal justice resources that doesn't make sense."

In 2013, two stories to watch will be how the push for comprehensive immigration reform could result in increased enforcement of current laws and detention programs like Operation Streamline in exchange for easier paths to legal residency, and the role that private prisons could play in absorbing an expanding immigrant detainee population.



**EXPERT insight**

“Courts have consistently ruled that solitary confinement of people with mental illness is unconstitutional because it aggravates their illness and prevents them from getting proper treatment. Even for those with no prior history of mental illness, solitary confinement can inflict extraordinary suffering and lead to catastrophic psychiatric deterioration.”

**DAVID FATHI**  
Director of the ACLU's National Prison Project

effect on public safety.

Given these harsh realities, some states have started to move away from solitary confinement and its high fiscal and human costs. Maine recently reduced the population in solitary confinement in its prisons and jails by 70%, and in 2012 Illinois closed the doors of the Tamms supermax prison, where prisoners were held in solitary at least 23 hours a day.

### Exacerbation of Mental Illness

Solitary confinement is the practice of placing a person alone in a cell for 22 to 24 hours a day with little human contact or interaction. While some of the specific conditions of solitary confinement may differ among institutions, the prisoner generally spends 23 hours a day alone in a small cell with a solid steel door, a bunk, a toilet, and a sink. The amount of time a person spends in solitary confinement varies, but it can last for months, years, or even decades.

There is a popular misconception that all prisoners in solitary are violent, dangerous, and disruptive. In fact, many of those subjected to solitary confinement are severely mentally ill or

cognitively disabled prisoners who find it difficult to function in prison settings or understand and follow prison rules. Researchers estimate that, on average, at least 30% of the prisoners held in solitary are mentally ill. Solitary is psychologically difficult for even relatively healthy individuals, but it is devastating for those with mental illness.

Researchers estimate that more than 80,000 prisoners nationwide are held in some form of solitary confinement, including administrative or disciplinary segregation and protective custody.

### The Devastating Effect on Young Inmates

Children, too, are subjected to the damaging effects of solitary confinement. Despite the prevalence of youths in adult facilities, most adult correctional systems offer few, if any, alternatives to solitary confinement as a means of protecting young people in prison.

Young people have special developmental needs and are even more vulnerable than adults to the harms of prolonged isolation, as their brains and bodies are still developing. Yet some institutions, such as one in Florida, place kids in solitary confinement to punish them and do not allow them out of their cell to exercise for the first 30 days. A serious and tragic consequence of the solitary confinement of young inmates is the increased risk of suicide and self-harm. In juvenile facilities, more than 50% of youth suicides occur in solitary confinement.

*For more on juvenile solitary confinement, see the ACLU's report "Growing Up Locked Down."*

### DEATH-PENALTY REFORM IN 2013

According to the Death Penalty Information Center, 29 executions are scheduled for 2013. With these deaths looming, it's important to consider the current state of the death-penalty

system in the United States.

Along with the federal government, 33 states still recognize the death penalty as a legal option, but there is a growing trend toward abolition. Five states—New Jersey, New York, New Mexico, Illinois, and Connecticut—have ended executions in the last five years. And California voters narrowly rejected a ballot initiative in last November's election that would have repealed the death penalty there. In 2013, Maryland, Montana, Colorado, Delaware, New Hampshire, Washington, and Kansas are considering abolition of the death penalty.

### EXPERT insight

"The law is incapable of providing a way to choose who should be executed that spares the innocent, that is not fundamentally biased against people of color and the poor, and that does not cost society more in dollars and in dishonor."

**DENNY LEBOEUF**  
 Director of the ACLU's Capital Punishment Project

### PUBLIC OPINION SNAPSHOT American Support for the Death Penalty is Waning

According to a 2011 Gallup poll, 61% of Americans approve of using the death penalty for persons convicted of murder, down from 64% the previous year. This is the lowest level of support since 1972, the year the Supreme Court voided all existing state death-penalty laws in *Furman v. Georgia*. In 2012, Lake Research Partners found that a solid majority of voters—again 61%—would select a punishment other than the death penalty for a murderer.

