



Decarceration & Criminal Legal System Reform

The Southern Poverty Law Center works to reimagine the criminal legal system and reduce mass criminalization and incarceration at the federal and state levels. Specifically, we are in five states across the Deep South, where the incarceration rate for Black people is often triple the rate of white people. The heart of the SPLC's decriminalization and decarceration goals lies in dismantling systems rooted in white supremacy and anti-Black history.

Reducing the incarcerated and detained population in the Deep South means dismantling the school-to-prison pipeline, eliminating entrenched perverse profit incentives, upending criminal legal and detention systems, and providing alternative models for public safety that are anti-racist, equitable, humane, and affirming. The disproportionate impact of criminalization and incarceration on communities of color highlights the urgent need for the SPLC's engagement. Mass incarceration creates generational trauma, perpetuates cycles of poverty, and leads to widespread voter disenfranchisement due to the collateral consequences of arrests and convictions.

Our Advocacy

Redefining what true community and public safety look like

Our current public safety paradigm endangers people and communities by overemphasizing a system of policing and criminalization that disproportionately targets Black and Brown communities, people with disabilities, and other vulnerable communities. It is past time we reimagine this failed paradigm and reallocate resources away from a punitive system and toward one that invests in prevention-focused community interventions and social supports. We must shift away from the failed approach of using law enforcement and punishment to address society's problems, and toward an evidence-based approach that invests in communities to address mental health, substance use disorders, youth services, and the needs of people experiencing homelessness.

Police accountability

For far too long, law enforcement in America has been able to operate with impunity. We advocate for eliminating qualified immunity, which often allows law enforcement to harm Black and Brown communities without legal recourse. The SPLC also supports reforming civil asset forfeiture, which allows police to confiscate property from people, even without an arrest or criminal charge, and sell that property to pad their budgets.

Dismantling the school-to-prison pipeline

Ending the school-to-prison pipeline, including removing law enforcement and school resource officers from schools, is a critical priority for the SPLC. The presence of police in schools has directly resulted in funneling children, especially Black and Brown children, into the criminal legal system. Take Florida, for example: Arrests in schools have increased, while overall youth arrests decreased. The use of forceful restraint against kids, which is traumatizing, has increased by

Policy

Recommendations

Enact federal legislation fully banning the practice of incarcerating children in adult prisons.

- Advocate for greater procedural protections in educational exclusionary discipline practices leading toward their elimination, mandatory training for school personnel, and raising the age for arrest and placement in adult prisons.
- Enact legislation and agency guidelines that eliminate all forms of profit from the criminal legal system and detention facilities.
- Deschedule marijuana from the Controlled Substances Act and Congress should pass legislation such as the Cannabis Administration and Opportunity Act (CAOA) and the Marijuana Opportunity Reinvestment and Expungement Act (MORE).
- Advance policies that increase law enforcement and prosecutorial transparency and accountability.
- Advance policies that increase funding for public defense and expand access to counsel for indigent juvenile and adult defendants.
- Advocate for changes in pretrial and sentencing laws.

400%. Police arrest children as young as 5 years old in schools, and Black children are arrested at double the rate of white children.

Ban the practice of treating children as if they are adults in the criminal legal system

It is a well-established fact that the human brain does not fully develop until a person reaches their mid-20s. This has not stopped states, especially those in the Deep South, from charging children as adults in the criminal legal system. No state does this more frequently than Florida, which allows prosecutors the extraordinary power to bring adult charges against children as young as 14 — without any review by a judge or a grand jury. And just this year, Louisiana lowered the age for which children are prosecuted as adults. Now the state prosecutes 17-year-olds as if they are adults and commits them to adult detention facilities. Black and Brown children are far more likely to be funneled into the adult system than white kids.

Reforming pretrial and sentencing laws

Federally, about 75% of people accused of a crime, but not yet convicted, are detained pretrial, for an average length of nine months. This is an enormous increase from 1983, when less than 25% of people were detained prior to trial, for an average of about two months. The states don't fare much better. On average, two-thirds of people held in jails across the country are being held prior to being convicted of any crime. All too often, this is not because they are a threat to public safety, but because they do not have money to pay bail. This creates a two-tiered system with those who have money being able to buy their freedom, while those without wealth must sit in jail awaiting trial. This disproportionately hurts Black people, who are almost four times as likely to have bail set, and when set it is on average almost \$7,500 more than that of a white person.

Due to unjust and disproportionate sentencing laws, the United States incarcerates about two million people at any given time, resulting in the highest incarceration rate in the world.

Advocating for federal decriminalization of marijuana

The SPLC supports full federal decriminalization of marijuana, coupled with automatic retroactive expungement for prior convictions and policies ensuring any benefits from legalization flow equitably to those most impacted by the so-called "War on Drugs." This "War on Drugs" has been a primary driver of mass incarceration at the federal level, where about half of the prison population is there for a drug offense — the vast majority of whom are Black or Brown.

Ending the criminalization of marijuana is a critical step in ending this "war," and a necessary step toward racial justice. Nationally, Black people are arrested at a rate nearly four times that of white people, despite similar usage rates. Thirty-eight states have legalized comprehensive medical marijuana, and another 24 states have legalized recreational marijuana. These states have benefited tremendously from the taxation on marijuana and have seen improvements to public health. The results of legalization have been so positive that not a single state has sought to roll back its legalization.

Eliminating profit incentives to arrest and incarcerate people

Perverse profit incentives, in various forms, have long been at the core of the U.S. prison system. When the 13th Amendment abolished slavery, it included an exception for those convicted of crimes. This exception incentivized the incarceration of Black people to replace slave labor, and remains in our Constitution today. Forced prison labor, along with a robust for-profit industry, creates perverse incentives entangling a large number of people in the criminal legal system — including the for-profit bail industry, for-profit prisons, for-profit probation, and businesses that profit off necessities such as food, health care, and communication with loved ones. In a capitalistic society often motivated by money and greed, eliminating profit is a necessary step in ending the mass incarceration of Black and Brown people.

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