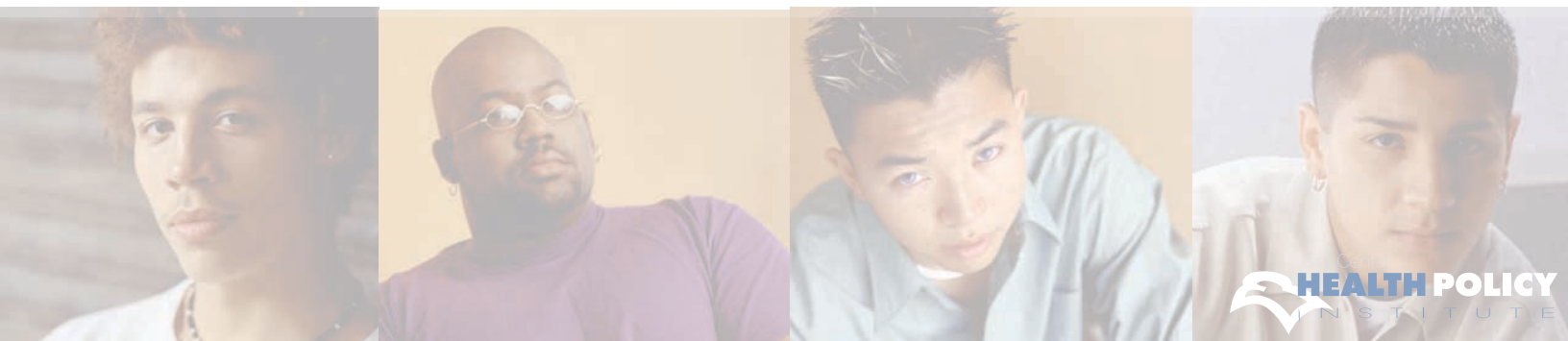


BACKGROUND PAPER  
THE JOINT CENTER HEALTH POLICY INSTITUTE

**A NEW GENERATION OF NATIVE SONS:  
MEN OF COLOR AND THE PRISON-INDUSTRIAL COMPLEX**

**ADOLPHUS G. BELK, JR.**



**DELLUMS COMMISSION**

**BETTER HEALTH THROUGH  
STRONGER COMMUNITIES:  
PUBLIC POLICY REFORM TO  
EXPAND LIFE PATHS OF YOUNG  
MEN OF COLOR**

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**JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES  
HEALTH POLICY INSTITUTE**

**WASHINGTON, D.C.**

The Joint Center gratefully acknowledges the support of the W. K. Kellogg Foundation in helping to make this publication possible.

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## EXECUTIVE SUMMARY

### Introduction

Racial minorities have made great strides in the United States since the onset of the modern civil rights movement during the 1950s. The quest to gain equal status, however, was far from complete. Today, blacks trail whites on nearly every measure of socioeconomic well-being. Much of the same can be said for other groups, as racial minorities have been systematically relegated to lower stations in American society.

Nowhere are these struggles more evident than in the lives of youth from communities of color, particularly males of color. Despite advances during the last several decades, millions of boys and young men still face daunting challenges in obtaining an education, finding quality jobs, and becoming productive members of the American community. A change in policy is needed, as retrenchment of the social welfare state and the hardening of criminal justice policies have worked to limit the life chances of males from communities of color. In the current political, economic, and social context, young males of color also need guidance and support if they are going to successfully navigate America's unsteady racial terrain. If such actions are not taken, many will become part of a new generation that is undereducated, unemployed, and unprepared for the challenges that they will face in the 21<sup>st</sup> century. For the children who survive into adulthood but fail in life, prison is the one institution waiting to receive them.

As of 2003, 2.2 million sentenced inmates were held in U.S. prisons, up from 204,211 in 1973. The incarceration rate grew from 93 per 100,000 residents in 1973 to 482 per 100,000 by 2003. To contain expanding inmate populations, the number of state prisons grew from 592 in 1974 to 1,023 by June 2000. By that date, there were 1,668 adult institutions in the United States. While most of these were public facilities, private corrections companies have designed, constructed, and managed others since the mid-1980s.

Blacks and Latinos, who represent 26 percent of the U.S. population, comprised 63 percent of the number of inmates under state or federal custody in 2003. Black men between the ages of 25 and 29 had the highest incarceration rate of any group (9,262 per 100,000), with nine percent of all black men between the ages of 25 and 29 in prison at yearend 2003. Minorities are disproportionately represented in the nation's juvenile justice systems as well; blacks (1,004 per 100,000), American Indians (632 per 100,000), and Latinos (485 per 100,000) each had higher custody rates than whites (212 per 100,000).

As this rise in the inmate population has occurred, a greater share of public funds has been committed to prisons. The federal government increased its expenditures on corrections from \$541 million in 1982 to \$5.2 billion in 2001—an increase of 861 percent. State expenditures grew 538 percent, rising from \$6 million in 1982 to \$38.4 billion in 2001. The largest increase in state corrections expenditures occurred in 1990, when it grew by roughly 19 percent. Since then, spending has grown at an annual rate of 7.1 percent. Although states spend more money on other functions of government, expenditures have increased at a greater *rate* for corrections than for other functions.

These developments have led many analysts and social commentators to suggest that America suffers from a prison-industrial complex (PIC) akin to the military-industrial complex that first emerged in the 1950s. The prison-industrial complex, however, is best understood as a hybrid subgovernment/issue network constructed around the issues of crime, punishment, and prisons. Prisons have become the centerpiece of a multi-billion dollar industry, and several businesses have placed themselves in strategic positions to profit from prison growth. Private corrections firms also have emerged as important actors in U.S. prison systems. At the same time, some communities (especially in California, Florida, Missouri, New York, Ohio, and Texas) pursue prisons with the zeal of major cities courting professional sports teams, based on the belief that prisons offer an environmentally clean industry that can bring “recession-proof” jobs, development, and even federal funds based on U.S. Census counts.

### Overview

This paper evaluates the impact of the prison-industrial complex on males from communities of color. In particular, it asks the following questions: What is the impact of the large increases in the proportion of state and local public funds dedicated to corrections? To what extent has the private corrections industry influenced and driven national, state, and local policy regarding criminal justice policy and programs?

To answer these questions, the paper first clarifies the meaning of the prison-industrial complex. It then provides a historical overview of trends in the political and intellectual discourses on crime and punishment and explores how these ideas influenced the formulation of public policy. The paper then examines the development and influence of the private corrections industry, followed by a review of the status of minority youth in criminal and juvenile justice systems. Particular attention is paid to the following jurisdictions: California, the District of Columbia, Florida, Georgia, Illinois, Maryland, Michigan,

Mississippi, New Mexico, New York, and Texas. Given their racial and ethnic diversity, what we learn from these jurisdictions can help us to understand more about other states with similar racial compositions.

### Major Findings

#### Changes in Crime and Drug Control Policy

The shifting politics of crime and punishment left an indelible mark on the formulation and implementation of public policy. During the 1960s, federal and state lawmakers began to call for “law and order.” Specifically, they argued that the nation’s crime problem could only be solved by hardening criminal justice policy. By the 1970s, new policies emphasized deterrence, incapacitation, punishment, and victims’ rights rather than rehabilitation and treatment. This new paradigm was fueled by the campaigns of issue-seeking politicians and commentaries from the scholarly community. During the 1980s and 1990s, the call for “law and order” gave way to the “get tough” movement, which sparked president-led wars on crime and drugs. This movement also targeted juvenile offenders, particularly those living in central cities who were young, black, or Latino. Some scholars portrayed these young people as “super-predators.” At the same time, the liberal perspective on crime and punishment faded into the background as the “get tough” movement enjoyed the support of members of both political parties.

In this environment, new policies were adopted that hardened both the adult and juvenile justice systems. Some of the harshest laws enacted at the federal level of government include:

- The Comprehensive Drug Abuse Prevention and Control Act of 1970
- The Omnibus Crime Control Act of 1970
- The Comprehensive Crime Control Act of 1984
- The Anti-Drug Abuse Act of 1986
- The Anti-Drug Abuse Act of 1988
- The Violent Crime Control and Law Enforcement Act of 1994

These policies helped to facilitate or were influenced by changes in the states. For instance:

- By 2002, 42 states and the District of Columbia had adopted some form of “Truth-in-Sentencing,” a measure designed to ensure that offenders served a

substantial portion of their court-imposed sentences before being released. Twenty-nine jurisdictions require that offenders serve 85 percent of the court-imposed sentence.

- By 2001, 16 states had abolished early release by discretion of a parole board for all offenders.
- Between 1993 and 1996, 24 states added “Three Strikes and You’re Out” laws to existing sentencing laws. Three Strikes measures have enhanced prison sentences for violent and habitual offenders.
- By the end of the 1990s, all states had some type of mandatory sentencing provision that targeted drug offenders. Following the precedent set by the federal government with the Anti-Drug Abuse Act of 1986, many states enacted exceptionally harsh penalties for drug crimes involving crack cocaine.
- Between 1992 and 1997, 47 states and the District of Columbia approved measures that made their juvenile justice systems more punitive. In particular, states made it easier to transfer juveniles to adult criminal justice systems, gave criminal and juvenile courts expanded sentencing options, and changed or removed traditional juvenile court confidentiality provisions by making juvenile records and proceedings more open.

These policies, enacted incrementally, have done little to reduce crime and victimization. They have contributed to soaring incarceration rates across the country, however. They also have led to sizeable increases in the amount of money dedicated to criminal and juvenile justice systems.

#### The Rise and Influence of the Private Corrections Industry

Private prison companies such as the Corrections Corporation of America and Geo Group, Inc. have worked to cash in on federal, state, and local government corrections expenditures. Since the mid-1980s, private corrections companies have designed, built, and operated their own prison facilities. Although private prisons have been plagued by scandal since the late 1990s, state and federal governments have continued to patronize the industry. Today, 6.5 percent of all sentenced prisoners and five percent of local jail inmates are held in private prisons. Some states make greater use of private facilities than others; for example, New Mexico sends a larger percentage of its inmates (44 percent) to private prisons than any other state. Texas leads the nation with 16,750 sentenced inmates in private prisons. Georgia (4,589) and Florida (4,330) also are ranked in the top five.

In addition, private corrections companies work to influence the policy process. One way they exert influence is through campaign contributions; the industry's leading companies donate money to candidates running for public office. In doing so, they exercise a bi-partisan strategy that supports incumbents of both parties. During the 1998 election cycle, private firms made 1,187 contributions to 636 candidates. Altogether, the industry doled out \$862,822 in 43 states. Such donations have generally targeted states that make greater use of private prisons.

The private corrections industry also engages in policy advocacy at both the federal and state levels. Such efforts typically feature the use of high-powered lobbying firms. In addition, the industry relies upon its relationship with the American Legislative Exchange Council (ALEC), a nonpartisan, Washington, DC-based policy group whose membership includes 30 percent of all state legislators. During the 1990s, ALEC's Criminal Justice Task Force promoted "get tough" legislation and the increased use of private prisons.

### **Promising Practices in Rehabilitation and Reentry**

#### ***Challenges Faced by Inmates***

Most inmates will eventually return to society; however, ex-offenders face serious obstacles in their quest to "go straight" after being released. Because they often have lower levels of educational attainment and poorer job skills than the general population, former inmates struggle to find work and avoid future criminality. Former inmates also experience difficulties with substance abuse and reconnecting with family, and are often greeted by communities that offer them little assistance. In addition, scholars have found that few inmates are receiving the types of services that they need to ensure success upon release. These challenges are often more daunting for racial minorities, as they must also deal with prejudice and discrimination.

#### ***What Works?***

When it comes to recidivism and rehabilitation, the idea that "nothing works" continues to enjoy currency in some circles. Yet, analysts have identified a number of effective practices that provide some hope for the future. Many of these programs have grown out of the prisoner reentry movement. Researchers suggest that reentry programs can be defined as: (1) correctional programs that focus on the transition from prison to community, and (2) programs that initiate treatment in a prison setting and are connected with a community program to provide continuity of care. Many studies have evaluated the success or failure of prison reentry programs by their ability to reduce recidivism rates.

While some analysts have found this to be problematic, a general consensus exists about the success of the following programs or approaches to prisoner reentry:

- Family therapy and parent training directed at delinquents or pre-delinquents and their families
- Education programs that link prison programs to community-based resources after release
- Vocational training and/or work release programs
- Programs that promote job readiness skills for ex-offenders
- Job training for older males no longer under the supervision of criminal justice systems
- Drug treatment and substance abuse programs
- Prison-based therapeutic communities involving clients (i.e., inmates) who are housed in a prison setting isolated from the general institutional population
- Halfway houses that assist in the transition from prison to the community

#### ***What Doesn't Work?***

- Gun buy-back efforts
- "Scared straight" programs
- Rehabilitation programs grounded in ambiguous, unstructured counseling

### ***Practices in the States***

#### **California**

##### *Learning from Other States*

- State officials hosted Dr. Reginald A. Wilkerson, director of the Ohio Department of Rehabilitation and Corrections. Wilkerson is credited with developing a model reentry program in 2002. Ohio has launched a "Release Preparation Program" for all inmates, irrespective of their risk assessment levels. According to a 2003 report by the Urban Institute, the program, which starts six months prior to an inmate's release, "includes employment readiness and other workshops and seeks to provide transitional linkages so that the inmate will continue to receive needed services after release." Ohio also has established an Office of Reentry and Correctional Best Practices.



### *Ending Prison Construction*

- In California, 70 percent of former inmates return to prison within three years of their release. This reality, along with the tremendous cost of managing the nation's second-largest prison system, has prompted the state to end its 30-year prison construction binge. As of June 2005, California had no prisons under construction and no plans to construct new facilities.

### *The Establishment of the Department of Corrections and Rehabilitation*

- With the end of prison construction, lawmakers contend that they are now placing rehabilitation at the center of corrections policy. As of July 1, 2005, the state reorganized its Department of Youth and Adult Corrections by launching a new Department of Corrections and Rehabilitation. With this new entity, the state's adult and juvenile justice systems no longer work autonomously.

### *Reorganizing Parole*

- California is currently in the process of reorganizing its parole policies. Included among the changes are:
  - Affording parole agents alternatives to short-term imprisonment by allowing them to closely monitor offenders and divert parolees to drug treatment programs or job training classes rather than sending them back to prison.
  - Expanding the Police and Corrections Team (PACT) programs to give local law enforcement better access to the parole system and to give parolees greater access to community services.

### *Los Angeles County Men's Central Jail, Social Mentoring Academic and Rehabilitative Training (SMART)*

- The SMART Program offers health services, substance abuse treatment, GED courses, anger management, and life skills training for gay males in the county. County officials created the program in 1999 after discovering that the recidivism rate for gay men was higher than that of the general population.

- At the same time, however, the measure requires the closure of Oak Hill Academy, an alternative middle and high school for adjudicated, detained, and committed youth between the ages of 11 and 21 years. In its place, the District will design and construct a new smaller facility patterned after the Missouri Model, which places and treats young people in smaller settings.
- Lastly, the Juvenile Justice Act places greater emphasis on rehabilitating youth offenders and appropriately treating "incompetent juveniles" rather than ignoring their deficiencies.

