

Sentencing Times

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Campaign to End Life Imprisonment Advances

States introduce legislation to scale back long-term sentences

At least 16 states and the District of Columbia have introduced legislation authorizing retroactive sentencing remedies for people sentenced to life imprisonment. The Sentencing Project’s Director of Advocacy, Nicole D. Porter, joined more than 100 New York advocates in January to testify in support of an “elder parole” bill and a presumptive parole reform bill. The elder parole bill (AB 4319) would allow people aged 55 and older who have served 15 consecutive years in prison a consideration of parole release regardless of crime or sentence—including those sentenced to life without parole. The presumptive parole reform bill (AB 4346) would change the standard of parole release and create a presumption of release for all parole applicants, including those with a life sentence.

Porter also aided Missouri’s Smart Sentencing Coalition by testifying in support of Republican sponsored legislation (HB 195) that would retroactively authorize a parole review for people sentenced to life without parole who have served at least 25 years for qualifying offenses.

Senior Advocacy Associate Josh Rovner testified before the District of Columbia Council’s Judiciary Committee in March in support of a bill to allow older adolescents the same opportunities for resentencing currently allowed for people under age 18 at the time of their offense. If the bill becomes law, people who were under 25 and sentenced to long terms

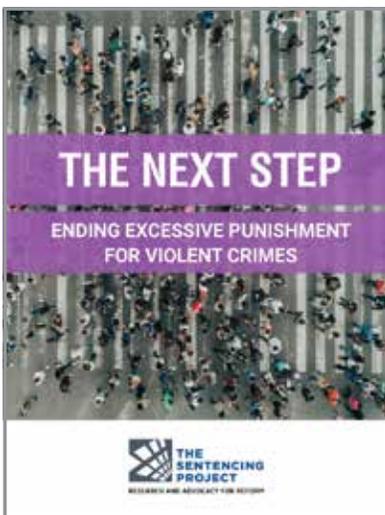


Nicole D. Porter speaking at RAPP Campaign lobby day in Albany, NY

in prison can apply for sentencing review before a judge after serving 15 years.

The bill has garnered the support of a majority of the DC Council, but faces opposition from the appointed U.S. Attorney for the District of Columbia. Following a critical [Washington Post](#) editorial about the bill, Rovner authored a letter published in the newspaper explaining how the reforms would align with national trends. ■

The next step in ending mass incarceration



Nearly half of the U.S. prison population is serving time for a violent crime, ranging from assault and robbery to rape and murder. While criminal justice reforms have limited the number of people imprisoned for drug crimes, they have yet to meaningfully reduce excessive penalties for violent crimes. In [The Next Step: Ending Excessive Punishment for Violent Crimes](#), Senior Research Analyst Nazgol Ghandnoosh highlights exceptions to this trend: reforms in 19 states that have produced more effective, fiscally sound, and humane policies for people with violent convictions.

These reforms include executive and legislative initiatives to reduce extreme

sentences. For example, former California Governor Jerry Brown approved the overwhelming majority of the parole board’s grant decisions for people serving life sentences and outpaced his recent predecessors in commuting sentences for persons convicted of violent crimes. In doing so he stated: “Many people in today’s society do not believe in either forgiveness or redemption ... They believe that what you do is who you are. That philosophy is not something that I share.”

Even Southern states, which have exceptionally high rates of incarceration, have begun scaling back excessive

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EXECUTIVE DIRECTOR'S MESSAGE

Challenging mass incarceration

As reforms to the criminal justice system have proceeded apace in recent years, it sometimes seems difficult to assess just what has changed, and what has not. I think there are basically two measures we can look at in making these judgements.

