

The Use of Incarceration in the United States

A Policy Paper Presented by the National Policy Committee to the American Society of Criminology

National Policy Committee

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The findings and opinions contained herein are those of the authors, and do not necessarily reflect the official position or policies of the American Society of Criminology. A research draft was presented at the Presidential Plenary Session, American Society of Criminology Meeting, San Francisco, November, 2000. A brief summary was published by the *The Criminologist*, Vol. 26, No. 3: 14-16. The complete text, including tables and figures, can be found on the ASC Home Page <http://www.asc41.com/>: 1-58.

(version 6-25-01)

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AMERICA'S GROWING USE OF INCARCERATION

The past two decades have produced a profound and historic shift in the use of imprisonment within the United States. In 1980, there were less than 500,000 people imprisoned in the nation's prisons and jails. Today we have nearly two million and the numbers continue to rise. We are spending over \$35 billion annually on corrections while many other government services for education, health and human services and public transportation are hard pressed to meet the need for such services.

More alarming is the fact that the use of imprisonment has been highest for African American and Hispanic males. It is now estimated by the U.S. Department of Justice (USDJ) that approximately one third of all Black males will experience state prison in their lifetime. We also know that much of this increase in the use of imprisonment is directly related to the nation's war on drugs policy, which has also dramatically increased the incarceration of women -- mostly for drug crimes. Furthermore, the high growing incarceration rates have resulted in nearly 1.5 million children (or 2 percent of the entire population under age 18) having a parent incarcerated.

ASC NATIONAL POLICY COMMITTEE

The American Society of Criminology (ASC) is greatly concerned about these trends. In 2000, President Roland Chilton directed the ASC National Policy Committee (NPC) to consider drafting a policy paper that would focus on the incarceration issue. The ASC Executive Board in its Spring 2000 meeting in San Francisco directed the NPC to develop a policy paper on "Incarceration Trends." The Board has emphasized that the paper would not speak for the Society but to its membership.

This paper analyzes the sources and effects of the dramatic and historic increases in the use of imprisonment on American society. In so doing, the NPC seeks to draw attention to the possible negative effects of excessive incarceration -- a topic the NPC believes criminologists have paid insufficient attention in their academic research and publications. The paper and its recommendations reflect a concern that the Society needs to set of research agenda that is independent of the federal government and perhaps independent of conventional wisdom. In so doing, the NPC hopes that this paper will stimulate a healthy and much overdue debate on the role of the ASC in public policy in general, and the merits of widespread incarceration in particular.

INTRODUCTION

The United States has been engaged in an unprecedented increase in the use of imprisonment to reduce crime. Between 1980 and 1999, the prison population increased 329,821 to 1,254,547 -- a rise of 280 percent (USDJ, Prisoners in 1999, 2000a). The incarceration rate (number of persons in state and federal prison on any given day per 100,000 population) increased during the same time period from 138 to

476, as compared to only 26 in 1850. If combined with the nearly 600,000 persons in jail, the total incarceration rate is 690 per 100,000 population.

After three decades of steady growth, there is some evidence that the accelerating use of imprisonment may be subsiding somewhat. Some of the major states, like California, Pennsylvania, and Ohio are reporting either slight declines or a leveling off in their prison populations. But many states, that have adopted "truth in sentencing" and other mandatory sentencing policies which serve to increase the number of persons incarcerated and their lengths of stay in prison, continue to experience increases in their prisoner populations. Furthermore, the number of persons being revoked on parole and probation has increased in some jurisdictions, which also serves to increase the prison population. Between 1990 and 1998, the prison population grew an average of six percent per year, but in 1999, the annual rate of growth declined to 2.1 percent.

Nevertheless, it is not just the prison system that is expanding in the United States. The adult prison population represents no more than one-fifth of the entire correctional industrial complex. There are another 600,000 people in jail, with nearly 3.8 million on probation, and nearly 713,000 on parole. In total, 6.3 million adults -- about one of every 31 adults -- are under some form of correctional supervision; in 1980 the ratio was one of every 91 adults. Furthermore, the growth in jail, probation, and parole populations are quite similar to the prison population increases.

Still, even these staggering numbers do not account for all persons under some form of correctional supervision. Not counted in the six million are 106,000 children in

²juvenile facilities (public and private), nearly 2,300 adults held by the military, 18,000 in U.S. Territories, and 1,600 in Native American jails and detention facilities. In total, the USDJ has accounted for 2,026,596 persons incarcerated in all U.S. jurisdictions. Although there are no firm government estimates, there are several hundred thousand juveniles on probation or parole, plus the same number of adults and juveniles on some form of pretrial supervision. Based on these estimates one can safely assume that well over seven million Americans are caught up in the one of several correctional systems on any given day.¹ By any definition, the correctional system is one of the largest and most pervasive social control systems in the United States today.

Another consequence of the high rate of incarceration is the disenfranchisement of millions of Americans who have a felony conviction. In most states, a felon is a person convicted of a crime that carries a sentence of one year and a day or more, including persons that receive suspended prison, jail or probation sentences. Felonies can include relatively minor crimes such as driving under the influence, shoplifting, bad checks, and possession of small amounts of illegal drugs.

Today, the United States has the most restrictive felony voting laws in the world. Most states (46 and the District of Columbia) deny the right to vote for persons while incarcerated. Thirty-two states continue this restriction while the person is on parole and 29 states forbid probationers to vote. As many as 14 states impose a life-time ban from voting. Based on these restrictions, an estimated 3.9 million Americans, including 1.4 million African American men, are unable to vote. In some states as many as 40 percent of black men are likely to be permanently disenfranchised (Fellner and Mauer, 1998). In comparison, many countries permit prisoners to vote while in prison, including

the Czech Republic, Denmark, France, Germany, Israel, Japan, Kenya, Netherlands, Norway, Peru, Poland, Romania, Sweden, and Zimbabwe. The United State's Commonwealth of Puerto Rico also allows prisoners to vote.

These historic increases in imprisonment and other forms of correctional control are of great concern to the National Policy Committee. Many of the ASC membership have been actively involved in studying both the causes and consequences of this trend. Some have argued that imprisonment has served to effectively reduce the crime rate and that as long as the crime rate remains above the levels reached in the 1980s and 1990s, the nation will need to continue to imprison nearly two million Americans each day. Others have maintained that too many are imprisoned, and that many could be placed in less costly and more effective alternatives to incarceration.

The purpose of this ASC National Policy Paper is to analyze the sources and effects of these dramatic and historic increases in the use of imprisonment on American society. In so doing, we seek to draw attention to the possible negative effects of excessive incarceration -- a topic we believe criminologists have largely ignored in their research and publications.

We begin with an overview of the major trends and factors that have been associated with the prison population growth. That section is then followed by a discussion on four major issues surrounding the incarceration topic: 1) the influence of the War on Drugs, 2) the massive incarceration of African American males, 3) the growing incarceration of women, and 4) conditions of prisons and prisoners. The paper concludes with a series of recommendations for further research and policy analysis

which the ASC hopes will encourage criminologists and policy makers to explore methods for reducing these historic incarceration rates.

INCARCERATION TRENDS

Prison and jail populations are the product of two factors: admissions, and length of stay (or LOS). However, this elementary equation of “admissions x LOS = average prison population” becomes increasingly complex when one begins to consider the many ways one can be admitted to prison and the many factors that determine how long he/she will be incarcerated before being released and returned to the community. Moreover, the various forms of community correctional supervision (probation and parole) and how these programs operate (Richards and Jones, 1997; Richards, 1998), may have a direct impact on the size and attributes of prison populations.

