

BRENNAN
CENTER
FOR JUSTICE

Brennan Center for Justice
at New York University School of Law

161 Avenue of the Americas
12th Floor
New York, New York 10013
646.292.8310 Fax 212.463.7308
www.brennancenter.org

July 2015

Governor Nikki Haley
Office of the Governor
1205 Pendleton Street
Columbia, South Carolina 29201

Dear Governor Haley:

We are thrilled to share with you the Brennan Center's new book, *Solutions: American Leaders Speak Out on Criminal Justice*, which was released on the front page of the *New York Times*.

In a remarkable cross-ideological effort, this book includes new, original essays by prominent public figures and experts, including virtually everyone running for president. Former President Bill Clinton penned the foreword.

The collection demonstrates a striking consensus around one idea: the need to reduce mass incarceration. It is a seismic shift from the 1980s and 1990s, when politicians vied to be the most punitive. Authors also put forward innovative solutions to the challenge.

This book elevates ending mass incarceration as an issue of urgent national attention. We look forward to your partnership in the months ahead, as these reforms are debated before the nation.

Best regards,



Michael Waldman
President



Inimai Chettiar
Justice Program Director

The New York Times

April 28, 2015

'16 Rivals Unite In Push to Alter Justice System

From Page A1

By PETER BAKER

WASHINGTON — The last time a Clinton and a Bush ran for president, the country was awash in crime and the two parties were competing to show who could be tougher on murderers, rapists and drug dealers. Sentences were lengthened and new prisons sprouted up across the country.

But more than two decades later, declared and presumed candidates for president are competing over how to reverse what they see as the policy excesses of the 1990s and the mass incarceration that has followed. Democrats and Republicans alike are putting forth ideas to reduce the prison population and rethink a system that has locked up a generation of young men, particularly African-Americans.

Former Secretary of State Hillary Rodham Clinton, Senator Ted Cruz and Senator Rand Paul want to ease mandatory minimum sentences. Gov. Chris Christie wants to release nonviolent offenders pending trial without bail. Gov. Scott Walker, former Gov. Rick Perry and former Senator James Webb want to expand drug treatment as an alternative to prison. Senator Marco Rubio wants to make it harder to convict federal defendants without proving intent.

The focus on overhauling the criminal justice system comes at a time of protests over the use of lethal force by the local police and unrest in cities like Baltimore and Ferguson, Mo., and represents a profound shift in American politics. Where the elder George Bush won the presidency in part by attacking his opponent as soft on crime and Bill Clinton enacted landmark crime legislation pouring police officers into the streets and ratcheting up sentences, today's candidates across the ideological spectrum have concluded that previous leaders went too far.

"This really does reflect a huge change in the political momentum from decades when parties and candidates competed to see who could be the most flamboyantly punitive," said Michael Waldman, the president of the Brennan Center for Justice at

New York University's School of Law and a former aide to Mr. Clinton. Now, Mr. Waldman said, "there's a competition for reform and to take on the issue of mass incarceration. It's really unheard-of in recent decades."

The extent of that change is made evident in a new book Mr. Waldman's center has compiled featuring essays by many of the major presidential candidates laying out ideas for tackling the criminal justice system. Mrs. Clinton and her Democratic rivals approach the issue from a social justice perspective, while Republicans like Mr. Cruz, Mr. Perry, Mr. Paul and Mr. Rubio see it through a fiscal, libertarian or religious lens, but they share a consensus about the goal.

"There is an emerging consensus that the time for criminal justice reform has come," Mr. Rubio wrote in the book. "A spirited conversation about how to go about that reform has begun."

For Mrs. Clinton, it was time to avoid another "incarceration generation," as she put it. "We need a true national debate about how to reduce our current prison population while keeping our communities safe," she wrote.

Significantly, her husband added a foreword in which he implicitly agreed that some of the policies he himself embraced two decades ago were too extreme. "The drop in violence and crime in America has been an extraordinary national achievement," Bill Clinton wrote. "But plainly, our nation has too many people in prison and for too long — we have overshot the mark."