## **Florida**

### *Orange County Jail, Jail Educational and Vocational Program*

- Since 1987, the Orange County Corrections Division has offered intensive educational and vocational programming to most of its inmates. The county jail has roughly 3,300 beds.

### *Project Re-Connect*

- Established in 1998, Project Re-Connect provides post-release job placement services to former inmates (ages 25 and under) who complete either a GED or a vocational program during their imprisonment. Individuals who are eligible for the program are identified 30 days prior to their release.
- Project Re-Connect also offers referrals for housing, food, clothing, transportation, medical services, and educational programs.

### *The Establishment of the Office of Program, Transition, and Post-Release Services*

- Created in 2001, the office offers pre- and post-release programs. The pre-release program features a 100-hour required transitional course, which covers topics such as values clarification, goal setting and achieving, problem solving and decision making, keeping a job, financial management, sexual responsibility, and parenting skills. For post-release programs and services, the state has 400 beds provided by faith and character transitional providers for inmates being released from prison.
- Additional services include: family development, victim awareness, anger management, rethinking personal choice, distance learning, substance abuse, and chaplaincy and volunteer programs.

## **The District of Columbia**

### *The Omnibus Juvenile Justice Act of 2004*

- Adopted by District lawmakers in late 2004, this measure blends both the "get tough" and treatment approaches to juvenile justice policy. On the "get tough" side, the measure allows judges to order parents or caretakers to appear in court with their child and to pay up to \$10,000 in restitution to the victims of their child's crime. It also offers prosecutors, government agencies, victims, and other parties greater access to confidential information about youth suspects.

*Broward County Sheriff's Office, Day Reporting and Re-Entry Division*

- Established in 2004, this division offers case management and transitional services to persons serving time in the Broward County jail. It also has two specialized tracks: (A) a Community Service Work Program for repeat misdemeanants as an alternative to jail, and (B) an Aftercare Program for successful graduates of the in-custody 90-day boot camp.

**Georgia**

*Georgia Board of Pardons and Paroles, Results-Driven Supervision (RDS)*

- Researchers with the Board of Pardons found that special supervision in four behavioral areas (education, substance abuse, employment, and cognitive skills) produces significant results in deterring crime—even in persons once considered “intractable.” Consequently, since 1997, RDS has allowed parole officials to assess each parolee under their care to determine weaknesses in the aforementioned areas and then create “tracks” of short- and long-term goals. Sanctions are issued if a former inmate fails to stay on course. The program is credited for increasing the rate of success for parolees.

**Illinois**

*Cook County*

- The county received a grant from the Annie E. Casey Foundation to develop alternatives to pretrial detention for youth offenders who are not considered dangerous. Rather than sending juveniles to detention facilities, some are spending time at youth service centers. The county’s screening process is rigorous and examines an offender’s prior arrest record to ascertain if the child should be sent to a detention facility. Alternatives to confinement include home-confinement, electronic monitoring, and reporting centers. Since 1994, the county has cut its detention population in half and sends 90 percent of its juveniles to court on time, crime-free.

**Maryland**

*Break the Cycle*

- According to a 2004 report by the Justice Policy Institute, with this program, Maryland has developed “a form of intensive probation focusing on drug treatment, drug testing, and sanctions.” It uses bi-weekly testing for the first two months of supervision to detect illegal drug usage. Testing is then reduced to once per week for an additional two months. Thereafter, drug testing is reduced to

once per month. However, drug testing is increased if the offender tests positive. Program evaluators from the University of Maryland found that Break the Cycle was effective in reducing drug abuse and re-arrest.

*The Correctional Options Program (COP)*

- As described in a 2004 report by the Justice Policy Institute, COP is “a comprehensive program of graduated sanctions and services that was established as a tool to divert carefully screened low-risk, drug-involved offenders from prison. It was designed to safeguard the public; assure that offenders are accountable for their actions; provide substance abuse, educational, vocational, and employment services; and strengthen participants’ parenting, daily living, and social skills.” Analysts have found that COP, introduced in 1994, has been an effective tool in reducing substance abuse among offenders and reducing criminal behavior.

*Maryland Division of Correction, Partnerships for Reentry Programming (PREP)*

- Developed in 2000, PREP acts as an umbrella for smaller programs, thereby bringing together organizations and agencies that help inmates develop job skills and secure employment.

*Reentry Enforcement Services Targeting Addictions, Rehabilitation, and Treatment (RESTART)*

- This program will work to coordinate pre-release services for offenders to prevent recidivism. It connects the state’s programs and services. RESTART will be phased in over the next three years. Officials hope to provide a minimum of 9,800 units of treatment for inmates. These units will be divided into the following services: vocational training/academic instruction, addictions treatment, expanded mental health services, expanded case management, and pre-release programming support.

**Michigan**

*Eliminating Mandatory Minimum Drug Laws*

- In December 2002, former Republican Governor John Engler signed a bill that eliminated mandatory minimums for drug crimes. As reported by the *Associated Press*, the bill “requires judges to follow state sentencing guidelines when sending drug criminals to prison but gives them more discretion by eliminating minimum sentences.” Prior to this change, Michigan was said to have among the harshest drug laws in the country. Moreover, former Governor William Milliken—the man who signed the drug laws into effect in 1978—was

quoted by the *Associated Press* as calling the old measure “the worst mistake of my career” and “an overly punishing and cruel response that gave no discretion to a sentencing judge, even for extenuating circumstances.”

#### *Michigan Prisoner Re-Entry Initiative*

- Established in 2004, this program is based on the National Institute of Corrections’ Transition from Prison to Community Initiative model (TPCI). The TPCI model focuses on critical decision points such as assessment and classification, supervision, discharge from supervision, and aftercare and community services. The Michigan program starts with the inmate intake process and continues through incarceration and release. According to the Department of Corrections, once the program is fully operational, it will involve partnerships with the state and local police agencies, academicians, community organizations, faith-based organizations, crime victims, and other members of the public.

#### **Mississippi**

##### *The Juvenile Justice Reform Act of 2005*

- The law creates a new system of community-based programs for youth offenders as an alternative to incarceration. The measure also seeks to provide every county in the state access to programs that offer after-school services, family counseling, and health care.

#### **New Mexico**

##### *New Mexico Corrections Department, Community Corrections*

- Community Corrections Programs mainly serve offenders in the community who are considered to be at higher risk to re-offend and therefore have greater treatment needs. This initiative also serves as a diversionary program for probation/parole violators who otherwise would be imprisoned.

#### **New York**

##### *New York City Department of Health and Hygiene, New York City Link*

- Since 1996, New York City Link, a short-term case management linkage program, has focused on the transition from prison to community for offenders with serious and persistent mental illnesses.

##### *New York State Division of Probation and Correctional Alternatives, TANF for Community Corrections*

- Since 2000, this program has issued annual contracts to 21 community-based organizations and local government programs for programming

that promotes parental skills training, gainful employment, and the reduction of recidivism among ex-offenders.

#### *Reforming the Rockefeller Drug Laws*

- In December 2004, after decades of failed attempts to change New York’s drug laws, lawmakers finally reached a compromise to soften the penalties under the Rockefeller Drug Laws. Under the changes, a low-level first-time drug offender would no longer be sentenced to 15 years to life for his or her offense. Rather, the prison term would be eight to twenty years. Some activists, including hip-hop mogul Russell Simmons, were pleased with the reforms. Critics, however, maintain that lawmakers have not done enough to reform the Rockefeller Drug Laws, adding that the state’s drug laws were still among the toughest in the country.

#### **Texas**

##### *Texas Workforce Commission, Project Reintegrating Offenders (RIO)*

- Established in 1994, Project RIO is administered by the Texas Workforce Commission in partnership with the Texas Department of Criminal Justice, the Windham School District, and the Texas Youth Commission. The objective of the program is to provide a connection between educational, vocational training, and employment services during imprisonment and after release.

## **Conclusions and Implications**

The nation’s youth of color are experiencing a time of crisis. They face daunting challenges to securing a good education, finding employment, and becoming productive members of society. If we fail to address these issues, millions of young people will be fed into the nation’s criminal justice systems. Policymakers must consider changes that will help to transform the urban communities in which so many of these young people reside. The following policy recommendations flow from the analysis presented in this paper.

#### **The Political Discourse on Crime and Punishment**

- Rely on research rather than rhetoric.
  - Weigh the potential intended and unintended consequences of proposed changes in crime and drug policy.
  - Consider how racial minorities have been constructed as targets of public policy.
- Adopt an approach to criminal justice that balances the needs of society, victims, and inmates.

### **Truth-in-Sentencing and Three Strikes and You're Out**

- Repeal or revise Truth-in-Sentencing and Three Strikes laws that have proven ineffective in the fight against crime and drugs.

### **Drugs and Imprisonment**

- Rescind the 100-to-1 powder cocaine/crack cocaine ratio and other drug sentencing laws that have incarcerated nonviolent offenders while failing to capture “drug kingpins.”
- Divert nonviolent, non-dangerous drug addicts and offenders from the prison system.

### **The Private Corrections Industry**

- Conduct an audit of private correctional institutions to determine: (1) the physical conditions of the inmate population, (2) the effectiveness of inmate rehabilitation programs in these institutions, (3) the purported cost-savings of private prisons over public institutions.

### **Juvenile Justice**

- Provide family therapy and parent training directed at delinquents or pre-delinquents and their families.
- Divert nonviolent and non-dangerous juveniles from confinement.
- Explore rehabilitation options in community-based programs for youth offenders.
- Increase job opportunities for minority youth.

### **Rehabilitation and Prisoner Reentry**

- Improve alcohol, drug treatment, and ancillary services for inmates during their incarceration.
- Strengthen education and vocational programs.
- Assist inmates in their re-introduction to society by putting them in touch with institutions and organizations that might be of assistance upon release.
- Aggressively recruit private businesses to employ inmates after they are released from prison.



## I. INTRODUCTION

In 1940, Richard Wright introduced America to Bigger Thomas in the author’s signature work, *Native Son*. Bigger is a 20-year-old black male with an 8<sup>th</sup> grade education. He lives on the south side of Chicago, Illinois, with his mother and younger siblings. The Thomas family suffers through economic privation and social isolation, as they share a rat-infested, one-room apartment in the city’s black belt. Ms. Thomas, the family’s lone wage earner, struggles to support three children on an insufficient income. Bigger, thinking about his family’s living conditions, his own life chances, and the constraints of race and class in America, says:

*Every time I think about it I feel like somebody’s poking a red-hot iron down my throat. Goddammit, look! We live here and they live there. We black and they white. They got things and we ain’t. They do things and we can’t. It’s just like living in jail. Half the time I feel like I’m on the outside of the world peeping in through a knot-hole in the fence...”<sup>1</sup>*

Ever frustrated by racial divisions, he adds, “Every time I get to thinking about me being black and they being white, me being here and they being there, I feel like something awful’s going to happen to me.”<sup>2</sup>

Something terrible does happen to Bigger. In the final section of *Native Son*, Bigger is sentenced to death row for his crimes against white society, offenses that are both real and contrived. Bigger’s demise is, in part, a result of his own decisions and actions. Yet, Bigger Thomas is also an American creation—a native son, the product of virulent racism, denial of educational and employment opportunities, and hopelessness.

Racial minorities have made great strides in the U.S. since the publication of *Native Son*. During the 1950s and 1960s, courageous civil rights activists and black organizations led assaults against *de jure* segregation and racism. After years

of struggle, their efforts resulted in favorable U.S. Supreme Court rulings and the Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. These judicial and legislative changes offered the nation’s minority citizens hope for full inclusion in American life.<sup>3</sup>

The quest to gain equal status was far from complete, however, as the battle for inclusion took on new meaning.<sup>4</sup> During the next phase of the movement, activists and organizations focused on expanding opportunity, access, and equity across a number of areas—particularly in the economic realm. Today, blacks trail whites on nearly every measure of socioeconomic well-being (Table 1). Becker, Jones, and Tate note that this “has been and continues to be true of all categories of African Americans, male and female, young and old, urban and rural, married and single, and in every geographical region of the country.”<sup>5</sup> Much of the same can be said for other minority groups, as racial minorities have historically been systematically relegated to lower stations in American society.<sup>6</sup>

Nowhere are these struggles more evident than in the lives of youth from communities of color, particularly young males of color. Despite advances during the last several decades, there are still millions of boys and young men who find themselves in conditions akin to Bigger Thomas. Many of them face daunting challenges in obtaining an education, finding work, and becoming productive members of society.

Education is viewed as the great equalizer, and society often looks to the school system to solve its problems.<sup>7</sup> Yet, high school graduation and college preparedness rates for minorities lag behind the rates for white youth. Nationally, the public high school graduation rate remained flat between 1991 and 2002 (72 percent in 1991 versus 71 percent in 2002), although the percentage of students who left public high schools with the skills and qualifications necessary to enroll in college increased from 25 percent in 1991 to 34 percent in 2002.<sup>8</sup> In 2002, however, while 78 percent of whites graduated from high school with a regular diploma, only 56 percent of blacks and 52 percent of Latinos finished high school with

**Table 1. Wealth and Socioeconomic Well-Being, by Race and Ethnicity.**

Measure	White	Black	Latino
Median Family Income (1998)	\$49,023	\$29,404	\$29,608
Median Net Wealth, Householders (2000)	\$79,400	\$7,500	\$9,750
Homeownership (2002)	74.5%	47.3%	48.2%
Business Ownership, % of all Businesses (1997)	17,782,902 (85.4%)	823,499 (4.0%)	1,199,896 (5.8%)
Employment Status, Ages 16+ (2004)			
Employment Rate	63.1%	57.2%	63.8%
Unemployment Rate	4.8%	10.4%	7.0%
Poverty Rate (2002-03)	10.4%	24.1%	22.1%

Sources: Joint Center for Political and Economic Studies, DataBank; U.S. Department of Commerce, U.S. Census Bureau.

a regular diploma. Likewise, while 40 percent of whites left high school eligible to pursue a college education, only 23 percent of blacks and 20 percent of Latinos were ready for college.<sup>10</sup>

Data on workforce participation offer a similar picture, as unemployment rates for black and Latino males are routinely higher than the rate for whites. In 2004, the black unemployment rate was 10.4 percent, compared with seven percent for Latinos and 4.8 percent for whites. For black males ages 16 to 19, the unemployment rate was 35.6 percent, in contrast to 21.2 percent and 16.3 percent for Latinos and whites, respectively (Table 2). Although unemployment rates in 2004 decreased for all young men ages 20 to 29, minorities were still unemployed at higher rates than their white counterparts.