At the “front end” of the prison system, persons can be admitted to prison either as a newly sentenced prisoner or after having failed parole or probation supervision and having their supervision status revoked. Over the past two decades there has been a dramatic expansion in prison admissions, with the primary cause the number of persons sent to prison for drug crimes (Blumstein and Beck, 1999). However, a growing number of prison admissions are the result of prisoners in the community failing to complete terms of probation or parole. The most recent national data show that of the 541,000 prison admissions in 1997, nearly 215,000 (or 40 percent) were parole violators (USDJ, *Special Report. Truth in Sentencing in State Prisons*, 1999a). Of these parole violators, about one half were admitted to prison after being revoked for one or more technical violations while the others are a result of a new felony conviction. Often, technical violators are being returned to prison for behavior one cannot be sentenced to prison,

for example failing a urine or breathalyzer test, failure to pay restitution, or not reporting to a parole office.

Equally important is the accelerating LOS that is occurring in many prison systems. As states have moved to longer sentences and so called “truth in sentencing” (TIS), prison populations will continue to grow even if a state succeeds in controlling its prison admissions. The most recent national data show that the current length of stay (LOS) for persons released from prison in 1996 is approximately 25 months for first released prisoners. This statistic, however, does not include the 4-6 months a person will spend in the local jail awaiting transfer to the prison system, plus another 4-6 months back in prison if returned for a technical violation. When one takes into account the time spent on parole supervision, the average prisoner will spend over five years under some form of imprisonment or parole supervision (USDJ, National Corrections Reporting Program, 1996).

However, it appears that the amount of time in prison will be increasing over the next decade as the effects of longer sentences and/or the requirement prisoners serve a greater proportion of their sentences take hold. The best evidence of this trend comes from the USDJ, which reports that the average length of stay in prison is projected to increase to over 40 months in the near future (USDJ, *Special Report. Truth in Sentencing in State Prisons*, 1999a). The role of parole and parole boards remains strong in most states since the vast majority of states have retained indeterminate sentencing and discretionary release powers (USDJ, *1996 National Survey of State Sentencing Structures*, 1998). Contributing to the longer lengths of stay is the trend of parole boards to become more restrictive in their granting of parole.

Thus, if one were to pinpoint the source of future prison population growth, it would be focused on the so called “back end” of the criminal justice system. New court prison admissions in most states are either leveling off or even declining. But, as suggested above, legislation designed to lengthen prison terms and reduce the amount of good time a convict can earn before becoming eligible for parole or release, coupled with declining parole release rates, and higher revocation rates all are contributing to prison population growth. Thus, future growth in the prison system will occur not because we are sending more people to prison but because we are keeping them incarcerated for longer periods of time or because they are failing to complete probation or parole.

As the size of the prison system has increased so too has its costs. Between 1984 and 1996, the USDJ reported that amount of money required to operate just the nation’s prisons (excluding the massive jail system) grew from \$6.8 billion to \$24.5 billion (USDJ, *State Prison Expenditures, 1996, 1999b*). In the same year, a total of more than \$120 billion was spent on civil and criminal justice functions with most of those costs associated with police (over \$50 billion) and corrections (over \$40 billion).

The other major cost is prison construction. As of 1998, there were approximately 83,500 new prison beds under construction with another 86,500 being planned to be constructed or total of 170,000 new prison beds. Assuming an average construction cost of \$50,000, the nation will be spending \$8.5 billion to build new prisons in an effort to keep pace with the growing prison population. Even with all of these costs, over thirty state prison systems were operating above their rated bed capacities (USDJ, *Prisoners in 1999, 2000a*).

Some states are beginning to feel some of these fiscal pressures. A recent analysis of the “trade off” of prison beds for higher education was conducted by the Justice Policy Institute (JPI) and the Correctional Association of New York. They found that since 1988, spending for New York’s public universities had dropped by 29 percent while funding for prisons increased by 76 percent. In terms of real dollars, the state’s annual prison budget had increased by \$761 million while funding the New York City and state university systems had declined by \$615 million. Currently, the state is spending \$275 million more per year on prisons than on state and city colleges. And these costs do not include the \$300 million now approved to construct an additional 3,100 new prison beds (at \$96,775 per bed) (Ziendenberg et al., 1998).

Having summarized the major trends and expenses of incarceration in recent decades, we will now turn to discussions of special issues related to these trends: the influence of the War on Drugs, the dual issues of race and the War on Drugs, gender and incarceration, and the conditions of prisons and prisoners.

THE ROLE OF DRUGS, RACE, ETHNICITY AND GENDER IN HIGHER INCARCERATION RATES

The Influence of the War on Drugs

As stated earlier, and a theme repeated throughout this paper, a major reason for the dramatic increase in the U.S. prison population and associated increases in the number of blacks, Hispanics and women, has been substantial increases in the numbers of persons sentenced to prison for drug crimes. Back in 1980 the number of prisoners convicted for a drug offense was only 19,000 or about six percent of the state prison population, which was less than 300,000. By 1998 the numbers had increased by 237,000, or 21 percent of the state prison population. Furthermore, the average

sentence for drug offenses had increased from 13 months in 1985 to 30 months by 1994. Within the federal prison system the number of defendants sentenced for drug crimes had increased from 4,900 to nearly 52,000 by 1994 (Beck, 1995).

Throughout the twentieth century licit and particularly illicit drugs, and the people who use and trade them, have preoccupied those responsible for crime control and law enforcement in the United States (McWilliams, 1990; Incidardi, 1992; Currie, 1993; Jenkins, 1999; Richards and Avey, 2000). This is comprehensible if not logical for at least two reasons: first, the number of people known to be users or purveyors of illicit drugs is far greater than the number of people known to engage in other types of illicit activity considered serious, such as violent or property crime (Office of National Drug Control Policy, 1999); and second, the relationship between drugs and other crimes has been extensively studied and is commonly accepted by scholars, policy makers, and practitioners (Weisheit, 1990; *A National Report –Drugs, crime, and Justice System*, 1992; Mc MacKenzie and Uchida, 1994; Gaines and Kraska, 1997; Office of National Drug Control Policy, 1999). Therefore, it is not surprising that during the last decades of the Twentieth Century, when American society embraced a get-tough approach to crime and the criminal justice system utilized imprisonment as a means of demonstrating toughness (Donziger, 1996), illicit drug users and dealers became the fuel that fed the engine of incarceration.

In the U.S. throughout the 1980s and 1990s, the emphasis of drug policy was to enforce the laws against illicit drug users and traffickers (Chaiken, 1988). That emphasis on “getting tough” with persons convicted of drug crimes contributed to the growing number of persons incarcerated in the nation. In 1998 there were reportedly

almost 1.6 million arrests for drug abuse violations compared to 1.8 million for property offenses and 680,000 for violent offenses (Federal Bureau of Investigation, 1999). More important, in 1998 arrests of drug law violators accounted for 11 percent of all known arrests, compared to only 7 percent in 1985 (Federal Bureau of Investigation, 1996).