In addition to Mrs. Clinton's essay, the book, called "Solutions: American Leaders Speak Out on Criminal Justice," scheduled to be released Tuesday, includes essays by two likely Democratic challengers, Mr. Webb of Virginia and former Gov. Martin O'Malley of Maryland. Republican contributors include Mr. Christie of New Jersey, Mr. Cruz and Mr. Perry of Texas, Mr. Paul of Kentucky, Mr. Rubio of Florida, Mr. Walker of Wisconsin and former Gov. Mike Huckabee of Arkansas.

Also included is a recent speech from Vice President Joseph R. Biden Jr., who has positioned himself to run in 2016 if Mrs. Clinton falters. Former Gov.

Jeb Bush of Florida was one of the few major candidates who did not participate; a spokeswoman for him had no comment, but he has signed on to a conservative group's call for cost-effective alternatives to prison.

While crime has fallen in recent decades, the prison population has risen, although it has plateaued in recent years. More

Reimagining policies that have led to longer sentences and new prisons.

than 2.2 million Americans are behind bars, and a National Research Council study found that the state and federal prison population in 2009 was seven times what it was in 1973. Although the United States makes up less than 5 percent of the world's population, it has more than 20 percent of its prison population.

The issue has been particularly acute among younger African-American men. Almost one in 12 black men from 25 to 54 are locked up, compared with one in 60 nonblack men in that age group. Many more have been released but have convictions on their records that make it hard to find jobs or vote.

The issue has drawn together an odd-bedfellows coalition of liberals and libertarians seeking bipartisan solutions. Mr. Paul has worked across the aisle with Senator Cory Booker, Democrat of New Jersey, and several other candidates have also been working in this area. In Texas, Mr. Perry diverted some drug offenders to treatment, generating praise from liberals and conservatives alike. Mr. Cruz has signed on to several pieces of legislation to change the system.

"They're actually all agreeing on mass incarceration," said Inimai Chettiar, the head of the justice program at the Brennan Center and a co-editor of "Solutions." "This has now risen to the level where virtually everyone running for president is saying this has to change."

John Malcolm, the director of

the Edwin Meese III Center for Legal and Judicial Studies at the Heritage Foundation, said Republicans came from different perspectives. Fiscal conservatives see a drain on public resources; social conservatives are focused on redemption. Others see this as part of scaling back the reach of government.

"There's just a sense that the pendulum perhaps has swung too far, that there are unintended consequences of overly draconian criminal justice processes," said Mr. Malcolm, who helped the liberal-leaning Brennan Center recruit Republican candidates to contribute essays.

Mark Holden, a senior vice president and general counsel for Koch Industries, also helped. David H. and Charles G. Koch, the billionaires who have bankrolled Republican causes and candidates, have joined efforts with liberal groups like the Center for American Progress to work on criminal justice changes.

"This is one of those issues that's exciting because regardless of your political ideology or affiliation, there's something here for you," Mr. Holden said.

The essays from the candidates suggested the different perspectives. Mrs. Clinton cited the racial unrest in Ferguson after a white police officer shot a black teenager, an episode that the Republicans generally did not mention. Several of the Republicans, on the other hand, said the changes should include "reining in out-of-control regulatory agencies," as Mr. Rubio put it, a goal the Democrats did not mention.

Not all Republicans advance the same ideas. Mr. Walker took a more traditionally Republican view by focusing on the impact on crime victims and advocating drug testing in workplaces to head off drug crimes. Mr. Rubio made clear that he opposes legalizing drugs but that disagreement on the issue should not stop broader changes.

But the Republicans clearly were not as worried about appearing soft on crime. "A big, expensive prison system — one that offers no hope for second chances and redemption — is not conservative policy," Mr. Perry wrote. "Conservative policy is smart on crime."