Americans have differing perspectives regarding the causes of economic inequality. For blacks, inequality is rooted in discrimination, whereas whites, and even some Latinos, attribute the differences to the behavior of blacks or some factor other than racism.<sup>11</sup> Some researchers, focusing on wealth, have argued that government policy has impaired the ability of minorities to accumulate wealth and that attempts by these groups to achieve self-employment through entrepreneurship have, for much of the nation’s history, been limited by law. While minorities have endured “cumulative disadvantages,” whites have had “cumulative advantages.”<sup>12</sup> Accordingly, it should come as no surprise that, while 55 percent of whites believe that all or most of the goals of the civil rights movement have been achieved, only 38 percent of Latinos and 21 percent of blacks share this view.<sup>13</sup>

In this political, economic, and social context, young males of color need guidance and support if they are going to successfully navigate America’s unsteady racial terrain. Moreover, a change in policy is also needed, as retrenchment of the social welfare state and the hardening of criminal justice policies have worked to limit the life chances of males from communities of color. Otherwise, many will become part of a new generation of “native sons” that is undereducated, unemployed, and unprepared for the challenges that they will face in the 21<sup>st</sup> century. If such children survive into adulthood but fail in life, prison is the one institution waiting to receive them.<sup>14</sup>

*The Prison Crisis: Inside the Numbers*

As of 2003, 2.2 million sentenced inmates were held in America’s adult prisons, up from 204,211 in 1973.<sup>15</sup> If all persons under adult correctional supervision are included, then the number of individuals under the watch of the federal or state criminal justice systems increases to 6.9 million.<sup>16</sup> Between 1973 and 2003, the incarceration rate grew from 93 inmates per 100,000 U.S. residents to 482 inmates per 100,000 U.S. residents. This increase is astounding, especially considering that, between 1923 and 1973, incarceration was “strikingly stable” at an average rate of 110 inmates per 100,000 U.S. residents.<sup>17</sup> The increase is particularly puzzling given that crime rates fluctuated during the 1980s and then dropped each year between 1992 and 2000 (Figure 1).

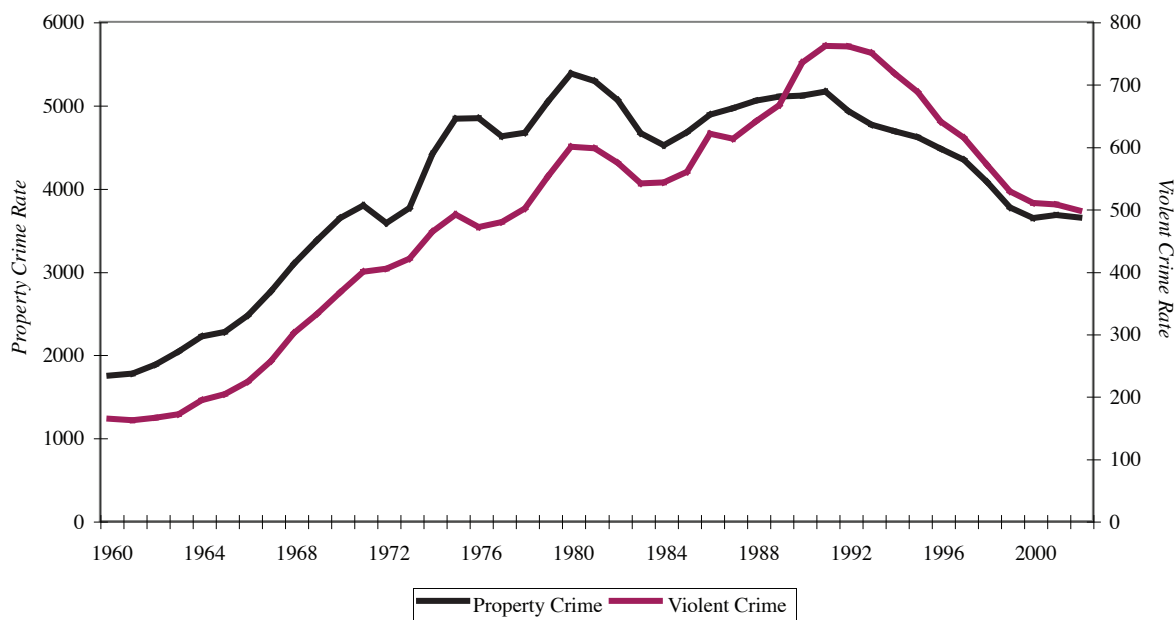
To contain expanding inmate populations, the number of state prisons grew from 592 in 1974 to 1,023 by June 2000.<sup>18</sup> By this date, there were a total of 1,668 correctional facilities in the United States.<sup>19</sup> While the state and federal govern-

**Table 2. Employment Status of the Civilian Population, by Race, Ethnicity, and Age, 2004.**

Race/Ethnicity	Civilian Non-Institutional Population	% of Population in Labor Force	Employment Rate	Unemployment Rate	Not in Labor Force
<b>White Males</b>					
16 to 19 years	6,429,000	47.4%	39.7%	16.3%	3,379,000
20 to 24 years	8,024,000	82.1%	75.1%	8.5%	1,438,000
25 to 29 years	7,570,000	92.6%	87.6%	5.3%	561,000
<b>Black Males</b>					
16 to 19 years	1,195,000	30.0%	19.3%	35.6%	837,000
20 to 24 years	1,326,000	69.9%	55.7%	20.3%	399,000
25 to 29 years	1,121,000	83.6%	73.0%	12.7%	184,000
<b>Latino Males</b>					
16 to 19 years	1,336,000	42.4%	33.4%	21.2%	769,000
20 to 24 years	1,981,000	84.4%	76.4%	9.4%	309,000
25 to 29 years	2,097,000	93.1%	87.4%	6.1%	145,000

Source: U.S. Department of Labor, Bureau of Labor Statistics, <http://www.bls.gov/cps/cpsaat3.pdf> and <http://www.bls.gov/cps/cpsaat4.pdf>.

**Figure 1. Estimated Property and Violent Crime Rates (per 100,000) of Offenses Known to Police, United States, 1960-2002.**



Source: FBI Uniform Crime Reports, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (accessed May 30, 2005).

ments operate most of these institutions, private corrections companies have designed, constructed, and managed many others since the mid-1980s.

Troubling racial disparities are evident inside America's prisons (Table 3). Blacks and Latinos represent 26 percent of the U.S. population, but comprised 63 percent of all inmates under state or federal custody in 2003. Black males accounted

for 45 percent of all male inmates and were incarcerated at a rate of 3,405 inmates per 100,000 U.S. residents. Latino and white males were imprisoned at rates of 1,231 per 100,000 and 465 per 100,000, respectively. Black men between the ages of 25 and 29 had the highest incarceration rate of any group: 9,262 per 100,000. Stated differently, about nine percent of all black men between the ages of 25 and 29 were in prison at the end of 2003.

**Table 3. Number of Sentenced Prisoners under State or Federal Jurisdiction per 100,000 Residents, by Gender, Race, and Age, 2003.\***

Age	Number of sentenced prisoners per 100,000 residents of each group							
	Males				Females			
	Total <sup>a</sup>	White <sup>b</sup>	Black <sup>b</sup>	Latino	Total <sup>a</sup>	White <sup>b</sup>	Black <sup>b</sup>	Latino
Total	915	465	3,405	1,231	62	38	185	84
18-19	597	266	2,068	692	28	15	80	39
20-24	1,996	932	7,017	2,267	112	71	286	138
25-29	2,380	1,090	9,262	2,592	147	99	406	152
30-34	2,074	1,042	7,847	2,440	164	109	456	181
35-39	1,895	1,017	6,952	2,226	170	106	491	209
40-44	1,584	873	5,854	1,995	133	82	386	192
45-54	899	501	3,500	1,329	60	36	190	97
55+	208	141	747	397	8	5	22	16

\*Note: Based on estimates of the U.S. resident population on July 1, 2003, using intercensal estimates for July 1, 2002 (by gender, race, and Latino origin) and adjusted to the July 1, 2003 estimates by gender.

(a) Includes American Indians, Alaska Natives, Asians, Native Hawaiians, and other Pacific Islanders.  
 (b) Excludes Latinos.

Sources: Harrison and Beck 2004; U.S. Department of Justice, Bureau of Justice Statistics 2004.



Racial minorities are also disproportionately represented in the nation's juvenile justice systems. As of October 27, 1999, the latest year for which data are available, there were 134,011 youth in 2,939 juvenile facilities.<sup>21</sup> On any given day during that year, minority youth, who make up 34 percent of the U.S. juvenile population, accounted for 62 percent of the offenders in residential placement. Blacks (1,004 per 100,000), American Indians (632 per 100,000), and Latinos (485 per 100,000) all had higher custody rates than whites (212 per 100,000).

Finally, a greater share of public funds has been committed to America's prison systems. The federal government increased its expenditures on corrections from \$541 million in 1982 to \$5.2 billion in 2001, an increase of 861 percent.<sup>22</sup> State expenditures grew 538.4 percent, rising from \$6 million in 1982 to \$38.4 billion in 2001. Local government spending increased as well, rising from about \$3 million in 1982 to \$16.7 billion in 2001 (455.3 percent).

Although states and localities spend more money on other functions of government, expenditures have increased at a greater *rate* for corrections than for other functions.<sup>23</sup> From 1977 to 2001, total state and local expenditures on corrections increased by 1101 percent. This rate of growth outpaced spending increases for education (448 percent), hospitals and health care (482 percent), interest on debt (543 percent), and public welfare (617 percent).<sup>24</sup>

### *Overview of the Paper*

These trends in imprisonment have led some activists and analysts to suggest that America has a "prison-industrial complex" analogous to the military-industrial complex that came into view during the 1950s.<sup>25</sup> This paper evaluates the impact of the prison-industrial complex on males from communities of color. Specifically, it asks the following questions: What is the impact of the large increases in the proportion of state and local public funds dedicated to corrections? To what extent has the private corrections industry influenced and driven national, state, and local policy regarding criminal justice policy and programs?

To answer these questions, the paper first clarifies the meaning of the prison-industrial complex. It then provides a historical overview of trends in the political and intellectual discourses on crime and punishment and explores how these ideas influenced the formulation of public policy. The paper then examines the development and influence of the private corrections industry, followed by a review of the status of minority youth in criminal and juvenile justice systems. Particular attention is paid to the following jurisdictions: California, the District of Columbia, Florida, Georgia, Illinois, Maryland, Michigan, Mississippi, New Mexico, New York, and Texas. Given their

racial and ethnic diversity, what we learn from these jurisdictions can help us to understand more about other states with similar racial compositions.<sup>26</sup>

The findings of this analysis indicate that the shifting politics of crime have left an indelible mark on crime and drug control policies. In general, the nation has abandoned the rehabilitative model in favor of policies that emphasize punishment and incapacitation—even for nonviolent drug offenders. These policies, enacted on an incremental basis over four decades, have contributed to soaring incarceration rates across a number of states. They also have led to sizeable increases in the amount of money directed to criminal justice systems. Along the way, private corrections companies have worked to influence the policy process through campaign contributions and policy advocacy. Prisoner abuse and harassment (by other inmates and correctional officers), sexual violence, poor physical conditions (e.g., overcrowding and failure to protect against exposure to inmates with HIV/AIDS), family strain, voter disenfranchisement, and private interests profiting from the misery of the poor are just some of the social injustices generated by these policies.

## II. DEFINING TERMS: UNDERSTANDING THE AMERICAN PRISON-INDUSTRIAL COMPLEX

The term “prison-industrial complex” was derived from President Dwight D. Eisenhower’s assessment of the U.S. military apparatus.<sup>27</sup> Some suggest that it is a subgovernment comprised of governmental and non-governmental entities that produce policies that further expanded prison systems.<sup>28</sup> Although these accounts are partially correct, the prison-industrial complex is best understood as a hybrid subgovernment/issue network constructed around the issues of crime, punishment, and prisons.<sup>29</sup>

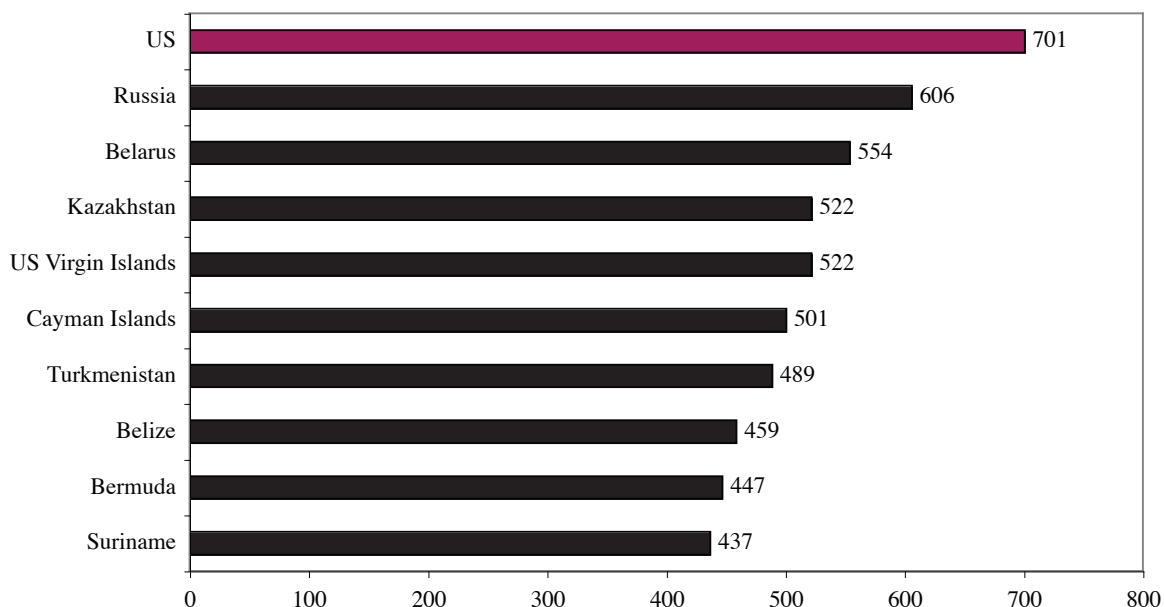
The prison-industrial complex has features that are indicative of both subgovernments and issue networks.<sup>30</sup> Like a subgovernment, it has been stable over time and operates in relative obscurity. It also has the attendant members of the “iron triangle” (i.e., congressional committees, executive agencies, and interest groups). Yet, the prison-industrial complex resembles an issue network in two important ways. First, it cuts across the federal, state, and local levels of government. Second, a large number of interest groups move in and out of the policy arena. Some groups are part of the federal or state criminal justice systems (e.g., correctional officer unions, law enforcement agencies, prosecutors), while others operate outside of these systems (e.g., single-issue interest groups, victims’ rights associations, communities in which prisons are situated). Some groups wield influence at the national level while others are more effective at the lower levels of government.

The prison-industrial complex should not be viewed as an all-powerful replacement to the military-industrial complex, as there are significant differences between the two. First, military service generally improved the employability of soldiers; in contrast, as Wray observes, “With the near abandonment of attempts to rehabilitate or educate prisoners, it is unlikely that most prisoners leave prison better prepared for employment.”<sup>31</sup> Second, the military-industrial complex was almost exclusively powered by the national government, which can deficit-spend. The prison-industrial complex, by comparison, is largely an undertaking of state and local governments, which must balance their budgets.<sup>32</sup> Third, military Keynesianism consumed the products of the highest technology firms. In contrast, the prison-industrial complex is largely “low tech” and “blue collar,” consuming fewer products from companies such as Boeing or Lockheed Martin as the military-industrial complex did.<sup>33</sup>

### *Evidence for the Existence of the Prison-Industrial Complex*

A number of factors provide strong evidence for the existence of the prison-industrial complex. First, as a result of soaring inmate populations and the ensuing boom in prison construction, America sits alone as the global leader in imprisonment (Figure 2). Absent from the list of the world’s leading incarcerators are countries with which the U.S. is most often compared—industrialized nations such as Great Britain (141 inmates per 100,000 residents), Germany (98 per 100,000), France (93 per 100,000), and other members of the European Union.<sup>34</sup> Also missing are countries with dubious human

**Figure 2. The Top Ten—Prison Population Rate per 100,000 Residents of the National Population, 2003.**



Source: Walmsley 2003.

rights records, such as Iran (226 per 100,000), China (117 per 100,000), and Syria (93 per 100,000)—nations with which the U.S. prefers not to be compared.