There clearly was an increase in the number and proportion of all arrestees who were charged with drug offenses during a period when arrests for other offenses declined or were stable, and the number of people being incarcerated increased. This does not necessarily mean that the changing patterns of drug arrests were responsible for the increase in the prison population. What happened to those drug arrestees when they were processed by the criminal justice system needs to be considered.

The federal government leads the nation in drug case prosecutions. On the national level, statistics are available for cases that are prosecuted by the federal government. From 1980 to 1998 the number of persons sentenced to prison in Federal District Courts increased from 19,023 to 95,522, an increase of 402 percent. However, during the same period the number of sentences to federal prison for drug offending increased by an astounding 1,085 percent (Maguire and Pastore, 1999). The Federal Bureau of Prisons has the fastest growing prison population, and is expected to grow to 200,000 in the next decade.

During the 1980s and 1990s, the problems associated with drugs, and the criminal justice system response and outcomes, were particularly pronounced in several major cities (Belenko, 1990; Brownstein, 2000). Particular attention was paid to New York City, where crime rates dramatically rose and then fell during a time when crack

cocaine was first introduced and crack cocaine markets were evolving (Brownstein, 1996). For example, in New York, from 1980 to 1990 (just about the time when the public's concern about crack and the level of recorded crime both peaked), the number of index crimes reported had declined slightly while the number of sentences to prison increased by 297 percent. Notably, during this same period, the proportion of all felony arrests in the city that were for drug offenses almost tripled, and the percentage of all felony prosecutions in the city that were for drug offending more than tripled.

From 1990 to the end of the decade, during which time the index crime rate in the city decreased by more than 50 percent, the number of sentences to prison increased by only 37 percent. Meanwhile, throughout the period, about one-third of felony arrests and one-half of felony prosecutions involved drug offenses, compared to one-tenth of all felony arrests and about one-eighth of all felony prosecutions in 1980. While it is clear that prison populations have grown in large part to the War on Drugs, this war has had a profound impact on who is incarcerated which is the topic of the next two sections.

The Dual Issues of Race and the War on Drugs

Those under the control of correctional authority do not represent a cross section of the nation's population. African-Americans comprise about 13 percent of the U.S. population, but in 1999 about 46 percent of the sentenced prisoners under state and federal jurisdiction were black. Between 1980 and 1999 the number of white prisoners per 100,000 of the U.S. population rose by 155 percent from 85 to 217. During the same period the incarceration rate for blacks went from 551 per 100,000 to 1,739, an increase of 240 percent, while the rate for Hispanics increased by 341 percent, going

from 163 to 719. Assuming their populations were of equal sizes, in 1980 there were 6.5 blacks incarcerated for every white; by 1999 there were 7.8. In 1980, there were 1.9 Hispanic prisoners for every white prisoner; by 1999 there were 3.3.

These disparities by race and ethnicity become even greater when age and gender are taken into consideration (Beck, 2000). Per capita, in 1999 there were 8.2 black males and 3.2 Hispanic males serving prison sentences of one year or more for every white male. The ratio of black to white incarceration rates was highest among those in their late teens and twenties, peaking at 9.5 among those aged 25 to 29. Expressed in terms of percentages of the populations, 9.4 percent of black non-Hispanic males aged 25 to 29 were in prison in 1999 compared to 3.1 percent of Hispanic males and 1.0 percent of white males in the same age group (Beck, 2000).

Although substantially lower than the male rate, female incarceration shows the same disparities. Black non-Hispanic females were nearly eight times more likely, per capita, to be in prison in 1999 than were their white counterparts, and Hispanic females were more than three times more likely. Translated into percentages of the population, approximately two percent of the black female population over the age 18 were serving prison sentences of one year or more in 1999 compared to slightly less than one percent of the Hispanic females and white females of the same age. Not surprisingly race and ethnic disparities are also found in the less restrictive forms of correctional control such as probation, although the differences are less than in the jail and prison populations. Figures recently published by the Justice Department's Bureau of Justice Statistics (BJS) reveal blacks comprise about one-third of those on probation and nearly

half of those on parole. Those of Hispanic origin who may be classified white or black, constituted 16 percent of probationers and 21 percent of parolees.

Of the 6.3 million adults under correctional supervision --prisons, jails, probation and parole -- nearly 40 percent are African-American and approximately 17 percent are of Hispanic origin (*U.S. Correctional Population, 2000b*). Thus, an estimated one in 14 African American and one in 30 Hispanic adults, compared to one in 58 whites were under some form of correctional supervision in 1999.

Such disparities have a real impact on the relative life chances of the different groups. In 1997, BJS calculated the lifetime likelihood of a person going to prison, assuming that rates of first incarceration and death remained at their 1991 levels. This analysis revealed if the 1991 rates prevailed throughout the life of a cohort, about 16 percent of blacks, nine percent of the Hispanics and three percent of whites would be sentenced to prison at some time in their lives. These chances were much greater for men (nine percent) than for women (one percent), and reached their highest level for African-American males. Nearly one in three black males (29 percent) could expect to be incarcerated at some time in their life given the 1991 rates. The comparable rates for Hispanic and white males were 16 percent and four percent, respectively (Bonczar and Beck, 1997). And these rates of incarceration have continued to rise since 1991, especially for African-Americans and Hispanics.

The contrasts documented above might be seen as a *prima facie* case for the existence of pervasive and systematic discrimination against African-Americans and Hispanics throughout the criminal justice system. While not denying the existence of some discrimination, most researchers who have examined the issue have concluded

that discrimination based directly on race and/or ethnicity is not the primary cause of the disproportionate representation of these groups in prison.

Blumstein (1982) compared the racial distribution of arrests for eleven crime categories in 1978 with the racial distribution of prisoners for these same categories in 1979. Assuming that racial differences in arrests are indicative of differential involvement in crime, he concluded that about 80 percent of the racial disproportionality in prison was explained by differential racial involvement in serious crime. The amount of disproportionality explained by arrests, however, varied greatly by type of crime, ranging from about 97 percent in the case of homicide to only 51 percent for drug offenses. His research was later confirmed by Langan (1985) in a study that corrected for any bias in arrest patterns by using victims' racial identification and for the possible confounding effect of length of stay by using prison admissions data. Hindelang's (1978) research also supported this assumption, which found that the racial differences in arrests mirrored racial identities of persons thought to have committed crimes, as provided by victims in the National Crime Victimization Survey. Blumstein (1993) replicated his research using 1991 data, in light of the persistence of racial disproportionality and the enormous increase in imprisonment. This time he found that the amount of racial disproportionality explained by arrests had declined slightly to 76 percent. Blumstein's methodology, and others who have replicated his work, has been criticized for aggregating the data in such a way as to hide potentially wide variation among the states and ignoring racial biases in arrest practices. For example, using 1981 arrest data and 1982 imprisonment data disaggregated by state, Crutchfield, Bridges and Pitchford (1994) found that the percentage of disproportionality explained

by differential involvement in crime was 66 percent but ranged from less than one percent in Alaska to over 99 percent in Mississippi with 40 percent of the states falling below the national rate.

With respect to the influence of arrest practices, there has been relatively little research on racial biases in arrests. Even reviewers predisposed to find evidence of discrimination, such as Mann (1993: 139) are forced to conclude that the "few available studies of this issue offer support to both sides of the question." As noted above, Hindelang's research concluded that there was a close correspondence between victims' identifications of the race, and the racial distribution of arrests. More recently, Tonry (1995: 72-74) reported that the percentage of blacks arrested for robbery and assault, although higher than the percentages reported by victims of those crimes, closely paralleled each other from 1980 through 1991.

