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Too Many Prisons

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We have a problem. More than two million men, women and children are imprisoned in the United States today. This amounts to 686 prisoners for each 100,000 citizens. We have the largest prison population in the world. Our cousins to the north in Canada have 100 and in England there are 135 prisoners for each 100,000 of population. Worldwide, around eight million people are in prison. This means that 25 percent of the world's prisoners are in the United States, the "land of the free."

The problem is getting worse in part because we cannot build prisons fast enough to hold the influx of men, women and children. The federal government is building a fifth prison at its complex in Coleman, Florida that will bring that total complex inmate population close to 10,000. The State of Florida had an emergency expenditure in August 2003 of \$66 million to expand existing prisons due to an unexpected increase in inmates.

The judiciary has been operating under guidelines that are increasingly severe and rigid. Many recent laws mandate zero tolerance standards, statutory minimum prison terms, and mandatory minimums for time served.

The largest category of offenders in both state and federal prisons are those convicted of drug crimes. Drug-related cases are about 32 percent of the federal case load. In Florida they account for about 28 percent of all sentences. These statistics are deceptive in that they understate the extent of drug involvement, as a single offender may have multiple charges of which drug offenses were not the most severe violation. The most severe violation usually drives the category.

How did we get into this predicament? The genesis of the problem appears to be a schism that appeared in the national fabric at the time of the war in Vietnam and eventually polarized the nation into groups that opposed or supported the war. These groups became known as the "law and order" and "counter-culture." The end of the war did not end their divergence. The conflict continued in the War on Drugs initiated by the Nixon administration.

Let us clarify the term "drug." Drugs are divided into two categories, legal and illegal. Alcohol, tobacco, and caffeine are legal drugs, while illegal drugs include marijuana, cocaine, and heroin. The War on Drugs focuses on illegal drugs.

The war on drugs has continued unabated from its initiation in the 1970s to today. However, there were two critical junctures. One was the presidential election of 1988 and the other was a great compromise.

The campaign of 1988 marked the political dominance of "law and order" over the counter-culture. It found expression in Willy Horton and the election of George Bush. Michael Dukakis, Bush's opponent and the governor of Massachusetts, signed a routine weekend furlough for a convict named Willy Horton, a convicted murderer, who raped a woman and savagely beat her boyfriend while out on a prison release program. The incident became the subject of an intense campaign of political advertising. The lesson of that election was not lost on either Democrats or Republicans.

The reaction in Florida was swift and preceded the election. On October 1, 1988 a law was passed that curtailed early release dates for felony offenders with one or more prior violent offense.

A brief review of drug war expenditures bears witness to the impact of Willy Horton. The Nixon administration spent \$65 million on the drug war; the Reagan administration spent \$1.65 billion; the Clinton administration spent more than \$17.9 billion; and the Bush administration has spent more than \$18.8 billion to date.

Between 1984 and 1999, the number of defendants charged with drug offenses in Federal courts increased each year from 11,854 to 29,306.

The fall of Communist Russia energized the war on drugs by freeing up assets. However, a political compromise proved necessary to satisfy both the "law and order" and "counter-culture" groups.

The compromise was a Machiavellian political maneuver designed to appeal to the active "law and order" culture while appeasing the dormant "counterculture." The compromise severely penalized the supply side and trivialized penalties on the demand side. The deciding factor between the two sides was based on the quantity of drug possessed during the apprehension.

Florida's current version of the great compromise is: "Mandatory minimum prison sentences of 3, 7, 15, 25 years, life or death will be imposed depending on the type and amount of the controlled substance. A minimum of three years will be mandated for any person convicted of possession, sale, importation, etc., of at least 25 pounds of cannabis, 4 grams of flunitrazepam, morphine, opium or heroin, 14 grams of amphetamine, 28 grams of cocaine and phencyclidine, or 200 grams of methaqualone. Penalties increase as the type and amount of the drugs increase or if use of the drug results in someone's death."

The consequences of this and similar compromises were that they energized and expanded a criminal element focused on meeting the demand that was insignificant prior to the Vietnam War. The supplier was canonized in the ethos of the popular culture by the likes of "Easy Rider." In reality the demand was largely met by the likes of the Jamaican Posse and the cartels of Colombia and Mexico.

How does the drug war play out in Florida? We had 11 prisons at the start of the drug war in 1970; by 2000 there were 65 facilities. We had one prison for every 617,401 residents in 1970; in 2000, there was one prison for every 249,724 residents..

And how does this look on the street? In 2000 there were 1,579,566 drug arrests nationally and 1,471,289 arrests for drunken driving. In Florida, however, the inmate class of 1999-2000, 33.4 percent of prisoners were convicted on drug charges and only 1.2 percent for DUI related charges.

The most conservative estimates place 30 to 40 million illegal drug users on the counter culture (demand) side of the equation. That is a sleeping giant capable of turning many elections on their heads. However, the "counter culture" appears satisfied with the status quo.

Proof positive is Gainesville's last city election. The citywide turn out was about 15 percent. The University precinct had an abysmal 1.5 percent voter turnout. It is the city of Gainesville that puts 275 "guns and shields" out on the street to enforce the laws and ordinances of the city and state.

Do we want to leave our children with the prospect that one out of 20 of them will become convicted felons and serve time in prison, or that the lives of one of every six Floridians will be directly impacted by the Department of Corrections?