Below, we look at some of the problems inherent in the administration of the death penalty.

#### Cost, Innocence, and Utility

Death-penalty cases, from the point of arrest to execution, cost between \$1 million and \$3 million per case. In contrast, cases resulting in life imprisonment cost on average \$500,000 each.

Since 1973, more than 140 people have been released from death row in 26 states because evidence has shown them to be innocent. Nationally, at least one person is exonerated for every 10 prisoners executed.

According to a 2009 poll, police chiefs rank the death penalty last among various options for reducing violent crime. Given its exorbitant price tag, these police chiefs also considered the death penalty to be the least efficient use of taxpayer money among sentencing options.

#### Mental Illness, Volunteers, and Bias

Since 1983, more than 60 people with mental illness or retardation have been executed in the U.S. Annual totals abated somewhat in 2002, when the U.S. Supreme Court held, in *Atkins v. Virginia*, that it is unconstitutional to execute defendants with "mental retardation." Since then, there has been a growing trend toward carving out more robust exceptions for the seriously mentally ill, with the American Psychiatric Association, the American Psychological Association, the National Alliance for the Mentally Ill, and the American Bar Association all endorsing resolutions calling for such an exemption. It is conservatively estimated that 5% to 10% of death row inmates suffer from serious mental illness. However, research has shown that nearly all death row inmates suffer from brain damage due to illness or trauma, and that a

vast number have also experienced histories of severe physical and/or sexual abuse.

In the parlance of death row, a “volunteer” is someone who has waived his or her right to challenge the death sentence and has thus “volunteered” to be executed. Since the reinstatement of the death penalty in 1976 (the U.S. had ruled the death penalty unconstitutional in 1972) through November 2011, 137 of the 1,320 people executed have been volunteers. Based on experience, it is safe to assume that of the 29 inmates scheduled to be executed in 2013, at least some will most likely

dependent on how much money a defendant has, the skill of his or her attorneys, the race of the defendant, the race of the victim, and the jurisdiction in which the crime took place.

People of color are far more likely to be executed than white people, especially if the victim is white. In Louisiana, the odds of a death sentence being imposed are 97% higher where the victim in the case is white than in cases where the victim is black. In California, those accused of killing a white victim are over three times more likely to be sentenced to death than those accused of killing a black

### STORIES TO WATCH IN 2013 **Will States Begin to Remedy Racial Discrimination in Death-Penalty Cases?**

In 2009, North Carolina enacted the Racial Justice Act, a new law designed to remedy racial discrimination in capital cases. The law is only the second in the country with such a goal (the first was in Kentucky). It allows defendants to use statistical evidence to demonstrate systemic racial bias— notwithstanding the U.S. Supreme Court’s decision, in *McClesky v. Kemp*, that such evidence was inadmissible in a death case.

At the first hearing under the law, in 2012, Marcus Robinson, a death row inmate demonstrated widespread discrimination both across North Carolina and in his case at the time of his trial. Based on this evidence, his sentence was commuted to life without parole. The North Carolina legislature responded by restricting the law in the summer of 2012 to require defendants to focus on discrimination within their own counties, rather than statewide. Even under this revised law, however, two other individuals have successfully demonstrated that racial bias affected their trials.

Racial bias runs so deep in North Carolina that the defendants challenging their death sentences under this law have also been able to produce evidence that the North Carolina Conference of District Attorneys trained prosecutors in fabricating legally acceptable ways to exclude African Americans from juries.

Supporters of the Racial Justice Act argue that it is an important and unique protection against the invidious influence of racial discrimination in capital charging and sentencing, and that it sends a clear message that the citizens of North Carolina will not tolerate death sentences tainted by discrimination. Since North Carolina’s Racial Justice Act was passed, Texas and California have introduced similar bills. The story to watch in 2013 will be whether still more states follow suit.

opt to be relieved of the extreme psychological pressure associated with years spent on death row and will volunteer for their own executions.