Second, several businesses appear to have placed themselves in a position to profit from prison growth. Merrill Lynch and Goldman, Sachs & Company are among the many firms that vie to underwrite prison construction projects with private, tax-exempt bonds.<sup>35</sup> Others, such as Correctional Medical Services, provide medical care to inmates. MCI and AT&T compete to provide telephone services to prisons. Still others generate profits by providing goods and services to prisons. Many of these groups are secretive about their actions because they do not wish to attract competition or scrutiny.<sup>36</sup>

Third, companies have tapped prisons for labor. Inmates make everything from bulletproof vests and missile cables to office furniture and blue jeans.<sup>37</sup> Most prison industry programs can only sell their products to tax-supported agencies, nonprofit organizations, and religious groups. Yet, because inmates are poorly compensated (some wages are as low as \$0.25 per hour per inmate), prison labor has been contracted or subcontracted to many companies, including AT&T, Boeing, Compaq, Dell, Honeywell, IBM, Microsoft, Target, Texas Instruments, and Victoria's Secret.<sup>38</sup> Some companies, including Dell and Microsoft, stopped using inmate labor after such arrangements were publicized.<sup>39</sup> In Dell's case, the company stopped using prison labor following complaints by customers and environmentalists regarding inmate safety conditions and low wages (between \$0.20 and \$1.26 per hour per inmate).<sup>40</sup> Even so, the federal government, through Federal Prison Industries, Inc. (also known as UNICOR), generated more than \$666.8 million in total sales in 2003.<sup>41</sup> *60 Minutes* once referred to UNICOR as the "Bloomingdale's of prison industries."<sup>42</sup>

Fourth, private corrections firms have emerged as actors in American prison systems. While private prisons held only 95,522 total inmates in 2003, they were a growing sector of the industry from the 1980s through the mid-1990s.<sup>43</sup> In 2003, private facilities held 12.6 percent of federal prisoners and 5.7 percent of all state inmates. Six states detained at least 25 percent of their inmates in private institutions (New Mexico, 44 percent; Alaska, 31 percent; Montana, 29 percent; Oklahoma and Wyoming, both 26 percent; and Hawaii, 25 percent). The states with the highest number of inmates confined in private facilities included Texas (16,570), Oklahoma (6,022), Tennessee (5,049), Georgia (4,589), and Florida (4,330). The *Wall Street Journal* dubbed private prisons a "theme stock" or hot pick of the 1990s.<sup>44</sup> Yet, despite the growth in private prisons, the industry has cooled since the late 1990s.<sup>45</sup> The private corrections industry is explored in more detail later in this paper.

Finally, the prison-industrial complex has facilitated noteworthy developments regarding the location of prisons. In the past, citizens often opposed proposals to place prisons in their towns. Although some communities continue to express opposition, others pursue prisons with the zeal exhibited by major cities courting professional sports teams. This has especially been the case in states like California, Florida, Missouri, New York, Ohio, and Texas. For some, prisons are appealing because they offer an environmentally clean industry that can bring "recession-proof" jobs, development, and even federal funds based on U.S. Census counts.<sup>46</sup> These anticipated benefits may be slow to develop, however—if they ever develop at all.<sup>47</sup>

In summary, prisons have become the centerpiece of a new sub-economy. Now a multi-billion dollar industry, there are trade shows, Internet websites, catalogues, and direct-marketing campaigns dedicated to corrections.<sup>48</sup> The federal and state governments, corporations, small businesses, private corrections companies, and rural communities all seem to have placed themselves in positions to benefit from prison expansion. Although it emerged in earnest during the 1980s and exploded during the 1990s, the prison-industrial complex has its roots in the 1960s. During that time, crime became a national concern and anxious citizens demanded governmental action. Since that time, some elected officials and issue-seeking politicians have used crime to get votes and win office.<sup>49</sup> These developments had significant ramifications for crime and drug control policy, punishment, and prisons.

### III. HISTORICAL PERSPECTIVE AND REVIEW OF THE LITERATURE: THE SHIFTING POLITICS OF CRIME

Most social scientists agree that crime is a complex problem. Since the mid-1960s, the politics of crime have been just as convoluted. Prior to 1964, crime was an issue for states and localities. Even today, crime is ostensibly the responsibility of state and local agencies.<sup>50</sup> Yet, since 1964, the public has looked to the national government to combat crime. The Republican Party, which long rallied against “big government” and championed devolution, has fought for the federal government to assume a larger role in fighting crime. Meanwhile, Democrats have tried to shed the “soft on crime” label by developing policy proposals that appeal to the types of voters that left the party in the 1980s.<sup>51</sup> Presidents from both political parties also have encouraged the states to adopt stricter crime and drug policies, sometimes offering financial assistance in return for compliance. Finally, we have seen the decline of the rehabilitative model, as criminal justice policies now emphasize deterrence, incapacitation, and punishment.

#### *The 1960s: The Rise of “Law and Order”*

Presidential politics placed crime on the national agenda. In 1964, against the backdrop of the civil rights and anti-Vietnam war movements, Senator Barry Goldwater (R-AZ) called for “law and order.” He described crime as a “growing menace” that ensued from a decline in morals and discipline, which were beyond the reach of social programs.<sup>52</sup> When articulating his views, Goldwater mixed race, civil rights, lawlessness, and other emotionally charged issues.<sup>53</sup> His policy recommendations included more police power, tougher laws, and a less permissive court system.

While his bid for the presidency was unsuccessful, Goldwater offered future Republican candidates a blueprint for winning elections. The campaign demonstrated that conservatism provided Republicans with an ideological way to appeal to whites who were opposed to racial integration, without the risk of being branded as racists.<sup>54</sup> It also showed that race could be used to shatter the class base of the New Deal coalition among white voters, forcing a philosophical shift to the right within a group once committed to the redistributive and progressive economic agenda of the New Deal.<sup>55</sup> Lastly, Goldwater’s campaign established that the crime issue resonated with Americans and potentially could be used against Democrats.<sup>56</sup> By May 1965, 41 percent of Americans said that they would like to see the government devote most of its attention to reducing crime, which placed this issue second only to improving public education.<sup>57</sup> By March 1968, Americans identified crime and lawlessness as the nation’s most important domestic problem.<sup>58</sup>

The federal government was thus thrown into crime fighting as a result of Goldwater’s efforts (Appendix 1). President Lyndon Johnson, adhering to the liberal perspective, believed that crime was a symptom of ills such as poverty, lack of education, and lack of opportunity. His administration emphasized extensive research to diagnose the root causes of crime.<sup>59</sup> It also favored targeted treatment through social programs. The fear-stricken American public, however, demanded action after they were incited by Goldwater and Alabama governor George Wallace.<sup>60</sup>

Beginning in 1965, the Johnson administration took steps to confront crime. The main results of the administration’s efforts were the creation of the Office of Law Enforcement Assistance (OLEA), which provided financial and technical assistance to state and local law enforcement agencies, and the Omnibus Crime Control and Safe Streets Act of 1968, which continued the trend of federal financial support to states and localities.<sup>61</sup> Johnson’s war on crime failed to produce great results, as violent and property crime rates increased each year between 1964 and 1968 (Figure 1). Nevertheless, nearly every president since Johnson has attempted to battle crime in some way.

#### *The 1970s: “The Crime Problem”—Declining Public Concern*

As a presidential candidate in 1968, Richard Nixon also campaigned on “law and order.”<sup>62</sup> As America’s first “law and order” president, Nixon redirected the nation’s policy priorities away from the “war on poverty” and toward a full-fledged “war on crime.”<sup>63</sup> He believed that crime was the result of individual failings and was best combated through punishment.<sup>64</sup> The administration targeted organized crime, violent offenses, drugs and drug trafficking, and pornography. Despite his commitment to devolution in other policy areas, Nixon’s crime and drug control policies continued to extend the reach of the national government.<sup>65</sup>

Nixon’s legislative legacy includes the Organized Crime Control Act of 1970, the Comprehensive Drug Abuse Prevention and Control Act of 1970, and the Omnibus Crime Control Act of 1970 (Appendix 1). The Organized Crime Control Act authorized block grants to state and local law enforcement agencies to fight organized crime. The Comprehensive Drug Abuse Prevention and Control Act reinstated America’s “war on drugs.”<sup>66</sup> The third piece of legislation, the Omnibus Crime Control Act, was intended to boost levels of federal support to state and local police agencies through the Law Enforcement Assistance Administration (LEAA). It reauthorized the activities of LEAA and increased its capacity to offer technical and financial assistance to the states. The law also increased the share of the cost of crime programs that might be covered by federal funds from 60 percent to 75 percent. In the process, it required that 20 percent of LEAA funds be spent on corrections.<sup>67</sup>

After rising for a number of years, crime rates decreased slightly at the end of Nixon's first term (Figure 1). Yet, he did not have the opportunity to continue his anti-crime crusade. Instead, Nixon resigned following the Watergate scandal. As he left office in August 1974, public concern about crime waned. By October 1974, Americans identified inflation, not crime, as the nation's most important issue.<sup>68</sup> In this context, legislative activity on crime and drugs slowed during the administrations of Gerald Ford and Jimmy Carter. Although Congress enacted some measures during the terms of these presidents, they were not commensurate to the policies of the Johnson and Nixon administrations.

### *Thinking about Rehabilitation and Crime— Growing Intellectual Interest*

Despite declining public interest, crime and punishment garnered the attention of scholars during the 1970s. Two major contributions stand out. First, in 1974, sociologist Robert Martinson published an article titled "What Works?—Questions and Answers about Prison Reform." After evaluating over 200 studies of rehabilitation that assessed education and vocational training programs, counseling, institutional environment, medical treatment, sentencing, and "decarceration,"<sup>69</sup> Martinson concluded that the research offered little reason to hope that recidivism could be reduced through rehabilitation.<sup>70</sup> It was later found that the article suffered from a number of flaws and offered insufficient evidence for its conclusions.<sup>71</sup> Even so, the notion that "nothing works" appealed to both liberals (protesting injustice) and conservatives (bemoaning permissiveness). The idea gained significant traction within conservative political and intellectual circles during the next two decades. As Sarre observes, "The irony was that Martinson thought his well-publicized skepticism about rehabilitation would empty most prisons, since prisoners could not be reformed."<sup>72</sup> Martinson's findings were not interpreted in this way, however; rather, they were used to justify and support policies that he did not specifically endorse in his article.

Then in 1975, James Q. Wilson published *Thinking About Crime*. He rejected the idea that crime was the result of socioeconomic factors, a notion that informed policymaking throughout the 1960s. Moreover, Wilson believed that the liberal and conservative perspectives on crime were indefensible. Liberals denied that crime rates were rising, recommended more funding for social programs if crime was on the rise, or suggested that inmates be rehabilitated in community settings rather than in prisons. Conservatives, on the other hand, suggested that supporting local police, impeaching allegedly ultra-liberal members of the U.S. Supreme Court, appointing a tougher Attorney General, and reinstating capital punishment would solve the crime problem. When thinking about crime, Wilson stressed morality and individual accountability.<sup>73</sup>

"Predatory crime" was Wilson's central concern because he believed that such offenses, committed for financial gain, stifled the creation and maintenance of community.<sup>74</sup> He also believed that a decline in adherence to community norms had translated into a substantial increase in predatory crime. This was especially the case in inner cities controlled by the "underclass"<sup>75</sup> and persons who had no interest, or who faced "special disabilities,"<sup>76</sup> in creating and maintaining a sense of community. His analysis devoted considerable attention to the criminal activities of young black males.

Wilson's main conclusions can be summarized as follows:

- Rehabilitation has not worked with serious offenders
- Broad social investments and programs have done little to change crime rates
- Punishment is a "worthy objective" for a liberal democratic society
- Deterrence and incapacitation are effective
- New crime control policies ought to be pursued

In sum, Wilson endorsed the increased use of incarceration to combat crime, particularly if policies targeted repeat offenders. He also recommended the adoption of uniform sentencing standards. Wilson later acknowledged, however, that incapacitation could not be the sole purpose of criminal justice systems because "...if it were, we would put everybody who has committed one or two offenses in prison until they were too old to commit another."<sup>77</sup>

Wilson's research has been both praised and criticized, and his importance to the public discourse on crime and drug policy cannot be discounted. As a result of his work, along with that of Martinson, the direction of criminal justice policy changed. New policies emphasized victims' rights, determinate sentencing, and punishment rather than rehabilitation. Such ideas served as the foundation for policies enacted during the presidential administrations of Ronald Reagan and George H. W. Bush. At the same time, the liberal perspective on crime was fading.<sup>78</sup>

### *The 1980s: The Resurgence of the Crime and Drug Wars*

Crime and lawlessness again attracted national attention during the 1980s. This time, however, the introduction of crack-cocaine sparked a new anti-drug episode.<sup>79</sup> Politicians and activists urged America's children to "just say no," while proposing stiff penalties for alleged drug kingpins. They also called for the expansion of state and federal prison systems and the adoption of harsher crime and drug control policies.

The crime policies of the Reagan and George H. W. Bush administrations were guided by four principles. First, there were no social causes of crime. Second, government programs could not solve the crime problem. Third, criminal justice systems were too soft on criminals. Lastly, criminal justice systems should distribute swift justice and longer prison terms. All and all, their approach may be summarized by two words: “get tough.”<sup>80</sup>

The Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and the Anti-Drug Abuse Act of 1988 were the toughest measures enacted during the Reagan and Bush administrations (Appendix 1).<sup>81</sup> The Comprehensive Crime Control Act overhauled federal sentencing by establishing a sentencing commission to develop and recommend sentences for federal offenses. It also created mandatory minimum sentences for repeat offenders, increased the maximum fines for serious drug offenders, and gave federal prosecutors the authority to seize the assets of drug dealers. This law was considered the most sweeping crime policy since the Safe Streets Act of 1968.

The Anti-Drug Abuse Act of 1986 was drafted in response to the advent of crack. The most controversial aspect of the law was the “100-to-1” ratio, which created the following penalty structure for first-offense cocaine trafficking:

5 grams or more of crack cocaine or 500 grams or more of powder cocaine	= five-year mandatory minimum penalty
50 grams or more of crack cocaine or 5,000 grams or more of powder cocaine	= ten-year mandatory minimum penalty

Hence, a person convicted of trafficking five grams of crack would receive a mandatory minimum prison sentence of five years in prison. A five-year sentence would also be issued for trafficking 500 grams of powder cocaine. Likewise, a person caught with 50 grams of crack would receive a mandatory 10-year minimum term, while it took five kilograms of powder cocaine to receive a mandatory 10-year minimum sentence.