One reason that the percentages arrested may be higher than the percentages reported by victims is that blacks may be arrested on the basis of less stringent criteria. Petersilia (1983: 21-26) found that in California black and Hispanic suspects were more likely than whites to be arrested without a warrant, a fact contributing to the greater likelihood of their cases being rejected by prosecutors or dismissed by the courts.

Situational factors associated with race and class may influence the willingness of the police to arrest suspects. In an examination of police-citizen contacts in three major metropolitan areas, Smith, Visher and Davidson (1984) found that police are more likely to use force and to arrest defendants in racially mixed and minority neighborhoods when the victim is white and the suspect is black, and that they are more likely to comply with a white victim's request that the suspect be arrested.

In a study of male defendants in ten federal courts, Albonetti and her colleagues (1989) reported that the importance of various criteria affecting pretrial detention decisions varied by race, and that white defendants benefited more from factors such as education and income than did black defendants with similar resources. White defendants were found to "receive better returns on their resources" Albonetti et al, 1989: 80).

In terms of the decision to file a complaint and prosecute, some researchers have concluded that these decisions are, for the most part, made on the basis of legally relevant criteria, such as strength of the evidence, and that race plays little or no role. (Bernstein et al., 1977; Albonetti et al. 1986). Two studies, however, suggest that race plays a role in these decisions at least with respect to certain crimes. Comparing initial police reports with the eventual charges lodged by prosecutors in cases of murder, Radelet (1981) found that black defendants arrested for murdering whites were the most likely to have the charges upgraded to first degree murder. Similarly LaFree (1980) found that black men arrested for raping white women were the mostly likely suspects to be charged with felonies.

Most of the research on racial and ethnic discrimination within the criminal justice system has concerned itself with sentencing. Comprehensive reviews of research done from the 1920s through the 1970s concluded there was no evidence of systematic bias against minorities at this stage (Hagan, 1974; Kleck, 1981; Hagan and Bumiller, 1983). Whatever direct effect race had on sentencing was largely eliminated when the effect of prior record was controlled, leading to the conclusion that persons of color received

longer sentences than did whites for similar crimes because of the greater involvement in criminality over their life course.

These reviews, however, considered only sentence length, not the decision to incarcerate. A recent review by Chiricos and Crawford (1995) of 38 studies published since 1975 suggests this is a crucial distinction as is the context within which the decision is made. In line with previous research, their meta-analysis revealed that while race did not have a direct effect on sentence length, blacks convicted of crimes were more likely to be incarcerated than whites even with the effect of crime seriousness and prior record controlled. Moreover, their analysis shows that blacks are significantly more disadvantaged than whites in the South, in places where blacks comprise a larger proportion of the population and where unemployment is high. Large numbers of unemployed blacks in a jurisdiction, they theorize, may be perceived by whites as such a social and political threat as to increase the probability of incarceration.

Summarizing the results of the more recent research on the issue of bias in sentencing, Lauritson and Sampson (1998) conclude that:

(It) ... is not fatal to the basic argument that race discrimination is not pervasive or systemic...the thrust of the research during this era seemed to shift away from the NDT [no discrimination thesis] to the idea that there is *some* discrimination, *some* of the time, in *some* places [emphasis in original].

An earlier review by Zatz (1987) came to a similar conclusion. It appears reasonable to conclude that the no discrimination thesis is no longer supported by the evidence, especially in light of recent developments; War on Drugs, racial profiling, and disproportionate rates of imprisonment.

The "War on Drugs" created an ideological climate conducive to increasing racial disparities in arrests and sentences to confinement. Tonry (1995) concludes that urban black Americans have borne the brunt of the War on Drugs. They have been arrested, prosecuted, convicted, and imprisoned at increasing rates since the early 1980s, and grossly out of proportion to their numbers in the general population or among drug users.

The clearest example is the differential penalties for crack cocaine and powder cocaine, the former used mainly by blacks and the latter mainly by whites. Although pharmacologically indistinguishable, federal law sets the penalty for possession of one gram of crack equal to the penalty for 100 grams of powder. In a 1993 study that examined the effect of race on sentencing for a variety of federal crimes, McDonald and Carlson (1993) found that the prison sentences for blacks were, on average, 41 percent longer than those for whites and this was largely due to the 100 to 1 difference in the penalties for crack and powder. It is scarcely surprising then, that in 1998 nearly two-thirds of the black prisoners in federal prisons, compared to 55 percent of the white convicts, were serving sentences for drug offenses (Beck, 1999: 10).

The situation is much the same in state prisons. In 1998, approximately 25 percent of the sentenced black prisoners were committed for drug offenses compared to 12 percent of the whites. It is estimated that about 25 percent of the increase in the number of black prisoners in state facilities between 1990 and 1998 was attributable to growth in the numbers committed for drug offenses. This compares with 18 percent of the increase in Hispanic and 12 percent of the increase in white prisoners (Beck, 1999: 10)

A second collateral consequence of the War on Drugs that may contribute to the over representation of minorities in prison populations is “driving while black.” This refers to the police action that is triggered by the race, ethnicity, or national origin of a person rather than by their behavior, or information specifically linking them to a crime. Although incidents of this sort have evoked outrage and controversy it has not been the subject of much research, and most of the research that has been done has been in conjunction with civil law suits, and thus must be viewed with some caution. Nonetheless, the results of these studies suggest substantial biases on the part of police in making stops and conducting searches. In one study, Lambreth (1998) conducted both stationary and rolling surveys of drivers on a selected portion of I-95 in Maryland to construct a sample of speeding violators. Blacks were found to comprise 18 percent of the violator sample. In contrast, Maryland State Police data revealed that blacks constituted 79 percent of the drivers stopped and searched. Of those searched, 29 percent of the whites and 28 percent of the blacks were discovered to possess contraband.

In a similar study in New Jersey, Lambreth (*State of New Jersey v. Pedro Soto et al.*, 1996) found that blacks comprised 15 percent of the speeders on the New Jersey Turnpike but represented 35 percent of those stopped and 73 percent of those searched. A recent report from the Attorney General of New Jersey (Verniero and Zoubek, 1999) confirms Lambreth’s conclusions in finding that people of color constituted 41 percent of the stops made and 77 percent of the searches conducted. Yet arrests and seizures did not differ by race: 11 percent of the searches of white motorists resulted in an arrest or seizure compared to 14 percent of the searches

involving blacks. This disproportionate number of black drivers being stopped on the basis of a common stereotype results in both a substantial degree of racial harassment and an over representation of blacks among those arrested for contraband, usually drugs.

The racial discrimination experienced by minority population on the streets, and in court, is also evident in prison. Studies conducted in prisons in the 1970s reported that black convicts were seen as more threatening by correctional officers, and were therefore subjected to greater surveillance and more likely to receive disciplinary reports than white prisoners (Held, et al., 1979; Poole and Regoli, 1980; Carroll, 1988). Although none of these studies examined the impact of greater discipline on racial differences in time served prior to release, such differences could have such an effect, both directly, through the loss of good time, and indirectly, through its influence on decisions to grant early release via parole.

There are other decisions made by correctional officials that determine how long persons remain in custody and how and when they will be released. In particular, disciplinary hearings that result in the revocation of good-time credits which impact parole eligibility dates, parole release hearings, and parole revocation hearings are examples of less visible decision points that serve to extend or reduce one's period of incarceration.