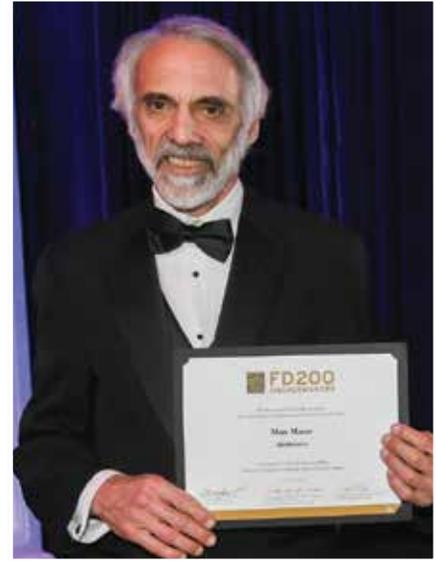
Tracking Prison Trends

In terms of evaluating the strength of challenges to mass incarceration, the first measure is simple. We need to document trends in the number of people behind bars over time. As we've tracked these trends at The Sentencing Project, it's clear that there's great variation across the nation. Overall, 39 states have achieved declines from their peak prison populations, yielding a 7% reduction in the number of people imprisoned since 2009. But in most of these states the scale of decline is quite modest, in the single digits. In a half-dozen states, though, reductions are greater than 25%. This has come about through a mix of changes in policy and practice, generally designed to either reduce the number of people admitted to prison or how long they stay there.

The progress in these states is encouraging, but what's puzzling is why more states haven't achieved such a scale of change. If we consider that crime rates nationally have declined in the range of 40% over the past two decades, one might have thought that we'd see concomitant reductions in incarceration as well.

As we've documented...one of every seven people in prison today – 206,000 – is serving a life sentence...

A key reason why this has not occurred is that many individuals, particularly those convicted of a serious or violent offense, have been sentenced to decades behind bars, and these figures are increasing each year. As we've documented in our work on life imprisonment, one of every seven people in prison today – 206,000 – is serving a life sentence, with two-thirds being people of color. Clearly, there needs to be accountability and concern for public safety built into the sentencing process for such persons, but that doesn't suggest that a lifetime behind bars is the only, or best, way of accomplishing these objectives.



Marc Mauer accepting a "Frederick Douglass 200" abolitionist award

Evolving Public Debate

The second measure of assessing the strength of the movement to end mass incarceration relates to the public discussion of these issues. We need only look to the Democratic primary campaign for president to see how the debate has shifted. For decades Democrats and Republicans alike (with notable exceptions) were calling for "get tough" policies, but the diverse group campaigning for the nomination today is virtually unified around the need to reverse mass incarceration. Nearly all have called for abolition of the death penalty, scaling back mandatory sentencing laws, and expanding public health approaches to substance use disorders. For their part, Republicans, including President Trump, have largely supported the First Step Act in Congress and sentencing reforms in a number of states.

As policymakers increasingly believe that their constituents favor constructive approaches to public safety, that perspective will ultimately be reflected in the policies they support in the legislative arena.

For more than three decades The Sentencing Project has been in the forefront of advocating for such changes. It's gratifying to see these results, even as we acknowledge that there's still far to go. We hope we can count on your support as we try to make our vision a reality. ■

Campaign to End Life Imprisonment *Continued from page 1*

Building coalitions

Distributing *The Meaning of Life* Books in Prison

In December 2018, the New Press published *The Meaning of Life: The Case for Abolishing Life Sentences*, authored by Executive Director Marc Mauer and Senior Research Analyst Ashley Nellis. *The Meaning of Life* argues that there is no practical or moral justification for a sentence longer than twenty years and includes profiles of a half dozen people affected by life sentences, written by award-winning prison journalist Kerry Myers.

As part of our ongoing work to elevate the voices of people impacted by life imprisonment, a grant from the Open Society Foundations has allowed The Sentencing Project to work with state partners to distribute copies of *The Meaning of Life* to people sentenced to life imprisonment and others in 17 states and Washington, D.C. We have encouraged people serving life to contact us with feedback on campaign strategies and policy recommendations. Many have written to suggest further research and legislative remedies. The Sentencing Project staff has also met with people incarcerated for life to discuss reform strategies in Louisiana, Maryland, and Pennsylvania.

National and state convenings

During 2019, The Sentencing Project staff presented at national and state convenings to strategize on ending life imprisonment. Marc Mauer keynoted at the Ending Perpetual Punishment Convening in Detroit



Marc Mauer and colleagues meet with incarcerated staff writers of The Angolite, the award-winning prison news magazine at the Louisiana State Penitentiary, "Angola."

and Nicole Porter traveled to Montgomery, Alabama where she facilitated a panel discussion on state reforms to end life imprisonment with grassroots organizers. She also strategized on reform efforts to end life imprisonment in California, New York, Maryland, Missouri, and Louisiana. Senior Research Analyst Ashley Nellis partnered with the Pennsylvania Prison Society to discuss ending life without parole sentences in the state.