The creation of the 100-to-1 ratio was a deliberate act on the part of the executive branch and Congress, as both institutions considered crack to be the leading drug menace in America. As a result, for any amount of cocaine, trafficking offenses involving crack are now considerably more severe than those involving drugs such as powder cocaine.<sup>82</sup> This aspect of the law reflected a severity similar to the drugs laws enacted in New York State during the early 1970s.

The third policy, the Anti-Drug Abuse Act of 1988, was intended to be tougher than its predecessor. The 1988 law

created an even greater distinction between crack cocaine and other illegal drugs such as powder cocaine. For instance, it targeted drug addicts by establishing stiffer penalties for simple possession of drugs for personal use. According to the U.S. Sentencing Commission, crack became the only drug with a mandatory minimum penalty for a first-time offense of simple possession of a controlled substance.<sup>83</sup> Possession of more than five grams of crack became punishable by at least a five-year prison term. A five-year minimum sentence was established for persons caught with three grams of crack who had a prior record of possession. The same sentence was applicable to persons who were found with one gram of crack in their possession but who also had two or more prior convictions for possession.

Lastly, the 1988 law aimed to reduce the demand for drugs through drug treatment and prevention programs and to cut the international trafficking of illegal drugs. To achieve these objectives, it established the Office of National Drug Control Policy (ONDCP). The new agency was to be headed by a cabinet-level director who came to be known as the national “drug czar.”

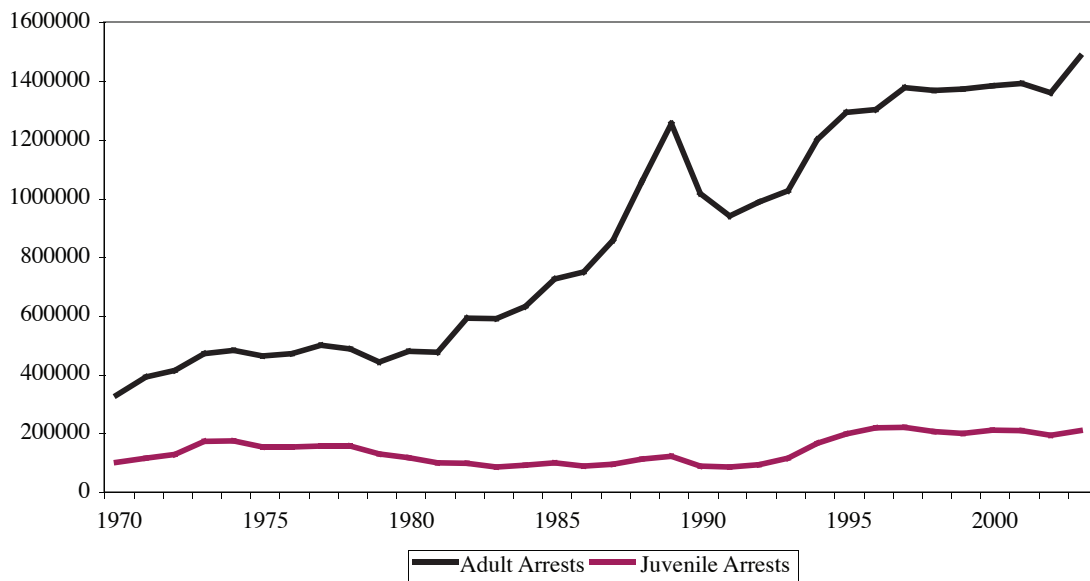
Crimes rates fluctuated during the presidencies of Reagan and George H. W. Bush (Figure 1). Drug arrests, however, sharply increased after the adoption of the harsher crime and drug control policies, which led to higher rates of incarceration for drug-related offenses (Figures 3 and 4, following page). By the close of the decade, the national incarceration rate was 276 inmates per 100,000 residents of the population, up from 139 per 100,000 in 1980. The prison population grew from 315,974 in 1980 to 680,907 by 1989. America was entering a different era of punishment.

By the end of the Reagan and Bush administrations, it was clear that America had not won the war on crime. While both presidents talked a great deal about violent crime, drugs, and problems in the nation’s inner cities, their policies were ineffective in the fight to decrease crime rates. In some instances, Reagan actually decreased funding to some crime programs.<sup>84</sup> Nevertheless, the outlook of Reagan and Bush on these issues became pervasive in an environment in which liberals were struggling to rearticulate their vision in the absence of movement-based politics. Without movement-based politics, the time was ripe for punitive and corporate beliefs to dominate the views of both political parties.

### *The 1990s: New Democrats, Old Solutions*

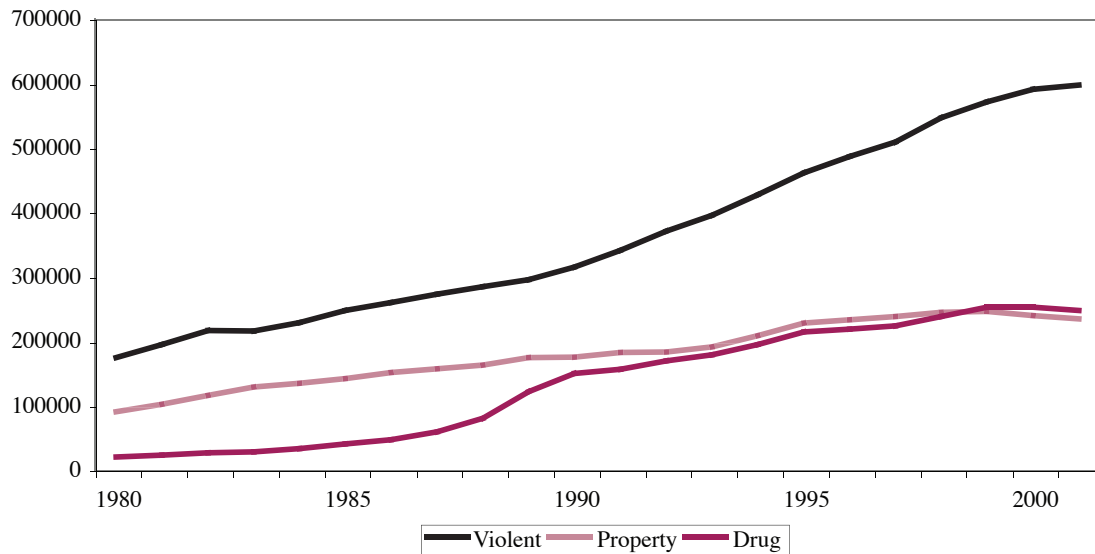
Although they had emerged in the 1980s, the “New Democrats” experienced a coming-out party in 1992. One of their own—Arkansas Governor William Jefferson Clinton—came out of nowhere to become president of the United States.<sup>85</sup> The New Democrats were the creation of the Democratic Leadership Council, which wanted the party to be perceived

Figure 3. Estimated Arrests for Drug Abuse Violations, by Age Group, 1970-2003.



Source: FBI Uniform Crime Reports, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (accessed May 31, 2005).

Figure 4. Number of Persons in Custody of State Correctional Facilities, by Most Serious Offense, 1980-2001.



Source: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (accessed May 30, 2005).

as more attuned to the concerns of white middle-class voters and business interests.<sup>86</sup> To do so, the DNC nudged the party to the center of the political spectrum, which meant that less emphasis was placed on issues of race.<sup>87</sup>

The Clinton administration’s approach to crime policy was tempered by the president’s status as a New Democrat. On one hand, Clinton advocated the placement of more police officers on the streets, supported tougher federal sentences, and endorsed capital punishment.<sup>88</sup> On the other hand, he did address the roots causes of crime, although he did not sound like a liberal Democrat. In discussing the rise of violent crime in American cities, he remarked, “the reason a lot

of these things are happening is that there has been a simultaneous decline of work, family, and community, the things that really organize life for all the rest of us.”<sup>89</sup> Clinton maintained that, in order to properly address the crime problem, all of its causes had to be addressed. In January 1994, after prompting from public officials and the media, public concern over crime was at its highest level in 20 years, with 37 percent of Americans saying that it was the nation’s most important problem.<sup>90</sup>

The \$30 billion Violent Crime Control and Law Enforcement Act of 1994 was the centerpiece of the administration’s war on crime (Appendix 1). It federalized two popular sentencing reforms that emanated from the states. First, it authorized

federal assistance to states for prison construction, provided that they adopted Truth-in-Sentencing reforms requiring inmates to serve 85 percent of their court-imposed sentences before being released. Second, the act nationalized “Three Strikes and You’re Out,” a measure that targeted three-time serious offenders. Lastly, the act designated 60 new offenses punishable by the federal death penalty, toughened penalties for juvenile offenders, and established new penalties for certain street gang activities and drug crimes.

Interestingly, Clinton enjoyed something that no other president had ever experienced in the fight against crime: crime rates decreased each year during every year of his administration (Figure 1). Yet, the trend began nearly two years before the Violent Crime Act became law. Also, while crime rates declined during the Clinton years, prison figures did not. The incarceration rate grew to 469 per 100,000 residents in 2000, up from 359 per 100,000 in 1993. The inmate population increased 42.8 percent over this period, growing to 1,331,278 in 2000.

### *Summary: Making Sense of It All*

At the end of the day, the politics of crime and punishment took another turn during the 1990s. Coming out of the 1970s, the positions of the major political parties on these issues were fairly clear. The Republicans were the “law and order” party, while Democrats stressed the “root causes” of crime. By the end of the 1990s, however, such partisan delineations were obsolete, as both Democrats and Republicans called for tougher policies. The result was a “punishment frenzy” largely supported by issue-seeking members of both political parties.<sup>91</sup>

The intellectual discourse on crime and drug policy continued to produce scholarship that endorsed the greater use of incarceration as a tool in the fight against crime—be the offenders adults or youth. For instance, in 1995, John J. DiIulio wrote an article for *The Weekly Standard* titled “The Coming of the Super-predators.” He described super-predators as a “demographic crime bomb” of young people who kill at will. He added that super-predators are more likely to be black, male, and young, and to come from the central city and suffer “moral poverty.” The definition of moral poverty is to be surrounded by “deviant, delinquent, and criminal adults in abusive, violence-ridden, fatherless, Godless, and jobless settings.”<sup>92</sup> DiIulio, along with former and current drug czars William J. Bennett and John P. Walters, further clarified the theory of moral poverty in *Body Count: Moral Poverty—and How to Win America’s War Against Crime and Drugs*. They dismissed other explanations for criminal activity, such as destitution, lack of education, lack of opportunity, or racism. According to these authors, the true culprit was abject moral poverty, which promoted “lack of impulse control and lack of empathy.”<sup>93</sup>

As a result of moral poverty and changing demographics, it was predicted that, by 2000, there would be “at least 30,000 more murderers, rapists, and muggers on the streets” who “fear neither the stigma of arrest nor the pain of imprisonment.”<sup>94</sup> The increased use of incarceration was a necessary and proper means of dealing with this menace to society. Bennett, DiIulio, and Walters also recommended that religion be used in the war on crime. Other researchers, including analysts at the National Center for Policy Analysis and the Heritage Foundation, offered similar perspectives and policy recommendations.<sup>95</sup>

The mass media quickly picked up this terminology and policymakers began to call for new anti-crime and juvenile justice initiatives.<sup>96</sup> Shortly thereafter, these ideas were codified into law with new policies that targeted violent and repeat offenders. Likewise, between 1992 and 1997, 47 states and the District of Columbia adopted laws that made their juvenile justice systems more punitive.<sup>97</sup> The much anticipated crime wave, however, never materialized and young people actually contributed to declining crime rates during the 1990s.<sup>98</sup>

In the final analysis, other scholars were more accurate in their assessments of crime policy. For instance, some researchers noted that ideas about the so-called underclass were driving a “new penology” that emphasized “low-cost management of a permanent offender population.”<sup>99</sup> Others argued that, with the wars on crime and drugs, police adopted more aggressive tactics when patrolling black and Latino communities.<sup>100</sup> Such practices—powered by a racialized fear of crime—exacerbated racial disparities in arrests, jailing, and imprisonment.<sup>101</sup> Still, some plainly remarked, “the conceptual building blocks of the conservative rhetoric on crime and its control were fallacious.”<sup>102</sup> These analyses, however insightful, were not heeded. Thus, lawmakers must be wiser consumers of policy research in the future.



#### IV. KEY THEMES IN ADULT AND JUVENILE CRIMINAL JUSTICE POLICY

Oftentimes, public policies are first formulated and implemented at the state level. If deemed successful, a state law is then adopted by the federal government. Truth-in-Sentencing (TIS) and Three Strikes are examples of this type of policy development. They were driven, in part, by horrific incidents involving repeat offenders that attracted national attention and public anger.<sup>103</sup> This section discusses TIS and Three Strikes laws, as well as their impact on incarceration rates and males from communities of color. It then turns to drug sentencing and the private corrections industry.

##### *Truth-in-Sentencing*

The Truth-in-Sentencing movement unfolded during the 1960s and 1970s. It was driven by public frustration with judges, “indeterminate sentencing,” parole boards, and the perception that criminal justice systems were growing too lenient. Under indeterminate sentencing, judges tailored sentences for offenders by assessing each individual’s entire criminal record and personal history. After reviewing an inmate’s file, the judge would set a broad term of imprisonment—for example, five to ten years. Later, parole boards had the power

to release an inmate before the full sentence had been served. Historically, such arrangements were intended to provide incentives for “good behavior” in prison and “to encourage inmates to make progress toward parole release plans.”<sup>104</sup>

As with any system, however, mistakes were made. Anecdotes emerged detailing the exploits of violent criminals who were released from prison only to strike again. A movement for “determinate sentencing” soon developed, which emphasized deterrence, incapacitation, and swift and certain punishment. Under determinate sentencing, an offender could estimate his or her actual prison term by taking the sentence length set by the judge and subtracting credits expected for pretrial detention and/or good behavior in prison.<sup>105</sup> After years of determinate sentencing, however, some states faced crowded prison systems and court orders to address unsatisfactory conditions. It was at this time that Truth-in-Sentencing laws emerged.

Truth-in-Sentencing laws are structured to guarantee that offenders serve a substantial portion of their court-imposed sentences before they are released. Policies that reduce the amount of time served by inmates, such as credits for good behavior, are either restricted or eliminated by TIS. Although TIS laws vary from one state to the next, most jurisdictions target violent offenders.<sup>106</sup> Supporters of TIS maintain that it reduces crime by confining hardcore, habitual violators to prison.

**Table 4. Truth-in-Sentencing Laws across the States.<sup>a</sup>**

Meet Federal 85% Requirement (29 Jurisdictions)		Other Requirements (14 States)		No TIS Laws (8 States)	
AZ (525)	LA (801)	OH (391)	AK (401)	MD (420)	AL (635)
CA (455)	ME (149)	OK (636)	AR (476)	MT (233)	HI (325)
CT (389)	MI (489)	OR (354)	CO (430)	NE (228)	NM (314)
D.C. <sup>b</sup>	MN (155)	PA (330)	ID (427)	NH (188)	RI (184)
DE (501)	MO (529)	SC (551)	IN (370)	NV (462)	SD (393)
FL (463)	MS (768)	TN (433)	KY (392)	TX (702)	VT (226)
GA (539)	NC (348)	UT <sup>c</sup> (240)	MA <sup>d</sup> (233)	WS (392)	WV (260)
IA (290)	ND (181)	VA (472)			WY (372)
IL (342)	NJ <sup>e</sup> (314)	WA (260)			
KS (334)	NY (339)				
Average Incarceration Rate = 414		Average Incarceration Rate = 394		Average Incarceration Rate = 339	

(a) Incarceration rates for sentenced inmates at yearend 2003 in parentheses.