In Rhode Island, Carroll and Mondrick (1976) found that the parole board imposed additional criteria on black prisoners than on white convicts with the result that most blacks who were granted paroled served about five percent more of their sentence than did comparable whites. Brown (1979), in a study of parole board decisions at

three prisons, found that in the medium and maximum security institutions, black convicts, even those defined as "well-adjusted," were less likely than comparable white prisoners to be recommended for parole or to be granted early release. Petersilia (1983: 49-50) found that even after controlling for relevant factors blacks and Hispanics in two states served more time than did whites before being released to parole supervision.

In summary, African Americans and Hispanics are grossly over represented in the prisoner population, and that this over representation has increased over the past two decades. The degree of over representation in prisons varies greatly from state to state. One reason for this level of over representation is the higher rate of arrests for crimes one can be sentenced for to prison. However, there is a growing body of research suggesting that arrest practices in certain jurisdictions are based, in part, on race. There is also evidence that discrimination occurs in the pretrial detention, prosecution, sentencing and release decision-making.

Gender and Incarceration

There have been even more dramatic increases in the number of women incarcerated than we do for men. Between 1980 and 1999, the total number of incarcerated males increased 303 percent whereas that number increased 576 percent for females (USDJ, *Prisoners in 1999*, 2000a; *Uniform Crime Reports*, 1980, 1990, and 1999). Although the incarceration rate in state and federal correctional institutions is about 15 times higher for men than women, the increase in the number of women in these facilities has outpaced the increase for men each year since 1995.

The number of women per capita involved in corrections which has grown 48 percent since 1990, compared to 27 percent for men (USDJ, *Women Offenders*, 1999c: 6). Since 1985, that increase was 108 percent for women. When we look across all four correctional populations – probation, jail, prison, and parole—we see a striking increase in the number of women under the care, custody or control of adult criminal justice authorities. Between 1985 and 1998, the per capita number of women under probation supervision climbed 85 percent, the jail rate increased 193 percent, the imprisonment rate grew 239 percent, and the per capita parole supervision rate rose 277 percent.

These higher increases in incarceration rates are not explained by increases in violent crime arrest rates for women. Instead, the number of women arrested for violent crimes increased at about the same pace as men while the number of drug arrests for women were nearly twice as high than for men. Furthermore, if we look at new court commitments to state prison in 1996, we find that only 17 percent of the women were admitted for violent crimes compared to 31 percent of men's admissions (USDJ, *Women Offenders*, 1999c: 10). More striking than the rising incarceration rates for women in general are the differential rates by race and ethnicity. Black non-Hispanic females were more than twice as likely as Hispanic females and nearly eight times more likely than white non-Hispanic females to be in prison in 1999 (USDJ, *Incarcerated Parents and Their Children*, 2000c).

Similar to the analysis presented above, the War on Drugs is largely responsible for much of the increase use of incarceration for women. Between 1990 and 1998, persons convicted of drug crimes accounted for the largest source of the total growth

among female convicts (36 percent) compared to male prisoners (18 percent). When we examine the offense composition of women in state prisons between 1979 and 1997, we see that the proportion convicted of violent and property crimes has been decreasing while the proportion serving time drug and public-order crimes has been growing (USDJ, *Women Offenders*, 1999c). In 1979, about half of the women in state prisons were incarcerated for violent crimes (USDJ, *Profile of State Prison Inmates*, 1986, 1988), whereas in 1996, only 28 percent of female state prisoners were incarcerated for violent offenses (USDJ, *Women Offenders*, 1999c).

Many of these women are from third world countries or impoverished communities within the United States and are led or coerced into the roles of drug couriers or mules (Chesney-Lind, 1997). Other than using and/or selling small quantities of drugs, women are incarcerated for simply living with a drug dealer, which is enough to implicate a woman. Often a woman living in this situation is economically dependent on the man and this relationship puts her at great risk for incarceration even if she is not directly involved in the drug business (Casey and Wiatrowski, 1996). Chesney-Lind (1997) argues that these and other data suggest that “the ‘War on Drugs’ has become a war on women and has contributed to the explosion in women’s prison populations.”

Sentencing reforms have also influenced incarceration trends for women. As the violent crime rates increased, politicians basing their political platforms on getting tough on crime. The growing sentiment was that violent criminals were spending trivial sentences in prison and being returned to the community to resume their violent offending. These concerns were translated into sentencing reforms such as structured

sentencing guidelines, mandatory sentences, truth in sentencing, and “three strikes and you’re out” – all in the name of deterrence and incapacitation.

When these policies were being introduced, the image of this criminal was a violent male predator who would repeat his atrocious acts unless he is incapacitated. But these policies also translated into the incarceration of women for property crimes and drug abuse as well as for first-time convictions. The result of this wave of reforms was reduced discretion on the part of judges in sentencing and an overall increase in the likelihood of arrest, conviction, and imprisonment of nonviolent women. Between 1990 and 1996, there was a 42 percent increase in the number of convictions for women as compared to a 17 percent increase for men (Table 12). More than half of the increase in females convicted of property felonies was due to increases in forgery, fraud, or embezzlement (USDJ, *Women Offenders*, 1999c: 6).

Another striking indication of the impact of these more rigid sentencing policies is the proportion of imprisoned women (and men) who have no prior convictions. In 1998, 35 percent of women in state prisons and 23 percent of men had no prior convictions and an additional 17 percent of women and men, respectively, had only one prior conviction (USDJ, *Women Offenders*, 1999c: 9). Chesney-Lind (1997) argues that these data demonstrate that the increase in women’s imprisonment is not being fueled by similar increases in serious criminal offending or more serious criminal histories on the part of women.

One of the ramifications for increasing imprisonment of women is the impact this has on the children of these women. In 1997, 65 percent of the women in state prisons had minor children (under the age of 18) and 59 percent of those in federal prisons had

children (USDJ, *Incarcerated Parents and Their Children*, 2000c: 2). Before the War on Drugs and the “get tough on crime” reforms, judges had the discretion to take the family responsibilities of the defendant—as well as the nature of the crime and prior convictions—into consideration when making sentencing decisions. Just over 20 percent had one child, just under 20 percent had two children, and over 20 percent had three or more children. When we look at the proportion of children in the U.S. who have a parent in prison, African American children (7 percent) were nearly 9 times more likely to have a parent in prison than white children (0.8 percent) and Hispanic children (2.6 percent) were more than 3 times as likely as white children to have a prisoner parent (USDJ, *Prisoners in 1999*, 2000a). Because of the rising numbers of women prisoners, the number of children with a mother in prison nearly doubled since 1991 (up 98 percent).

Almost half of mothers in prison have never received a visit from their children. Because most states have only one prison for women, often located in rural areas far from the convict’s home, it becomes impossible for many children to visit their mothers (Casey and Wiatrowski, 1996). A majority of women were incarcerated more than 100 miles from their last place of residence (USDJ, *Prisoners in 1999*, 2000a) and they will have little chance rearing their children because on average, women had an estimated 5 years to serve on their sentences in 1997. Another indication of the impact of “get tough” policies is seen in the remarkable proportion of first-time convictions among these mothers (35 percent compared to 22 percent of fathers).