The Sentencing Project's proposal to cap prison terms at a maximum of 20

years except in unusual circumstances is gaining broad support. In a *Washington Post* commentary, incoming President of the American Society of Criminology Daniel Nagin wrote that the proposal is a "bold recommendation for unraveling mass incarceration." A "Vision of Justice" proposal issued by the Leadership Conference on Civil and Human Rights, and endorsed by more than 100 civil rights and civil liberties organizations, voiced support for the proposal as well. ■

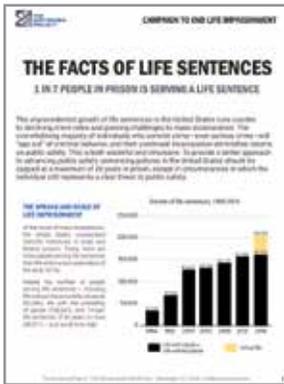
The next step in ending mass incarceration *Continued from page 1*

penalties for serious crimes. In Mississippi, legislators reformed the state's truth-in-sentencing requirement for violent crimes in 2014, reducing the proportion of a sentence that individuals with certain violent convictions have to serve before becoming eligible for parole from 85% to 50%.

In July, several advocates from around the country participated in a [webinar](#) hosted by The Sentencing Project about the report.

They shared insights about felony murder reform in California, their success in preventing Congress from removing food stamps access for people with violent convictions, and the growing movement to release the "old law" parole-eligible population in Wisconsin. The reforms discussed in the webinar and report have demonstrated that it is possible to undo excessive penalties for violent crimes while also promoting public safety. ■

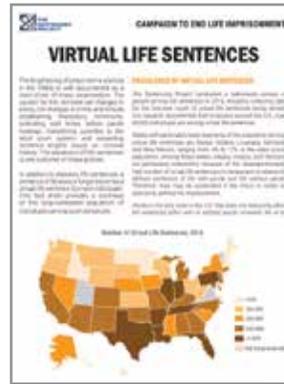
New publications highlighting life imprisonment in America



The Facts of Life

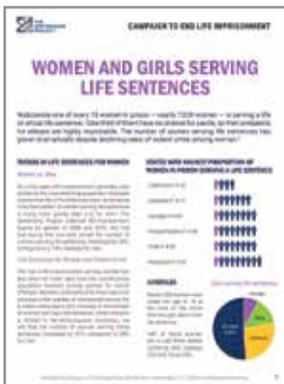
A new series of fact sheets on life imprisonment has been developed by The Sentencing Project's Ashley Nellis. The number of people serving life sentences – including life without the possibility of parole (53,290), life with the possibility of parole (108,667), and “virtual” life sentences of 50 years or more (44,311) – is at an all-time high.

This publication provides an account of policies that have contributed to the expansion in life sentences, including extending parole wait times, mandatory minimum sentences, transfer of juveniles to the adult system, and the abolition of parole in some states.



Virtual Life Sentences

Virtual life sentences are those that typically amount to life imprisonment, 50 years or more, but are not statutorily defined as such. Our first-ever count of this population reveals that 44,311 people are serving such sentences. In nine states — Arkansas, Florida, Illinois, Indiana, Louisiana, Maryland, Pennsylvania, Tennessee, and Texas, as well as the federal system — at least 1,000 people are serving these sentences. Juveniles are also sentenced to virtual life imprisonment; approximately 5 percent of virtual lifers were under 18 at the time of their crime. As with life sentences generally, racial disparity is evident among virtual lifers. More than half of those serving virtual life sentences are African American.



Women and Girls Serving Life Sentences

Nationwide, one of every 15 incarcerated women is serving a life sentence, amounting to almost 7,000 women in total. States with the highest proportion of women in prison serving a life sentence include: California (1 in 4), Louisiana (1 in 7), Georgia (1 in 8), Massachusetts (1 in 8), Utah

(1 in 8) and Maryland (1 in 9). Nearly 300 women were under the age of 18 at the time of their crime, half of whom reside in three states: California, Georgia, and Texas.

While men comprise the overwhelming proportion of people in prison for life, the number of women serving life sentences is rising more quickly than it is for men. Compared to men, women serving life sentences report higher levels of psychiatric disorders, histories of physical and sexual violence, and previous suicide attempts.

Advocacy efforts advance state reform



Nicole D. Porter speaks at a press conference to restore voting rights to imprisoned people in Washington, DC.

This year state advocates and organizers challenged mass incarceration by supporting voting rights, banning for-profit prisons, and addressing racial disparity.