Studies continually show that application of the death penalty in the U.S. is largely

victim and over four times more likely to be sentenced to death than those accused of killing a Latino victim. Racial bias has been found to infect death-penalty trials nationwide. ■

## RESOURCES

Experts at the ACLU are available to answer questions about the U.S. criminal justice system, including those related to topics presented in this guide. To speak with an expert, send a message to [media@aclu.org](mailto:media@aclu.org) or call (202) 675-2318.

### For more information about the size and cost of the country's prison population, see:

- The 2011 ACLU report “Smart Reform Is Possible”  
[http://www.aclu.org/files/assets/smartreformispossible\\_web.pdf](http://www.aclu.org/files/assets/smartreformispossible_web.pdf)
- The Bureau of Justice Statistics website  
<http://bjs.ojp.usdoj.gov>
- The 2012 Pew Center on the States report “Time Served: The High Cost, Low Return of Longer Prison Terms”  
[http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2012/Prison\\_Time\\_Served.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2012/Prison_Time_Served.pdf)
- The 2010 ACLU report “In for a Penny: The Rise of America's New Debtors' Prisons”  
<http://www.aclu.org/prisoners-rights-racial-justice/penny-rise-americas-new-debtors-prisons>
- The 2011 ACLU report “Banking on Bondage: Private Prisons and Mass Incarceration”  
<http://www.aclu.org/prisoners-rights/banking-bondage-private-prisons-and-mass-incarceration>
- The 2012 ACLU report “At America's Expense: The Mass Incarceration of the Elderly”  
<http://www.aclu.org/criminal-law-reform/americas-expense-mass-incarceration-elderly>

### For information about military and homeland security support to local law enforcement agencies, see:

- The Department of Homeland Security's Homeland Security Grant Program  
<http://www.fema.gov/fy-2012-homeland-security-grant-program>
- The Defense Logistics Agency's Law Enforcement Support Office  
<https://www.dispositionservices.dla.mil/rttd03/leso/index.shtml>

### Information about prison and jail overcrowding can be found here:

- The 2012 ACLU of California report on jail overcrowding in that state, “Public Safety Realignment: California at a Crossroads”  
[https://www.aclunc.org/docs/criminal\\_justice/public\\_safety\\_realignment\\_california\\_at\\_a\\_crossroads.pdf](https://www.aclunc.org/docs/criminal_justice/public_safety_realignment_california_at_a_crossroads.pdf)
- The ACLU Blog of Rights (this post and others)  
<http://www.aclu.org/blog/criminal-law-reform-prisoners-rights/what-were-doing-about-louisianas-prison-crisis>

### For information about Operation Streamline and the detention of immigrants, see:

- The 2012 Justice Strategies report “Privately Operated Federal Prisons for Immigrants: Expensive. Unsafe. Unnecessary.”  
<http://www.justicestrategies.org/publications/2012/privately-operated-federal-prisons-immigrants-expensive-unsafe-unnecessary>

### For information about solitary confinement, see:

- The 2012 ACLU briefing paper “The Dangerous Overuse of Solitary Confinement in the United States”  
[http://www.aclu.org/files/pdfs/prison/stop\\_solitary\\_briefing\\_paper.pdf](http://www.aclu.org/files/pdfs/prison/stop_solitary_briefing_paper.pdf)
- The 2012 ACLU and Human Rights Watch report “Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States”

### For information about the administration of the death penalty in the U.S., see:

- The ACLU's “Case Against the Death Penalty”  
<http://www.aclu.org/capital-punishment/case-against-death-penalty>
- The Death Penalty Information Center website  
<http://www.deathpenaltyinfo.org>
- The 2011 Gallup poll on the public's waning support for the death penalty  
<http://www.gallup.com/poll/150089/support-death-penalty-falls-year-low.aspx>