In addition, socioeconomic and mental health characteristics of these mothers paint a picture of glaring economic and psychological need: 25 percent of these

mothers met the criteria for alcohol dependence, 14 percent in state prisons and 6 percent in federal prisons reported indications of a mental illness, 18 percent reported periods of homelessness in the year prior to admission, almost 70 percent reported incomes below \$1,000 in the month before arrest, and 28 percent were resorting to illegal sources for income in the month prior to arrest (USDJ, *Prisoners in 1999, 2000a*).

The question these figures raise are whether we are looking at a population of criminals or a population of women who lack effective substance abuse treatment and labor force training. A troubling ramification of the incarceration of mothers is that extant research has established the relationship between juvenile offending and juvenile parent's imprisonment. A mother's incarceration is likely to perpetuate a cycle of children going to prison (Raeder, 1993).

As we review the incarceration patterns and trends for women, we should bear in mind that women are less likely than men to engage in crime, especially violent crime. Courts have traditionally reserved harsh penalties for the most serious offenses, but we find that new policies are now sending persons convicted of nonviolent petty crimes to prison to serve long sentences. A significant number of incarcerated women have no or only one prior conviction, are mothers of minor children, and are there for property and drug offenses. The "feminization of poverty" has been used to explain women's involvement in criminal activities, since these women often lack meaningful employment opportunities. By and large, their crimes are sex-role-specific such as writing bad checks, shoplifting, and credit card fraud (Merlo, 1995).

The discussion presented can best be summarized by the recent resolution of the ASC's Division on Women and Crime:

Most women offenders are better served in the community rather than in secure settings due to the relatively low levels of seriousness of their crimes and their amenability to treatment. By focusing on the strategies that directly address the problems of women in conflict with the law, the overuse and overcrowding of jails and prisons can be avoided. Therefore, the changes in public policy are needed so that the response to women's offending is one that emphasizes human needs rather than one that focuses solely on punitive sanctions. Money saved in reducing women's imprisonment could be invested in programs designed to meet their needs which would not only rehabilitate women but would also enrich the lives of their children and future generations.

THE CONDITIONS OF PRISONS AND PRISONERS

The conditions of the prisons and prisoners should be another area of concern for criminologists and the ASC. Most prison systems are crowded with prisoners housed in areas that were designed for program and recreational use. Not only does overcrowding contribute to prison violence, it may abort efforts to provide those men and women incarcerated with vocational, educational, medical, mental health, and other treatment services.

In response to these crowded conditions, prisons officials double bunk cells, move four prisoners into two person rooms, install beds or simply lay mattresses on the floor along cell block corridors, or in adjacent hall ways. They will also turn recreational and program space into ad hoc dormitories with beds placed in gymnasiums and classrooms. In some prisons, with the hallways lined with beds, there may be no space for prisoners to exercise indoors, participate in education, vocational training, counseling and pre-release programs.

Prisoner litigation, inspired by these conditions In U.S. prisons litigation, continues to flourish despite recent efforts by Congress to limit such lawsuits through

the passage of the Prison Litigation Reform Act in 1996. Over the past century, horrific prison conditions that have existed in our nation's prisons and jails led to federal court intervention. Carroll (1998) provides a historical overview of the major federal court interventions that occurred in Arkansas, Alabama, Texas, Georgia and Rhode Island. As of 1995, the last year that these data were reported, 39 states plus the District of Columbia, Puerto Rico, the Virgin Islands and some of the nation's urban jails (Los Angeles, New York, Philadelphia, San Francisco, Seattle, and Chicago) were under court orders or consent decrees to limit crowding and/or improve basic living conditions. Despite federal court intervention, there continue to be allegations of prisoner abuse as reported below by the American Civil Liberties Union (ACLU):

Rape and sexual abuse

In Washington D.C., prison guards sexually assaulted female prisoners on a routine basis. One officer raped a prisoner while she was sick in the infirmary.

In Georgia, dozens of women prisoners were forced to have sex with prison guards, maintenance workers and a prison chaplain. Many become pregnant and were then pressured into having abortions.

In Louisiana, female prisoners were forced to have sex with prison staff, and with convicts brought in by prison guards.

Abuse and Torture

In a California prison, prisoners in restraints were severely beaten by guards. They were kicked, hit with batons, and burned with scalding water. Their heads were bashed, their teeth knocked out, their jaws fractured and their limbs broken.

In Idaho, a 17-year-old boy in jail for failing to pay \$73 in traffic fines was tortured for 14 hours and finally murdered in his cell by other prisoners.

In South Carolina, several suicidal juvenile prisoners were transferred to the state mental hospital where, naked or in paper gowns, their hands and

feet were bound to a bed and they were forcibly injected with psychotropic drugs.

Squalid Conditions and Lack of Medical Care

In the U.S. Virgin Islands, one-man cells infested with rats housed four or five prisoners. Mattresses on the floor were soaked by overflowing toilets, and the drinking water was contaminated with sewage.

In Pennsylvania, prison officials failed to implement basic tuberculosis prevention procedures despite warnings by the Commissioner of Health. As a result of a federal court order, over 450 prisoners infected with TB were identified in a single prison.

In California, female prisoners received almost no pre-natal care and one prisoner gave birth on the floor of the jail without medical assistance three hours after telling prison staff that she was in active labor.

Prisoners also have unique medical, mental health and treatment needs. Hammett reports that hundreds of thousands of convicts suffer from a variety of infectious diseases and that these rates are much higher among prisoners than within the general population (Hammett, 2000). Only small proportions of persons being released from these systems continue to receive medical care.

With respect to mental health issues, the USDJ estimates that 16 percent or 284,000 convicts are defined as mentally ill. Nearly one out of five have histories of physical or sexual abuse. Approximately 60 percent of these persons were under the influence of drugs or alcohol at the time they committed the crimes that led to their current incarceration. The same proportion of men and women said they had received some form of treatment since being admitted to prison or jail. These prisoners were more likely to have severe prior criminal histories, lower employment records, and higher rates of prior sexual and physical abuse. They also tend to have higher rates of

disciplinary problems and will serve longer prison terms (USDJ, *Mental Health and Treatment of Inmates and Probationers*, 1999d).

If one were to generalize, it's apparent that there are two primary tracks for those imprisoned. The dominant track is for persons sentenced for nonviolent crimes who will have a relatively short period of imprisonment (less than 15 months and many serving less than a year in state prison). Unless they become special management problems, they will spend most of their time in minimum or medium security institutions prior to their release. The other track will be men and women who will spend many years incarcerated. Most (but not all) will have been convicted of a violent crime or will have been defined as "habitual" criminals. They will spend much of their time in the state's higher security facilities and will not be eligible for placement in the state's minimum security prisons or community corrections programs until they near their release dates. Most of these persons, including those prisoners convicted of sex offenses and those incarcerated for many years and are reaching middle age, will not be management problems.

While incarcerated, convicts participate in few programs that are designed to assist or enhance their ability to succeed upon release. In general, these programs can be classified into four major categories -- education, vocational training, prison industry, substance abuse treatment, and a wide variety of counseling programs. National data from several sources suggest that participation in such programs is relatively low. The most recent survey reported that one quarter of the entire prison population is idle and is not participating in any meaningful work or education programs. Very small

proportions are in structured vocational and educational programs. Criminal Justice Institute (1999) reported that less than ten percent of prisoners were participating in formal education programs. The BJS survey reported a 23 percent participation rate in some form of education program. The low education participation rates are instructive given that many prisoners lack a high school degree with many others being functionally illiterate.