Expanding the Franchise Inside Prisons

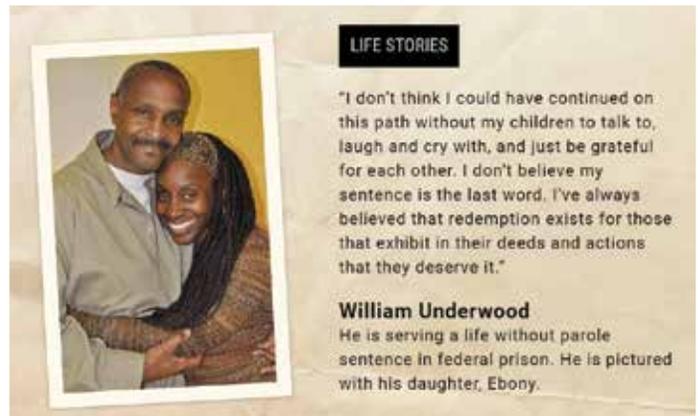
The Sentencing Project's Nicole Porter worked with Washington, D.C. Councilmember Robert White and the Commission on Reentry and Returning Citizen Affairs to introduce the Restore the Vote Amendment — legislation that would expand voting rights to incarcerated District residents who have a felony conviction. Maine and Vermont are the only states that do not disenfranchise their incarcerated citizens with felonies. The Sentencing Project supported efforts in seven other states — Connecticut, Hawaii, Massachusetts, Nebraska, New Jersey, New Mexico, and Virginia — that considered legislation expanding the franchise to incarcerated people.

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New federal bill would review life sentences

Congress ended federal parole and established a determinate sentencing system in the 1980s. Since then the federal prison population has ballooned almost 300%; half of the people in the system are serving a sentence longer than ten years and most people serving life sentences will never be released. It is this stark context that motivated U.S. Senator Cory Booker and Representative Karen Bass to introduce the Second Look Act in July, to provide an opportunity for sentence reductions for people who have served at least 10 years in prison and do not present a threat to public safety. The Sentencing Project's Director of Strategic Initiatives, Kara Gotsch, provided extensive feedback on the bill's drafting.

Sen. Booker was inspired by people like William Underwood, a 65-year-old grandfather, who has been incarcerated for 30 years under his life without parole sentence. If enacted, the Second Look Act would allow Underwood to file a petition in federal court for a sentence review and, because he is over 50-years-old, he would have a rebuttable presumption of release based on research demonstrating significantly reduced recidivism rates among older people.



The Sentencing Project strongly endorsed the legislation at introduction and Gotsch is working with coalition partners to solicit cosponsors in Congress and raise public attention about the proposal. ■

First Step Act implementation

The Department of Justice (DOJ) provided a progress report this summer on its implementation of the First Step Act of 2018, seven months after President Trump signed the sentencing and prison reform legislation. Most notable among these developments is that 1,691 people have benefited from a sentence reduction due to retroactivity of the 2010 crack cocaine sentencing reform. The U.S. Sentencing Commission confirmed that at least 74 people within this cohort had been serving life without parole sentences.

According to an analysis conducted by the Sentencing Commission, the average decrease in sentences resulting from retroactivity was almost six years, a 27% reduction from the original sentence. And, 91% of retroactivity beneficiaries were African American.

While these statistics are encouraging, the DOJ has been opposing some sentence reductions among people eligible for relief based on allegations that the plea agreements made by these individuals did not fully capture the quantity of drugs for which they were responsible. Prosecutors opposing sentence reductions on these grounds

have largely been unsuccessful, but they intend to appeal certain cases urging the court to send people back to prison despite their release.

In response, Senator Dick Durbin, a lead sponsor of the First Step Act, said "Many of these people have served in prison for five, 10, 15, 20 years and more. It's time for them to be able to get on with their lives, and the notion the DOJ is just going to keep nagging at them and appealing these cases is not what we ever had in mind."