(b) Since December 31, 2001, as a result of the National Capital Revitalization and Self-Government Act of 1997, the District of Columbia no longer operates a prison system. The District’s sentence inmates have been absorbed into the Federal Bureau of Prisons.

(c) According to its applications to the Corrections Program Office, Utah’s TIS policy is not codified in statute, but it is accepted as TIS by the federal government.

(d) The incarceration rate includes an estimated 6,200 inmates sentenced to more than one year but held in local jails or houses of corrections.

(e) Includes some inmates held in local jails sentenced to one year or less.

Sources: Sabol et al. 2002; United States Department of Justice, Bureau of Justice Statistics 2004.

TIS laws were first implemented in Washington State with the Sentencing Reform Act of 1981. In 1994, the Violent Crime Control Act authorized \$10 billion in federal assistance for states to develop, expand, or improve correctional facilities and programs to ensure prison space for violent repeat offenders. By 2002, 42 states and the District of Columbia had adopted some variation of Truth-in-Sentencing (Table 4). Eleven states, including Florida, Georgia, Michigan, Mississippi, and New York, adopted TIS laws in 1995, one year after President Clinton's crime bill became law.<sup>107</sup>

In addition, eight states eliminated parole board release during the same year that they adopted TIS.<sup>108</sup> Altogether, 16 states abolished early release by discretion of a parole board for all offenders.<sup>109</sup> This is not surprising given that, among the states that received federal TIS grants, no state adopted TIS laws without implementing at least one other reform that increased either the certainty or the severity of punishment of (at least) violent offenders.<sup>110</sup>

Many parole boards have retained discretionary power over inmates sentenced for crimes committed prior to the abolition of parole board release. Connecticut, Colorado, and Florida re-established the equivalent of parole boards after finding that abolition did not necessarily increase actual time served by all inmates. Indeed, prisons in these states became so crowded following the elimination of parole boards that a number of inmates had to be released early.<sup>111</sup> Parole advocates argued that the abolition of parole board release was a political slogan that did not translate into more effective punishment.<sup>112</sup>

### *Evaluating the Impact of TIS Laws*

In 1995, the Corrections Program Office was established within the U.S. Department of Justice to implement the correctional grant programs created by the Violent Crime Act of 1994. Available funds for formula grant awards were split evenly between Violent Offender Incarceration (VOI) grants and TIS Incentive grants. VOI funds were distributed based on a three-tiered formula.<sup>113</sup> Eligible states received funding under any or all of the three tiers.

TIS funds were available only to states with laws requiring that a violent offender serve no less than 85 percent of the court-imposed sentence—a key qualification under President Clinton's plan. Otherwise, states had to demonstrate that the combined impact of their policies increased the percentage of violent offenders sent to prison, increased the time served by violent offenders, and ensured that repeat violent or drug offenders served at least 85 percent of their terms.<sup>114</sup> VOI/TIS funds were first allocated in fiscal year 1996. No state could receive more than 25 percent of the total funds available under the TIS program.<sup>115</sup>

Twenty-eight states and the District of Columbia met the federal requirement of 85 percent at some point between 1996 and 1999. In addition, according to the General Accounting Office, 15 of the 27 states that were eligible for TIS grants in 1997 admitted that the availability of federal funds was at least a partial factor in adopting the law.<sup>116</sup> Government representatives in Louisiana, Maine, New York, and Oklahoma indicated that potential federal aid was a key factor in the decision to implement TIS.

Several states, however, chose not to enact TIS laws that met the federal requirement. Officials in sixteen states—including Illinois, Maryland, and New Mexico—suggested that prison construction and/or operating costs would be too high if their states adopted the federal requirement.<sup>117</sup> Other states, Texas among them, indicated that their sentencing practices were working well.<sup>118</sup>

Twenty-one states, including Florida, Georgia, Mississippi, and New York, received VOI/TIS grants under the criteria established by the Violent Crime Act of 1994.<sup>119</sup> Of the states with indeterminate sentencing, five received awards based on assessments of sentencing and release guidelines.<sup>120</sup> As of July 2000, 38,000 prison beds had been provided by VOI/TIS grants.<sup>121</sup> More than 6,500 beds were added to juvenile facilities. According to the Department of Justice, however, the typical TIS award would build only fifty prison beds, as the estimated average grant from 1996 to 1998 (\$7,885,875) was about one percent of the average annual corrections expenditures.<sup>122</sup>

As of fiscal year 2000, although all states and U.S. territories received federal aid, only \$2.3 billion of the \$10 billion appropriated for VOI/TIS grants had been allocated.<sup>123</sup> Ten of the eleven jurisdictions under review in this paper received grants that exceeded the national median in grant amount during fiscal year 2000 (Table 5, following page). All eleven jurisdictions exceeded the national median in the total program award from 1996 to 2000. Thus, while the grants were small, some jurisdictions secured more grant dollars than others. California, Florida, and New York, three of the nation's four largest prison systems, led all states in total program dollars, taking in a combined 32 percent of the funding awarded.

The RAND Corporation conducted an extensive review of VOI/TIS grants, examining their effect on crime rates, incarceration rates, prison admission rates, time served, and correctional budgets.<sup>124</sup> The researchers cautiously noted that the full impact of VOI/TIS programs might not be discernable for many years. The early findings are summarized on the following page.

Table 5. Violent Offender Incarceration/Truth-in-Sentencing Awards, Selected States.

State	FY 1999	FY 2000	Program Total (FY 1996-2000)
California*	\$67,506,416	\$59,925,242	\$349,372,723
District of Columbia*	4,521,350	3,704,340	21,289,476
Florida*	41,204,384	36,997,672	199,730,195
Georgia*	14,704,207	13,318,483	68,445,729
Illinois*	29,972,621	26,005,262	99,206,239
Maryland	6,341,191	5,072,449	26,689,423
Michigan*	18,793,213	17,113,398	91,420,709
Mississippi	4,846,096	4,211,642	25,090,523
New Mexico*	6,772,254	5,127,031	22,260,754
New York*	34,714,181	31,938,353	184,340,401
Texas	12,588,646	10,205,690	56,189,629
<i>Grand U.S. Total**</i>	<i>\$484,792,694</i>	<i>\$423,830,679</i>	<i>\$2,274,996,860</i>
<i>Median, U.S.</i>	<i>\$4,407,392</i>	<i>\$3,816,358</i>	<i>\$20,012,320</i>
<i>Median, Above Jurisdictions</i>	<i>\$14,704,207</i>	<i>\$13,318,483</i>	<i>\$68,445,729</i>

\* Indicates FY 2000 Truth-in-Sentencing States.

\*\* Figure includes allocations to American Samoa, Guam, the North Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

Source: U.S. Department of Justice, Corrections Program Office n.d.

*Crime Rates*

- The lowest violent crime and property crime rates were for those states without TIS laws.

*Incarceration*

- Incarceration rates in TIS and non-TIS states have increased over time. The most dramatic increases have occurred in TIS states and non-TIS states with indeterminate sentencing. Non-TIS states with determinate sentencing increased their felony incarcerations per 1,000 crimes from 429 in 1986 to 510 in 1996. TIS states with indeterminate sentencing saw their rates rise from 313 in 1986 to 626 in 1996.

*Prison Admission Rates*

- Since 1994, TIS states have had a higher percentage of prison admissions for violent crimes than non-TIS states. This relationship held both for determinate and indeterminate sentencing models. This suggests that TIS may be associated with steady admissions to prison, especially for states with determinate sentencing.

*Sentences Imposed, Time Served*

- Irrespective of the offense, the number of sentences is slightly lower in TIS states than non-TIS states.
- Nationally, the imposed maximum sentence length, the average length of prison term, and the percent of term served for *violent crimes* increased in TIS states between 1993 and 1997.

- Time served for all offenses has increased nationwide since 1993.
- Historically, time served for TIS states has been lower than that in non-TIS states.
- Historically, non-TIS states have had larger percentages of time served for violent and property crimes, although not for drug offenses.
- Percent of sentences served has increased for all states, but most sharply for TIS states, consistent with the intent of TIS.

*Correctional Budgets*

- In general, TIS states spend more money per 1,000 persons on corrections expenditures. Likewise, TIS states spend more on prison construction than non-TIS states. In 1996, however, there was a significant increase in prison construction spending for non-TIS states.
- Greater spending by TIS states may reflect the fact that these jurisdictions historically have experienced higher crime and incarceration rates than non-TIS states.

In closing, the RAND researchers criticized the VOI/TIS program for applying a “one-size-fits-all approach” to criminal sentencing: “All states, no matter how tough their current sentencing practices, were encouraged (by the qualifying condi-

**Table 6. Number of Sentenced Prisoners under State or Federal Jurisdiction per 100,000 Residents, by Race, Selected States, 1980 and 2000.**

State	Number of sentenced prisoners per 100,000 residents of each group.									
	White		Black		Latino		American Indian		Asian	
	1980	2000	1980	2000	1980	2000	1980	2000	1980	2000
California	57	299	435	2,308	115	505	145	767	20	44
D.C.	38	145	587	1,809	158	220	541	453	29	731
Florida	123	239	749	1,630	76	236	53	364	10	37
Georgia	125	282	490	1,139	47	83	26	463	11	35
Illinois	47	127	400	1,550	71	291	205	508	17	22
Maryland	56	119	626	1,172	83	451	179	291	13	50
Michigan	72	247	749	1,370	200	1,810	171	473	3	37
Mississippi	74	260	257	1,315	34	165	82	532	13	82
New Mexico	95	159	720	1,908	143	397	30	179	27	64
New York	48	96	469	1,278	240	768	58	515	8	36
Texas	111	411	674	2,710	156	551	162	717	37	126
<b>Federal</b>	<b>9</b>	<b>19</b>	<b>38</b>	<b>149</b>	<b>4</b>	<b>118</b>	<b>37</b>	<b>106</b>	<b>2</b>	<b>21</b>
<b>U.S.</b>	<b>78</b>	<b>235</b>	<b>551</b>	<b>1,815</b>	<b>139</b>	<b>609</b>	<b>233</b>	<b>709</b>	<b>30</b>	<b>99</b>

Source: "Incarceration Atlas," *Mother Jones—Debt to Society* (2001), [http://www.motherjones.com/news/special\\_reports/prisons/atlas.htm](http://www.motherjones.com/news/special_reports/prisons/atlas.htm) (accessed June 19, 2005).

tions of the grants) to increase the fraction of their convicted violent offenders who were sent to prison, the length of their sentence, and the amount of time they served."<sup>125</sup> Therefore, these authors conclude, policymakers must subject future sentencing reforms to greater scrutiny before codifying them into law.

Although it may be some time before analysts can determine the full impact of TIS laws, one thing is already clear: because minorities are overrepresented in the prisons, they are likely to be disproportionately affected by any surge in prison admissions and incarceration (Table 6).

### *Three Strikes and You're Out*

Between 1993 and 1996, 24 states and the federal government added Three Strikes legislation to their existing sentencing laws.<sup>126</sup> For many states, the policy was the latest installment in a series of measures intended to lengthen prison terms for violent and repeat offenders. The objective of Three Strikes was clear: persons repeatedly convicted of serious offenses should be removed from society for long periods of time or, in some cases, permanently.<sup>127</sup>

Supporters of Three Strikes argued that it protected citizens by incapacitating the worst criminals. They added that the law would save taxpayer dollars by preventing crime, elimi-

nating direct losses to victims, and avoiding the expense of processing the same offenders through the justice system multiple times. Across the states, victims' rights groups were among the most vocal advocates for the measure. Single-issue interest groups, such as the National Rifle Association, offered financial support for Three Strikes legislation.<sup>128</sup> Critics, however, predicted that Three Strikes would overburden criminal justice systems with defendants seeking trials to stave off life imprisonment. Detractors also suggested that the measure would exacerbate conditions in already crowded prison systems.<sup>129</sup>

Although many states have adopted Three Strikes laws, there are variations in the provisions and in the legislation and its implementation (Table 7, following page). First, there are different definitions of what constitutes a "strike." Violent crimes, such as murder, forcible rape, robbery, and aggravated assault, are considered strikes in most jurisdictions. Some states also include charges such as the sale of drugs (Indiana), drug offenses punishable by imprisonment for more than five years (Louisiana), the sale of drugs to minors (California), the ritual abuse of a minor (Montana), escape from prison (Florida), and embezzlement and bribery (South Carolina). In California, juvenile adjudication of a serious or violent felony can potentially count as a strike.<sup>130</sup>

**Table 7. Comparison of Three Strikes Laws with Preexisting Sentencing Provisions, Selected States.**

State	Features of Pre-existing Sentencing Laws	Year Three Strikes was Implemented	Features of Strike Legislation	Strike Zone Defined	Strikes Needed To Be Out	Meaning of "Out"
CA	Life with no parole eligibility before 20 years for 3 <sup>rd</sup> violent felony conviction where separate prison terms were served for the first 2 convictions; life without parole for 4 <sup>th</sup> violent felony conviction.	1994	Mandatory doubling of sentence for any felony if one prior serious or violent felony conviction; mandatory life for any 3 <sup>rd</sup> felony if 2 prior serious or violent felony convictions.	Any felony if 1 prior felony conviction from list of strikeable offenses.	2	Mandatory sentence of twice the term of the offense involved.
FL	Categories of habitual felony offender and habitual violent offender; range of enhanced sentences.	1995	Added new category of 'violent career criminal' to existing Habitual Offender statute; for 3 <sup>rd</sup> conviction for specified violent offense, life if 1 <sup>st</sup> degree felony, 30-40 years if 2 <sup>nd</sup> degree felony, 10-15 years for 3 <sup>rd</sup> degree felony.	Any forcible felony, aggravated stalking, aggravated child abuse, lewd or indecent conduct, escape.	3	Life if 1 <sup>st</sup> degree felony, 30-40 years if 2 <sup>nd</sup> degree felony, 10-15 years for 3 <sup>rd</sup> degree felony.
GA	Upon 4 <sup>th</sup> felony conviction, offender must serve maximum time imposed, and not be eligible for parole until maximum sentence served.	1995	Mandatory life without parole for second specified violent felony conviction.	Murder, armed robbery, kidnapping, rape, aggravated sodomy, aggravated sexual battery.	2	Mandatory life without parole.
MD	Same law, except that carjacking and armed offenses were not on the list of offenses receiving this sentence.	1994	Life without parole for 4 <sup>th</sup> violent felony conviction for which separate prison terms were served for the 1 <sup>st</sup> three.	Murder; rape; robbery; 1 <sup>st</sup> or 2 <sup>nd</sup> degree sexual offense; arson, burglary; kidnapping; carjacking; manslaughter; use of firearm in felony; assault with intent to murder, rape, rob, or commit sexual offense.	4, with separate prison terms served for first three strikes.	Mandatory life in prison with no parole eligibility.
NM	Mandatory increased sentence of 1 year upon 2 <sup>nd</sup> felony conviction, of 4 years upon 3 <sup>rd</sup> , and 8 years upon 4 <sup>th</sup> or more.	1994	Mandatory life with parole eligibility after 30 years for 3 <sup>rd</sup> conviction for violent offense.		3	Mandatory life in prison with parole eligibility after 30 years.