Only 14 percent were reported to be participating in a substance abuse program despite the much larger number that have been convicted of substance abuse related crime and/or have a history of substance abuse (USDJ, *Substance Abuse and Treatment, State and Federal Prisoners 1997, 1999e*). Most of the states reported having Therapeutic Communities (TC) or the federally funded Residential Substance Abuse Treatment centers but these programs are quite small (75-150 prisoners) and are unable to service many men and women with substance abuse histories. As Austin (1998) noted, the nature of prison operations make it virtually impossible for a significant number of prisoners to participate in meaningful drug and alcohol treatment. For example, the lack of significant numbers of prisoner participation in meaningful rehabilitative programs also can be traced to the lack of program staff and prison facilities that are badly crowded and are not well-suited to provide services. Less than 20 percent of the prison employees are defined as education or treatment staff. Low pay, prisons in remote rural locations, high turnover and difficult working conditions where program operations are often curtailed or disrupted due to lock-downs or other security related considerations, compromise even the best designed treatment programs.

Prison research is now largely a quantitative enterprise. Few criminologists are actively involved in qualitative studies that would require them to spend considerable amounts of time observing the culture of today's prisons and their impact on staff and convicts. Some of our most important contributions to understanding prisons employed ethnographic methods (e.g., Sykes 1956; 1958; Sykes and Messinger, 1960; Irwin, 1970, 1980, 1985; Jacobs, 1977; Lombardo, 1989; Richards, 1990, 1995; Owen, 1998; Austin and Irwin, 2001; Ross and Richards, 2002).²

One of the unintended consequences of the growing use of imprisonment has been a growing number of criminologists who have experienced incarceration. The ASC now has a growing group of ex-convict professors (e.g., Convict Criminologists) in its membership who have made significant contributions to the literature on prison conditions and informs the following convict perspective. They represent an important perspective on the incarceration issue – one that have been sorely lacking in so called traditional or mainstream criminology (Richards and Ross, 2001; Ross and Richards, 2002).

Ex-convict academics have carried out a number of significant ethnographic studies. Irwin (1970, 1980, 1985), who served prison time in California, in a series of articles and monographs, drew upon his experience as a convict to interview prisoners and analyze jail admissions and subtle processes in prison. McCleary (1978/1992), who did both state and federal time, wrote his classic "sociology of parole" through participant observation of parole officers at work and on the street. Terry (1997), a former California and Oregon state convict, wrote about how prisoners used humor to

mitigate the managerial domination of penitentiary authorities. Newbold (1982/1985, 1987, 2000), having served prison time in New Zealand, used both qualitative and quantitative methods to analyze crime and corrections in his country. Finally, Richards and Jones (1997), both former prisoners, used "inside experience" to inform their observation and interviews of Iowa convicts upon their transfer to community work release centers. These studies inform the discussion that follows.

The dramatic increase in the numbers of American incarcerated has created a boom in prison construction with hundreds of new prisons being built ranging from minimum to super maximum security. Most prisoners will spend their entire period of incarceration in general population with about 15-20 percent in what's known as special management units. Generally, minimum security refers to camps with no fences or low security facilities with a single perimeter fence while medium security facilities have heavy razor wire double fences, while maximum security may have both fences and fortress like walls with gun towers. Most convicts reside in medium and maximum security facilities.

Medium security prisons, traditionally "reformatories" for young adult prisoners, and referred to as "gladiator schools" by prisoners, have added security features like double fences, gun towers, and internal control architecture that resembles higher security institutions. The old reformatories, built in the early 1900's, were built of stone and or bricks and steel to be "junior penitentiaries" with cellblocks of cages, industrial workshops, and some vocational and educational programs.

There are two styles of new construction medium security institutions. The first is built of steel and concrete, with a yard, and separate buildings for administrative offices, factories, recreation and programs, and housing convicts. The housing units are separate buildings, with individual "pods," with a few hundred prisoners each, and are usually one or two floors tall. These "units" organize prisoners into disciplinary steps, with each building representing different levels of privilege. For example, there may be a building for reception and departure (R & D), a unit for new prisoners, and additional units for ascending levels of good behavior. In addition, each prison may have special cellblocks for administrative segregation (ad seg) or special housing units (SHU) for disciplinary violators (typically called the hole by prisoners), protective custody (PC), medical prisoners, the mentally ill, or special treatment programs (e.g., residential drug therapy, sex offender treatment, etc.). Prisoners are moved from one unit to another as they are evaluated, disciplined, or isolated as decided by the prison administration.

The second style is a cheaper version built with minimal consideration for the daily needs of prisoners. Many states are attempting to save on construction costs by building new medium security prisons of fabricated steel and concrete, with little stone or brick. The buildings may resemble large farm sheds with few windows, actually large metal pole barns on a concrete foundation. These penal facilities may be nothing more than human warehouses, consisting of little more than security perimeters and housing units. The institution may have no recreational yard or gym, factories, or programs. The prisoners live in vast dormitory style units with hundreds of men sleeping on bunk beds, stacked two high, and arranged a few feet apart. Prisoners refer to these hastily

constructed institutions as "bus stops," "pig pens," or "dog kennels," because of the chaotic confusion of living for years in huge open dorms.

Maximum security prisons range from the old "big house" penitentiaries to the super max institutions. The big house penitentiaries, many of them built in the late 19th Century or early 20th Century, were fortress like structures, enclosed by walls 30 to 50 feet high, with buildings made of stone, brick, concrete, and steel, containing massive cellblocks, some five tiers high. These ancient prisons are still operating, even as they are supplemented by the construction of modern penitentiaries.

The new generation maximum security penitentiaries are more like massive factories that are enclosed by heavy security fences and gun towers. Double fences spaced yards apart with rolls of razor wire in between, and covered with more wire, that may carry an electric current, and include remote sensors, and video cameras to alert the guards of attempted escapes. Inside, these correctional institutions have limited space designated for convict employment in prison industries, recreation, or education. The housing units are pods with single bed cells, often filled with two prisoners or more, with a metal door, toilet and sink, and communal showers at the end of each tier.

Virtually every secure facility has an isolation unit or disciplinary cellblock in which disruptive, difficult to manage, aggressive or escape risk prisoners are kept, sometimes for months or years. Many of these convicts are men who have served many years in prison. Typically, this population represents less than one percent of the total population, many of them prisoners serving long sentences, but can have a major impact on the prison system in general. Within this population is a small subset of

prisoners that are the most violent, and difficult to manage, even in the confinements of a secure segregation unit. The management of this relatively small number of prisoners has consumed a tremendous amount of resources and effort due to their serious potential threat to staff and other prisoners. Although each jurisdiction developed their own unique approaches to the issue, states have recently turned to the use of "Super Max" units or institutions to control the most disruptive or potentially troublesome prisoners.

A survey conducted by the National Institute of Corrections in 1997 found at least 57 super-max facilities, with in excess of 13,500 beds in the United States. At the time of the survey ten jurisdictions were in the process of developing 3,000 additional super-max beds (National Institute of Corrections, 1997). The conditions of confinement in these prisons are more restrictive than death row. Super max prisons have no educational or vocational programs, with prisoners provided only limited visiting time with family, phone communication, access to law library, and confined for the duration of their stay in austere 60-80 square foot cells.