Last year The Sentencing Project's Director of Strategic Initiatives, Kara Gotsch, worked in coalition to successfully incorporate key sentencing reform provisions into the First Step Act, including retroactivity of the Fair Sentencing Act that addressed the 100 to 1 disparity between crack and powder cocaine. Gotsch continues to work with the DOJ and Congress for the fair and expedient implementation of the First Step Act, and funding its prison reform components. ■

Reauthorization of the Juvenile Justice and Delinquency Prevention Act

The Juvenile Justice and Delinquency Prevention Act (JJDP) sets minimum standards for juvenile justice systems in order for states to qualify for federal grants. In December, the bill was reauthorized for the first time since 2002, strengthening the provision that limits pre-trial detention of youth to include all people under 18-years old, including (for the first time) those charged as if they were adults, within three years of passage. The new reauthorization, supported

by the Act-4-JJ Coalition, to which The Sentencing Project belongs, is not as strong as it might be as it still allows for the detention of "status offenders" (youth charged with offenses such as truancy and running away) to circumvent a legislative blockade by Sen. Tom Cotton (R-Ark.). Advocates seek to correct this provision and increase funding for JJDP programming in the current Congress. ■



*Ashley Nellis and Marc Mauer discuss their book, *The Meaning of Life, at Politics and Prose in Washington, DC.**

The Sentencing Project has delivered more than 60 presentations this year on a range of criminal justice reform issues at conferences, academic institutions, community events and policymaker gatherings on all facets of criminal justice reform.

Advocacy efforts advance state reform Continued from page 4

Banning Private Prisons in Nevada

The Sentencing Project helped organize national support for Nevada to phase out private prison contracts. Nicole Porter worked to bring together a coalition of civil rights groups, criminal justice reform organizations, faith leaders, and others in support of legislation to limit the state’s ability to contract with for-profit prison companies. She also testified in support of the bill and highlighted changes in other states — California, Mississippi, North Carolina, and Texas — to end private prison contracts.

Working for Racial Justice in New Jersey

The Sentencing Project partnered with faith leaders and others in New Jersey to support implementation of the state’s racial impact statement law. Like fiscal or environmental impact statements, racial impact statements provide legislators with a statistical analysis of the projected impact of proposed criminal justice policy changes. Equipped with data, policymakers can make more informed decisions about public safety issues without aggravating existing racial disparities. Four states — Connecticut, Iowa, Minnesota, and Oregon — have similar policies. Porter

supported the state coalition’s efforts by providing technical assistance and strategic guidance in demanding full implementation of the law by organizing support among state and national groups. This year, seven states — Illinois, Kentucky, Minnesota, Mississippi, New York, Oklahoma, and Vermont — introduced legislation to require racial impact statements.

Juvenile Justice

The past year saw progress on juvenile justice reform across many states. In July, South Carolina began its implementation of the “Raise the Age” law that will henceforth include most arrested 17-year-olds under the jurisdiction of the state’s family courts. The reform required legislation in the form of a budget proviso to allow for the release of more youth from the state-run detention center, preventing overcrowding conditions that were seen as the main hurdle to implementation. Josh Rovner met with key legislators in the state capitol and presented data on the impact of Raise the Age to government officials and other stakeholders.

With Michigan also poised to Raise the Age (supported by The Sentencing Project’s testimony for the bill), only Georgia, Texas,

and Wisconsin will routinely charge 17-year olds as if they were adults. Attention is also turning toward the issue of emerging adults; states such as Illinois, Connecticut and Massachusetts, which raised the age of juvenile court jurisdiction in the last decade are now considering adding older teenagers (18- and 19-year-olds) into their juvenile courts as well.

Another comprehensive reform passed in Oregon, where legislators banned life without parole for people under 18 (making it the 22nd state to do so) and rolling back tough-on-crime laws passed in 1994 that automatically waived some 15-, 16-, and 17-year-olds into adult courts.

Louisiana, while struggling to remove youth from the adult jail (particularly in New Orleans), passed legislation, supported by The Sentencing Project, to limit the use of youth detention by requiring individualized decisions about who can be detained and requiring a public safety rationale. The bill was named in memory of Solan Peterson, a 13-year old who committed suicide while in the custody of Ware County, Louisiana, one of two teen suicides in that state’s youth detention centers this year. ■

The Sentencing Project in the news

The Philadelphia Inquirer

1/28/19 – Pennsylvania is poised for much-needed criminal justice reform, but can we abolish life without parole? | Opinion

By: Ashley Nellis

The diminishing impact of long sentences on public safety is largely a function of two dynamics. First, criminologists have long known that people “age out” of crime. Involvement in criminal behavior rises sharply in the late teen years among those who are at-risk, but declines significantly by the mid- to late-twenties for most. Thus, imposing a decades-long prison term on a 22-year-old means that we will be spending enormous sums of money to prevent a declining proportion of crime over time.