Source: Austin et al. 1999; Clark, Austin, and Henry 1997.

There also are differences across states in terms of the number of strikes needed for an offender to be “out”—or, in this case, “in.” Three strikes are required in most jurisdictions; however, Arkansas, California, Georgia, Kansas, Montana, Pennsylvania, South Carolina, and Tennessee enhance sentences for offenders with two strikes (depending on the offense). In South Carolina, any person convicted for a second “most serious offense” is sentenced to life without parole.<sup>131</sup>

Finally, states vary in their definition of what it means to “strike out.” Twelve states—including Georgia and Maryland—impose mandatory life sentences without the possibility of parole when a person has “struck out.”<sup>132</sup> Three other states consider parole only when a prisoner has served a substantial portion of his or her sentence: inmates in California must serve a minimum of 25 years to qualify for release; in New Mexico, inmates are considered for parole only after serving 30 years in prison; and in Colorado, prisoners are eligible for parole after serving 40 years.

### *Evaluating the Impact of Three Strikes*

Despite predictions that Three Strikes legislation would overburden criminal justice systems, most measures have been symbolic; all of the Three Strikes jurisdictions had pre-existing laws that enhanced prison sentences for repeat offenders.<sup>133</sup> Most statutes, therefore, were not designed to have a significant effect on criminal justice systems. California and Georgia are the noteworthy exceptions to this observation. According to one team of researchers, of the 21 states for which Three Strikes data were available, 14 had incarcerated fewer than 100 persons.<sup>134</sup> In addition, no state outside of California or Georgia had more than 400 persons in prison under Three Strikes.<sup>135</sup>

California is the most exceptional case because, as Schiraldi, Colburn, and Lotke explain, “any felony offense can trigger a Three Strikes sentence.”<sup>136</sup> With just 35 million state residents, California has incarcerated roughly four times as many people under its Three Strikes law (42,322 offenders) than all of the other states combined (10,624), even though those states have a combined population of 112 million.<sup>137</sup> In addition, data from the California Department of Corrections reveal that, by the end of 2004, 62 percent of those sentenced under Three Strikes laws were imprisoned for nonviolent offenses.<sup>138</sup> African Americans (6.7 percent of the state population) and Latinos (32.4 percent) were heavily represented among the state’s two- and three-strike offenders. Together, African American and Latino males accounted for 67 percent of all two-strikers and nearly 70 percent of all three-strikers in California. More than 11,000 racial minorities were committed to the state prison system from Los Angeles County alone.

In Georgia, as of June 2005, there were approximately 7,000 inmates in the state’s prison system as a result of its Two Strikes law. Of these persons, about 70 percent were black and 10 percent were Latino. Blacks and Latinos accounted for 28.7 percent and 5.3 percent of the overall state population, respectively. Of all the offenses for which persons can be sentenced under the Georgia Two Strikes law, armed robbery was the most frequent (comprising about half of the total).<sup>139</sup>

In closing, the current political environment may be unresponsive to abolishing or revising Three Strikes laws. In states across the nation, prosecutors, victims’ rights groups, correctional officer unions, and single-issue politicians have formed an “alliance for penal severity” that considers Three Strikes as “iconic orthodoxy.”<sup>140</sup> In assessing the political legacy of Three Strikes, some researchers have concluded that it transformed the public discourse into a zero-sum game between victims and offenders—the prevailing assumption being that anything that is harmful for offenders must be beneficial to victims. Zimring, Hawkins, and Kamin observe, “Instead of calculating costs and benefits, all a citizen must do is choose sides.”<sup>141</sup> Other analysts have argued that Three Strikes is an example of what can go wrong when citizens have too much influence over public policy. This was especially the case in California, where the Three Strikes bill, which was crafted by a citizen, “received almost no analytic attention from either criminal justice professionals or academic experts prior to enactment.”<sup>142</sup>

### *Drugs and Imprisonment*

The invention of crack-cocaine during the 1980s launched the U.S. into a new anti-drug crusade. During that decade, the most significant policies that were adopted by the national government were the Anti-Drug Abuse Act of 1986 and the Anti-Drug Abuse Act of 1988. Tougher anti-drug laws, however, were implemented in some states as early as the 1970s. For instance, in 1973, New York adopted the Rockefeller Drug Laws, which required judges to impose a sentence of fifteen years to life for a person convicted of selling two ounces of drugs or possessing four ounces of drugs.<sup>143</sup> The amount of crack-cocaine required to produce a 15-year sentence was lowered during the 1980s.<sup>144</sup> Although the Rockefeller Drug Laws were revised in December 2004, they are still among the toughest anti-drug laws in America.<sup>145</sup> Today, all states have some type of mandatory sentencing provision that targets drug offenders.<sup>146</sup>

Drug arrests have increased significantly since the onset of the crack-induced war on drugs (Figure 3). In 1985, 718,600 adults and 92,800 juveniles were arrested for drug offenses. Four years later, 1,247,800 adults and 113,900 juveniles were

arrested for drug crimes. Although adult and juvenile drug arrests have fluctuated in recent years, they have not fallen below their 1986 levels.

With regard to incarceration, the number of inmates in prison for drug crimes grew from 38,000 in 1985 to 120,100 in 1989 (Figure 4). As of 2001, drug crimes represented the most serious offense for 246,100 state prisoners. Some of the states under review for the current study witnessed sizeable increases in the number and percentage of inmates imprisoned for drug offenses (Table 8).

In addition, felony sentencing data for 2002 revealed that, nationally, blacks represented 36 percent of all persons convicted for drug possession and 47 percent of all persons sentenced for drug trafficking.<sup>147</sup> Other racial groups, such as American Indians, Asians, and persons of mixed heritage, accounted for just two percent of persons convicted for drug offenses. These numbers are striking when one considers patterns of illicit drug use in America. In 2001, 12.2 percent of blacks reported using an illicit drug during the course of the previous year. Rates were highest for American Indians (21.9 percent), followed by whites (12.9 percent), Latinos (11.9 percent), and Asians (6.2 percent).<sup>148</sup>

Thirty years ago, the Rockefeller Drug Laws served as a national model of policy innovation. More recently, however, policy analysts and criminal justice professionals alike have

concluded that such laws have failed to produce the desired effects. In New York, former Corrections Commissioner Thomas A. Coughlin III observed, “The people doing the big time in the system aren’t the people you want doing the big time.”<sup>149</sup> He added that sophisticated drug dealers, mindful of the laws, often employ low-ranking workers to bear the risk of being caught with drugs. Thus, high- and mid-level dealers have typically escaped prosecution. Instead, nonviolent addict dealers and low-level “foot soldiers” have inundated New York’s prison system.<sup>150</sup> When such persons are arrested, others are willing to take their positions. Despite these facts, self-serving government officials and office-seeking politicians have used “get tough” policy platforms to win votes and advance their careers.<sup>151</sup>

Today, some researchers and legal professionals are working to move the nation’s policymakers in a different direction. For instance, in Washington State, the King County Bar Association is urging state lawmakers to rethink the war on drugs. In particular, the Association’s Drug Policy Project is supporting policy proposals that reduce crime and public disorder, improve public health, better protect children, and better utilize scarce public resources. The group’s specific recommendations include: increasing the scope and effectiveness of drug treatment programs; expanding access to drug treatment; broadening treatment opportunities to include health care, work-readiness and vocational training, literacy training, housing, and peer and adult support networks; and

**Table 8. Number and Percent of Drug Offenders under State or Federal Jurisdiction, Selected States, 1980, 1990, 1999.**

State	1980		1990		1999	
	Total Drug Offenders	% of Prison Population	Total Drug Offenders	% of Prison Population	Total Drug Offenders	% of Prison Population
California	1,778	8	23,853	25	45,455	28
D.C.	NA	NA	NA	NA	NA	NA
Florida	1,289	6	10,074	23	11,439	18
Georgia	755	6	3,657	17	6,725	17
Illinois	NA	NA	4,725	17	11,397	26
Maryland	NA	NA	2,168	13	4,419	20
Michigan	NA	NA	NA	NA	NA	NA
Mississippi	NA	NA	NA	NA	NA	NA
New Mexico	NA	NA	NA	NA	986	21
New York	1,983	9	18,459	34	22,266	30
Texas	2,326	8	9,194	18	27,983	20
<b>Federal</b>	<b>4,749</b>	<b>23</b>	<b>25,037</b>	<b>50</b>	<b>60,399</b>	<b>55</b>
<b>U.S.</b>	<b>23,749</b>	<b>8</b>	<b>173,637</b>	<b>23</b>	<b>292,784*</b>	<b>23*</b>

\*Data are for 1998.

Source: “Incarceration Atlas,” *Mother Jones*—Debt to Society (2001), <http://www.motherjones.com/news/special/reports/prisons/atlas.htm> (accessed June 19, 2005).

drug education programs based on sound, scholarly research. Most of all, the King County Bar Association argues that state lawmakers should no longer rely upon the criminal justice system as the primary response to drug abuse.<sup>152</sup>

In summary, the collective impact of Truth-in-Sentencing, Three Strikes and You're Out, and drug sentencing reforms is as follows: (1) more people are going to state and federal prison, (2) inmates are serving longer sentences, (3) the American prison population is growing older, and (4) corrections costs and expenditures are rising. Members of racial minorities have been disproportionately affected by "get tough" policies (Table 6). These developments have had a deleterious impact on these groups, as the families of prisoners and their communities feel the "collateral effects" of the wars on crime and drugs.<sup>153</sup>

### *The Private Corrections Industry*

During the 1980s and 1990s, states faced mounting demands for new prisons to accommodate bulging inmate populations. Some responded by building more government-owned and government-operated prisons. Others, however, turned to the private sector to secure desperately needed space as quickly as possible. Some states, such as Texas and California, pursued both options. As a result, private corrections companies emerged as significant actors in adult incarceration and juvenile detention.

Private businesses have long contracted with governments to provide maintenance, food, health care, education, vocational training, and counseling services to prisons. Over the last 20 years, however, private companies have become more active in the areas of adult and juvenile confinement. Some firms have been hired to manage public prisons, while others have rented prison beds in their own facilities on a per diem basis. Some states have even employed private groups to transfer inmates to other jurisdictions, where the prisoners are then placed in private prisons. One of the largest areas of activity has been the contracting of private firms to design, build, and operate privately owned correctional facilities. Such public-private prison partnerships have attracted both scrutiny and prompt debate.<sup>154</sup>

Political support for privatization swelled during the 1980s as part of a larger critique of "big government" and the social welfare state. The idea emerged that contracting private organizations for delivery of services, including correctional services, was superior to direct government provision.<sup>155</sup> Advocates of privatization argued (and continue to argue) that private firms are more efficient than the state due to the lack of bureaucratic encumbrances, especially in the area of labor relations. Many believe that private firms increase quality and flexibility, reduce costs, and offer innovation in the face of competition.<sup>156</sup> By 1995, there were 110 private adult

prisons in the U.S. with a rated capacity of 19,294.<sup>157</sup> Five years later, there were 264 private facilities with a total capacity of 105,133. In addition, there were 1,794 private juvenile custody facilities in 1999.<sup>158</sup>

Opponents of prison privatization have maintained that contracting with private companies necessitates the improper delegation of governmental power into private hands. Critics often add that private corrections companies place profit above the public interest, inmate concerns, and the rehabilitative purposes of imprisonment. Moreover, it is argued that private facilities do not offer the range of inmate services covered by the state. Lastly, critics have cited inadequate training of correctional officers, escapes, and lack of government oversight as reasons to be wary of prison privatization.<sup>159</sup>

The nation's largest private prison firms are the Corrections Corporation of America (CCA) and the Geo Group, Inc. (formerly known as the Wackenhut Corrections Corporation). CCA, based in Tennessee and incorporated in 1983 as the nation's first private prison company, is the industry's leader. In 2001, the capacity of its facilities under contract in the U.S. was 62,231, representing a 52 percent share of the American private prison market. Federal correctional and detention authorities accounted for more than 35 percent of the firm's total sales.<sup>160</sup> Today, CCA is the sixth-largest correctional system in the country.

The Geo Group, Inc. (GGI) is an offshoot of the Wackenhut Corporation, a well-established Florida security firm. GGI is the nation's second-most prominent private corrections company. Like CCA, GGI provides facility design, construction, and financing for clients who are building new prisons. In 2001, the capacity of GGI facilities under contract in the U.S. was 26,704 beds, a 22 percent share of the domestic corrections market. Aside from CCA and GGI, several smaller companies compete for the remaining segment of the U.S. corrections market.<sup>161</sup>

The private corrections industry ran into difficulty during the late 1990s. First, some research studies raised questions regarding the ability of private prison facilities to deliver cost-savings while others plainly concluded that they were no more cost-effective than public prisons.<sup>162</sup> Second, the industry's leading companies were marred by allegations of inmate abuse, misclassification of inmates, riots, escapes, and deaths. For example, at a CCA facility in Youngstown, Ohio, an inmate from the District of Columbia was stabbed to death in a brawl over a hip-hop tape. Less than three weeks later, another inmate from the nation's capital was murdered while being escorted to his cell. In all, there were nineteen stabbings at the prison between May 1997 and March 1998.<sup>163</sup>

In addition, there were numerous disturbances in New Mexico, a state that once flirted with the idea of privatizing



**Table 9. State and Federal Prisoners in Private Prisons and Local Jails, Selected Jurisdictions, 2003.**

State	Private Prisons		Private Local Jails	
	# of Inmates	% of all inmates <sup>a</sup>	# of Inmates	% of all Inmates <sup>a</sup>
California	3,507	2.1	2,415	1.5
D.C. <sup>b</sup>	---	---	---	---
Florida	4,330	5.4	48	0.1
Georgia	4,589	9.7	4,949	10.5
Illinois	0	0	0	0
Maryland	122	0.5	234	1.0
Michigan	480	1.0	42	0.1
Mississippi	3,463	14.9	4,724	20.4
New Mexico	2,751	44.2	0	0
New York	0	0	1	0
Texas	16,570	9.9	13,331	8.0
<b>Federal</b>	<b>21,865</b>	<b>12.6</b>	<b>3,278</b>	<b>1.9</b>
<b>State</b>	<b>73,657</b>	<b>5.7</b>	<b>70,065</b>	<b>5.4</b>
<b>U.S. Total</b>	<b>95,522</b>	<b>6.5</b>	<b>73,343</b>	<b>5.0</b>

(a) Based on the total number of inmates under state or federal jurisdiction.

(b) Since December 31, 2001, as a result of the National Capital Revitalization and Self-Government Act of 1997, the District of Columbia no longer operates a prison system. The District's sentence inmates have been absorbed into the Federal Bureau of Prisons.