One example of these units is ADX Florence (CO) operated by the Federal Bureau of Prisons, which is the highest security prison in the U.S.. This prison was built not only to eliminate escapes, but also to defend from outside attack. The "outrider" (a guard that patrols outside the fence or wall) at medium and maximum security facilities is a correctional officer in a pick-up truck armed with a shotgun, who drives around the prison perimeter. The Florence outrider is a white armored personnel carrier (a tank without a cannon). This super maximum facility maintains a strict discipline, with few

privileges, which does not allow for the normal "controlled movement" of prisoners from cells to the dining hall, work assignments, and recreation. There are 550 permanently lock down one man cells, but only half of these are occupied at any given time. The empty cells are reserved for prisoners that may be transferred in from rebellious or rioting institutions. The convicts are locked down 23 hours a day in and may be allowed one hour of exercise a day in a private room. They eat all their meals in their concrete "boxcar" cells. Levasseur (1998a, 1998b), a prisoner in Florence, wrote about four point spread eagle restraints, forced feedings, cell extractions, mind control medications, and chemical weapons used to incapacitate prisoners.

We know very little about these super max facilities and the long-term consequences of this form of severe prison conditions on prisoners. We do recognize that in most prisons, convicts assigned to administrative segregation and super max facilities may spend years in these units before being released. And, we also know that some portion of this population is released directly from prison to the streets and, in some cases, with no parole supervision, assistance, or plan for their reentry to the community.

SUMMARY

The philosophy towards incarceration and its purpose has shifted from one of rehabilitation between the turn of the century and the middle of the 20th century to a philosophy of deterrence and, more recently, retribution. At one time, it seemed that prison was reserved for person convicted of violent crimes who posed a threat to public safety and to those who were repeatedly convicted for felonious acts. More recently, a

heightened fear of crime among the voting public coupled with economic prosperity has created a criminal justice system that imprisons persons who have never been convicted of violent crimes and who have had no prior convictions. The United States ranks second in the world incarceration rates behind Russia. The question that comes with the understanding of incarceration rate trends is “is it worth it?”

The single justification for incarcerating so many Americans is that it reduces crime. This is, perhaps, the most hotly debated topic today. Some criminologists have argued that increasing prison populations not only reduces crime but actually saves taxpayers money. It is essentially a two variable equation, which claims that as incarceration increases crime rates decline. Comparing crime and incarceration rate data from 1960 through 1998, we do not find support for this hypothesis. Instead, we observe that, prior to the 1970s, there were relatively low crime and incarceration rates. Thereafter, both measures have steadily grown. Only in the past five years have crime rates began their steady decline while incarceration rates have continued to increase.

There have been a number of major studies conducted by criminologists which, at a minimum, question the utility of incarceration as an effective crime control policy. The National Academy of Sciences in its two Panels (*Deterrent and Incapacitation Effects* and *Criminal Careers and “Career Criminals”*) concluded that there is no systematic evidence that general incapacitation and selective incapacitation has had or could have a major impact on crime rates. Similarly, a 1998 review of “what works” by Sherman et al. (1998), found that while the incarceration of persons who will continue to commit crimes would reduce crime, it also noted that “... the number of crimes

prevented by locking up each additional offender declines with diminishing returns as less active and less serious offenders are incarcerated.”

Zimring and Hawkins (1988) in their critique of selective incarceration, observed that if the key assumptions of such a policy were true, crime would have been eliminated in the United States many years ago based on the dramatic increase of persons now incarcerated. Linsky and Strauss (1986) found that states with the highest incarceration rates had the highest crime rates - a pattern that remains true today. And, Sampson and Laub (1993: 255) found persons who experienced incarceration had higher rates of criminality.

One clear possibility is that current (sentencing) policies are producing unintended criminogenic effects. From our perspective, imprisonment may have powerful negative effects on the prospects of future employment and job employment. In turn, low income, unemployment, and underemployment are themselves linked to heightened risks of family disruption. Through its negative effects on male employment, imprisonment may thus lead indirectly through family disruption to increases in future rates of crime and violence. The extremely high rate of young black males renders this scenario very real.

Criminological theory and research clearly demonstrate that the causes of crime are complex and varied. While the response of the criminal justice system can have some impact on crime, it cannot in the long run be the most effective nor desirable policy for a society and its policy makers to adopt. In the United States, the use of incarceration may well have exceeded its potential benefits and needs to be re-examined and curtailed. For these reasons, we offer the following recommendations to the ASC membership:

1. Given the absence of scientific evidence that incarceration by itself reduces crime rates and its excessive use may have a negative impact on American society, the NPC urges criminologists and policy makers to seek ways to *reduce* rather than increase or maintain the current use of incarceration. Such studies should initially focus on the relative effects of mandatory sentencing laws, increasing lengths of stay and recent increases in technical parole violations, as these are the three largest and current contributors of prison population growth.
2. Criminologists and policymakers should be especially concerned about the exceedingly high incarceration rates of African American and Hispanic males and the dramatic increases in the numbers of women and children being incarcerated. We believe these rates of imprisonment are having a devastating impact on certain segments of American society and local communities. We would urge the ASC and its membership to conduct studies that would examine the long-term implications of high life time incarceration rates for particular minority populations. The line of work can help us to understand the social cost of incarceration.
3. Related to the first two recommendations, studies are needed to evaluate the effects of the War on Drugs with special attention to its role in increasing rates of imprisonment for African Americans, Hispanics, women and their children.
4. Criminologists need to develop new methods for estimating the impacts of criminal justice legislation on minority populations and, in the absence of a compelling reason, to not pass laws that are believed to have disparate impacts. Additionally

criminal justice agencies should adopt monitoring systems to uncover possible racial, ethnic, and gender biases in their decisions to incarcerate.

5. Studies are needed to examine prison and jail conditions and its impact on those who are experience incarceration as well as on their families and communities. In particular, studies of prison violence, the use of solitary confinement for prolonged periods of time, institutional crowding, access to rehabilitative programs, and other aspects of the prison experience are needed.

6. Experimental demonstration programs should be undertaken criminologists to test the most effective ways for reducing incarceration in the United States without jeopardizing public safety. In particular, the federal government should encourage state and local governments to explore methods for reducing admissions to prison, the period of incarceration, rates of probation and parole violations, and community supervision for persons released from prison who are unlikely to pose a threat to public safety.

7. It is now estimated that nearly four million Americans convicted of a felon are unable to vote. We are especially concerned about life-time bans on voting rights that currently exist in many states and urge that they be repealed.

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NOTES

¹The incarceration rates of the United States are well above other Western and Asian societies. Indeed, much can be learned from these other nations and cultures which have not relied upon high incarceration rates to produce lower crime rates.

²For example, during the 1930's Clemmer (1940/1958), while employed as a sociologist on the prison mental health staff of Menard Penitentiary (Illinois), collected extensive information on the convict social system. Fleisher (1989) spent a year working as a "mainline" (guard assigned to cellblocks and housing units) federal correctional officer as a means to compile observation and interview data about both "cons" and "hacks." Convict Criminologists who have conducted ethnographic prison research include Irwin (1970, 1980, 1985), Newbold (1982/1985, 1987, 2000), Richards (1990, 1995), Richards and Jones (1997); Terry (1997), Austin and Irwin (2001); (Richards and Ross, 2001); and Ross and Richards (2002).