Second, public safety resources are finite. The \$66,000 or so that is spent annually incarcerating a person in their 50s or 60s is money not available to work with the 14- and 15-year-olds who are beginning to engage in risky behaviors. It would be far more effective to invest in strengthening the capacity of families, schools, and communities to foster resilience and opportunities for young people that would avoid future incarceration.

The New York Times

4/27/19 – Bernie Sanders Opens Space for Debate on Voting Rights for Incarcerated People

By: Sydney Ember and Matt Stevens

Mr. Sanders’s remarks struck a nerve because he went beyond the normal parameters of the debate, civil rights advocates and experts on felony disenfranchisement said. By backing voting rights for not only formerly incarcerated people, but also for those who are still in the system, Mr. Sanders may have advanced reform efforts that have been building for decades and have recently gained national attention because of a high-profile dispute in Florida.

“This is the last major voting bloc that is missing from our democracy,” said Marc Mauer, the executive director of the Sentencing Project, a nonprofit advocacy organization, noting that roughly half of European nations allow prisoners to vote.

Two states, Vermont and Maine, do not revoke felons’ right to cast ballots and let them vote even when they are behind bars.

Voting rights for prisoners is “the next significant phase of this movement for disenfranchisement reform,” Mr. Mauer added. “And this is the highest-profile stage where we’ve seen this issue get any attention.”

The Washington Post

3/21/19 – Guest Post: Reduce prison populations by reducing life sentences

By: Daniel S. Nagin

The imprisonment rate in the United States is now five times larger than it was in the early 1970s, and most of that increase happened at the state level. Marc Mauer and Ashley Nellis of the Sentencing Project have made a bold recommendation for unraveling mass incarceration — abolition of life sentences. Most lifers are in state prisons.

Research demonstrates that increases in already long prison sentences, say from 20 years to life, do not have material deterrent effects on crime. There is no good reason for believing that life sentences are a better deterrent than the Mauer-Nellis recommendation of a maximum sentence of 20 years.

Miami Herald

MIAMIHERALD.COM

7/25/19 – Private prisons are only one part of our mass-incarceration problem | Opinion

By: Kara Gotsch

Eight percent of people imprisoned in the United States are housed in private prisons, and 21 states don’t currently incarcerate anyone in private facilities, according to the Bureau of Justice Statistics. At the federal level, where reliance on private prisons is among the most significant, the population housed in these facilities declined 19 percent between 2016 and 2017.

The growth of private prisons over the past four decades is a result of corporations capitalizing on policies that over-criminalized poor communities and people of color, lengthened sentences and abolished parole. This tough-on-crime trend began before CoreCivic or GEO Group became the private prison giants that they are today. Indeed, presidential candidates of the 1980s and 1990s attempted to outflank one another as the most punitive in order to win over voters.

The harsh policies that resulted from this era are still with us today and deserve closer attention from candidates seeking to actually have an effect on mass incarceration.



It's time to end mass incarceration.

The Sentencing Project

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THE SENTENCING PROJECT

Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy, addressing unjust racial disparities and practices, and advocating for alternatives to incarceration.

To these ends, it seeks to recast the public debate on crime and punishment.

To receive news and updates electronically from The Sentencing Project, send an email to:

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The full text of publications, reports and speeches shown in italic type font in the newsletter can be found at www.sentencingproject.org.

Can we wait 72 years to end mass incarceration?

Growing recognition of the scale and urgency of mass incarceration is now reflected in bold calls from advocates and political leaders to cut the prison population in half.

But the sobering reality is that at the pace of decline since 2009, averaging 1% annually, it will take until 2091—72 years—to cut the U.S. prison population by 50%. Clearly, waiting seven decades to reform a system that is out of step with the world and is racially biased is unacceptable.

Expediting the end of mass incarceration will require intensifying sentencing reforms for non-violent crimes and making a meaningful dent in the number of people imprisoned for violence. In a briefing paper titled [*U.S. Prison Population Trends: Massive Buildup and Modest Decline*](#),

Nazgol Ghandnoosh notes that past reforms

have helped to reduce the number of people imprisoned for drug and property offenses by 26% and 14% respectively between peak year 2007 and 2016. But for the half of the prison population imprisoned for a violent crime, reforms remain the exception. Overall, the number of people imprisoned for a violent offense has only declined by 2% between peak year 2009 and 2016 despite continued declines in violent crime. ■