Source: Harrison and Beck 2004.

its entire adult prison system. In November 1998, a supervisor at the GGI-managed Lea County Correctional Facility ordered guards to take a belligerent inmate down with “a thump.” The supervisor then ordered the guards to cover up the incident.<sup>164</sup> In April 1999, 150 inmates at the prison rioted and trapped two counselors inside their offices. In all, thirteen guards were injured.<sup>165</sup> Later, in August 1999, an inmate wielding a laundry bag filled with rocks killed another prisoner at the Guadalupe County Correctional Facility, also a GGI prison. The following week, a guard was killed in another riot at the same institution. During the mêlée, an inmate was stabbed and at least two others were injured.<sup>166</sup> Altogether, four prisoners and one guard were killed in these prisons between November 1998 and September 1999.<sup>167</sup> As a result of these and other events, states such as Arkansas, North Carolina, and Utah withdrew from some agreements with private correctional facilities.<sup>168</sup>

Today, 6.5 percent of all sentenced inmates and five percent of local jail inmates are held in private correctional institutions (Table 9). Some states have made greater use of private facilities than others. New Mexico has sent a larger percentage of its inmates (44 percent) to private prisons than any other state. Texas leads the nation with 16,750 sentenced inmates in private prisons. Georgia (4,589 inmates) and Florida (4,330) are also in the top five nationwide.

The federal government, perhaps more so than any other jurisdiction, has been the savior of the private corrections industry. During the last few years, private corrections companies have secured lengthy and lucrative contracts with the Federal Bureau of Prisons and other agencies of the national government.<sup>169</sup> Since December 2000, while the number of state inmates in private facilities has, in fact, decreased by 1.8 percent, the number of federal inmates in private institutions has increased by more than 40 percent.<sup>170</sup> Some companies, through their political activities, have worked to ensure that these practices continue.

### *The Political Activities and Influence of the Private Corrections Industry*

In general, private corrections companies work to influence the policy process in two ways. First, they donate funds to candidates running for public office. Such donations typically target states that make greater use of private prisons or detention facilities. For instance, during the 1998 election cycle, the private corrections industry made 1,187 contributions to 636 candidates.<sup>171</sup> Altogether, these companies doled out \$862,822 in 43 states. California led all states with donations totaling \$285,996. Although this amount may seem miniscule, one analyst observed, “Consider that the average amount needed to elect a representative in many states is about \$5,000. And Senate seats go to candidates who raise

**Table 10. Private Prisons and Campaign Contributions in the South, 2000 Election Cycle.**

State and Year	# of Checks	# of Recipients	Total to Candidates	Total to Parties
Texas	323	156	\$361,293	\$9,500
North Carolina	590	107	226,519	5,150
Florida	381	122	158,485	34,722
Louisiana (1999)	90	56	71,455	6,300
Virginia (1999)	191	92	63,454	10,700
Georgia	150	84	56,650	15,500
Tennessee	110	44	52,631	6,000
Oklahoma	131	54	52,125	2,050
Mississippi	75	37	41,085	1,000
Arkansas	182	61	26,125	500
Kentucky (1998-2000)	21	14	8,350	5,010
Alabama (1998)	2	1	4,500	0
West Virginia	2	1	2,000	0
South Carolina	1	1	925	0
<b>Overall Total</b>	<b>2,249</b>	<b>830</b>	<b>1,125,598</b>	<b>96,432</b>

Source: Bender 2002.

less than \$20,000 in some states. So \$250, \$500, and \$1,000 contributions are meaningful.<sup>172</sup>

Campaign contributions by private corrections companies are especially generous in the South, a region where states have made greater use of incarceration (Table 10). During the 2000 election cycle, private firms donated \$1.1 million to 830 candidates in fourteen southern states. An additional \$96,432 was distributed to party committees or caucuses. In both the 1998 and 2000 election cycles, private prison companies exercised a bipartisan strategy by contributing to both Republicans and Democrats. Rather than acting solely on ideology, they chose to back incumbents. As Bender notes, “By strategically timing its contributions, the industry was able to ensure that a larger percentage of its money went to candidates who were all but certain to win, thereby improving their odds for access during upcoming public policy debates.”<sup>173</sup>

Second, private corrections companies engage in policy advocacy at the federal and state levels of government. For instance, during a Senate Judiciary Committee hearing on Truth-in-Sentencing, a high-ranking official from the Geo Group, Inc. commented, “By passing ‘truth-in-sentencing’ laws, states have begun to restore a fundamental sense of justice and fairness to our system of crime and punishment.” He added, “At the same time, they have taxed their own abilities and challenged some old-fashioned ideas about prisons. Prison privatization has developed in direct response to those challenges.”<sup>174</sup> Some members of the private prison industry are genuinely concerned about public welfare. It is only

natural to note, however, that for-profit prisons also have a material interest in criminal justice policies that promote the increased use of adult incarceration and juvenile detention as crime control strategies.

The private corrections industry participates in other forms of policy advocacy as well. Some firms work with high-powered lobbying firms and public policy groups to advance their interests. For example, over the past few years, CCA and GGI have retained the services of the following lobbyists: The Bloom Group; Wise & Associates; Patton Boggs; Eckert, Seamans, Cherin & Mellott; Garry Smith & Associates; McBride-Mahr; Baker, Donelson, Bearman & Caldwell; and Arter & Hadden. While private corrections companies have employed lobbyists to promote and protect their interests, however, it is difficult to discern the cost of such activities.<sup>175</sup>

Finally, the American Legislative Exchange Council (ALEC) guides some of the political activities of the private corrections industry. ALEC is a nonpartisan, Washington, DC-based policy group whose membership of 2,400 includes 30 percent of all state legislators. The organization also counts current and former governors and congresspersons as alumni.<sup>176</sup> Since the early 1970s, ALEC has provided lawmakers with model bills crafted around a number of issues. It has also been closely aligned with conservative political actors and private corrections corporations.<sup>177</sup>

During the 1990s, ALEC’s Criminal Justice Task Force promoted “get tough” crime control legislation and prison

Table 11. Changes in Juvenile Justice Systems across the States, 1992-1997.

State	Changes in Law or Court Rule			State	Changes in Law or Court Rule		
Alabama	T		C	Montana	T	S	C
Alaska	T		C	Nebraska			
Arizona	T	S	C	Nevada	T		C
Arkansas	T	S	C	N. Hampshire	T	S	C
California	T		C	New Jersey		S	C
Colorado	T	S	C	New Mexico	T	S	C
Connecticut	T	S	C	New York			
Delaware	T	S	C	North Carolina	T		C
D.C.	T	S		North Dakota	T		C
Florida	T	S	C	Ohio	T	S	C
Georgia	T	S	C	Oklahoma	T	S	C
Hawaii	T		C	Oregon	T	S	C
Idaho	T	S	C	Pennsylvania	T		C
Illinois	T	S	C	Rhode Island	T	S	C
Indiana	T	S	C	South Carolina	T		C
Iowa	T	S	C	South Dakota	T		
Kansas	T	S	C	Tennessee	T	S	C
Kentucky	T	S	C	Texas	T	S	C
Louisiana	T	S	C	Utah	T		C
Maine			C	Vermont			
Maryland	T		C	Virginia	T	S	C
Massachusetts	T	S	C	Washington	T		C
Michigan		S	C	West Virginia	T		C
Minnesota	T	S	C	Wisconsin	T	S	C
Mississippi	T		C	Wyoming	T		C
Missouri	T	S	C				

T = Transfer provisions—Laws made it easier to transfer juvenile offenders from the juvenile justice system to the criminal justice system (45 jurisdictions).

S = Sentencing authority—Laws gave criminal and juvenile courts expanded sentencing options (31 jurisdictions).

C = Confidentiality—Laws modified or removed traditional juvenile court confidentiality provisions by making records and proceedings more open (46 jurisdictions).

Source: Snyder and Sickmund 1999.

privatization.<sup>178</sup> In 1994, the task force played a significant role in fashioning and advancing in the states a policy agenda that included the following:

- Implementing Truth-in-Sentencing laws;
- Implementing Three Strikes laws;
- Keeping dangerous defendants off the streets by allowing judges to deny bail, end pre-trial release, and require secured bail for violent and habitual offenders;
- Treating juveniles as adults for serious crimes;

- Allowing juveniles’ criminal histories to be considered by the courts;
- Guaranteeing the rights of victims to seek redress and restitution; and
- Using privatization, electronic home detention, boot camps, and other methods to determine efficient systems of punishment.

ALEC has enjoyed some success, as some of these policies have been adopted by several states. In the process, the private corrections industry has benefited from its relationship

Table 12. Number of Juveniles in Custody per 100,000 Residents, by Race, October 27, 1999.

State of Offense	Custody rate per 100,000 residents of each group.										
	White	Black	Latino	American Indian	Asian	State of Offense	White	Black	Latino	American Indian	Asian
U.S.	212	1,004	485	632	182	MO	146	554	161	265	145
AL	208	588	249	314	93	MT	148	1,463	614	652	704
AK	281	612	421	799	290	NE	220	1,552	744	1,648	290
AZ	234	957	473	293	125	NV	305	1,019	312	511	249
AR	139	575	137	0	256	NH	150	1,278	578	0	0
CA	269	1,666	623	612	238	NJ	70	1,108	327	0	6
CO	257	1,436	719	789	223	NM	211	1,011	520	257	111
CT	160	2,143	1,243	518	196	NY	169	1,119	143	466	34
DE	203	1,143	304	0	0	NC	123	466	152	238	123
DC	173	855	369	0	0	ND	204	1,136	544	1,187	847
FL	306	964	200	202	87	OH	221	1,038	430	112	75
GA	273	878	163	861	72	OK	194	821	297	343	56
HI	39	87	90	0	121	OR	353	1,689	478	1,074	270
ID	203	871	344	278	173	PA	123	1,230	902	154	249
IL	152	1,005	271	590	37	RI	155	1,363	680	0	474
IN	280	1,260	370	168	46	SC	244	772	50	293	421
IA	240	1,726	545	1,231	465	SD	436	2,908	1,091	1,653	1,235
KS	239	1,691	642	612	295	TN	170	576	132	0	91
KY	192	1,030	133	0	182	TX	204	965	391	140	96
LA	223	1,127	290	249	139	UT	267	1,043	692	946	366
ME	166	390	272	332	0	VT	93	698	0	0	0
MD	136	575	131	0	12	VA	225	1,024	323	166	104
MA	93	648	806	0	232	WA	232	1,507	323	827	249
MI	243	1,058	1,112	428	215	WV	166	1,060	251	0	292
MN	183	1,504	630	1,783	459	WI	164	1,965	725	845	398
MS	118	300	3,454	0	13	WY	396	2,752	847	939	482

Note: The custody rate is the number of juvenile offenders in residential placement on October 27, 1999, per 100,000 juveniles age 10 through the upper age of original juvenile court jurisdiction in each state. U.S. total includes 2,465 juvenile offenders in private facilities whom state of offense was not reported and 174 juvenile offenders in tribal facilities.

Source: Sickmund 2004.

with ALEC. Thus, although private corrections companies have lost business in some states, the federal government has proven to be a valuable client to the industry.

### Juvenile Justice

In the late 19<sup>th</sup> century, American juvenile justice systems were established on the principle that children lacked the capacity to make adult decisions.<sup>179</sup> By the early 20<sup>th</sup> century, juvenile justice systems were seeking to transform delinquent offenders into productive members of the society through treatment.<sup>180</sup> With the decline of the rehabilitative model, however, newer policies and practices have stressed detention

to ward off the rise of alleged super-predators. This attack of the super-predators did not come to pass. In 2002, the juvenile violent crime arrest rate was at its lowest level since 1980.<sup>181</sup> Even so, given the heightened concern over crime and delinquency, the “get tough” movement targeted juvenile justice systems for transformation.

From 1992 to 1997, forty-seven states and the District of Columbia approved measures that made their juvenile justice systems more punitive (Table 11). Specifically, these jurisdictions made it easier to transfer juveniles to adult criminal justice systems, gave criminal and juvenile courts expanded sentencing options, and changed or removed traditional juvenile

**Table 13. Racial/Ethnic Profile of Juvenile Offenders in Residential Placement, 1999.**

Most Serious Offense	Total	White	Black	Latino	American Indian	Asian
<b>Total</b>	<b>100%</b>	<b>38%</b>	<b>39%</b>	<b>18%</b>	<b>2%</b>	<b>2%</b>
<b>Delinquency</b>	<b>100</b>	<b>37</b>	<b>40</b>	<b>19</b>	<b>2</b>	<b>2</b>
Criminal Homicide	100	23	44	24	3	6
Sexual Assault	100	52	31	13	2	1
Robbery	100	19	55	22	1	3
Aggravated Assault	100	29	40	25	2	3
Simple Assault	100	43	37	15	2	1
Burglary	100	43	34	18	2	2
Theft	100	43	38	15	2	1
Auto Theft	100	36	38	21	2	3
Drug Trafficking	100	16	65	18	0	1
Other Drug Offenses	100	30	47	20	1	1
Weapons	100	26	42	27	1	4
Technical Violation*	100	39	39	18	2	2
<b>Status</b>	<b>100</b>	<b>54</b>	<b>31</b>	<b>10</b>	<b>2</b>	<b>1</b>

\*Technical violations = violations of probation, parole, and valid court order.

Note: Race proportions do not include youth of Latino ethnicity. Totals include a small number of youth for whom race/ethnicity was not reported or was reported as “other.” Detail may not total 100% because of rounding or because all offenses are not presented.

Source: Sickmund 2004.

court confidentiality provisions by making juvenile records and proceedings more open.<sup>182</sup> By the end of 1997, juvenile records in most states could be released to prosecutors, law enforcement agencies, social agencies, schools, victims, and/or the public. Some states even added “purpose clauses” to their juvenile justice codes. Such statements generally stressed accountability, deterrence, protecting the public from criminals, victims’ rights, and punishment—the same values that were at the center of the political and intellectual discourses on adult corrections policy. Racial minorities have been greatly affected by these changes; numerous studies of disproportionate minority confinement have found that race can influence the processing of youth.<sup>183</sup>

Analysis of arrest rates reveals that juvenile arrests disproportionately involve racial minorities. In 2002, the violent crime arrest rates for black (736 per 100,000 residents of the population) and American Indian (200 per 100,000) juveniles were higher than the rate for whites (196 per 100,000).<sup>184</sup> The black arrest rate was nearly 3.5 times greater than the rate for

whites and seven times greater than the rate for Asians (95 per 100,000). Data for property crimes show similar disparities, with higher arrest rates for blacks (2,448 per 100,000) and American Indians (1,347 per 100,000), compared with whites (1,308 per 100,000).

There are also racial disparities in juvenile justice systems, where minority youth are overrepresented at various decision points in these systems.<sup>185</sup> On any given day in 1999, minority youth, although just 34 percent of the general juvenile population, accounted for 62 percent of all juveniles held in residential placement. Likewise, racial minorities were overrepresented in nearly every juvenile justice system in the U.S. (Table 12, previous page). Blacks, American Indians, and Latinos each had higher custody rates than whites. With regard to offense, minority youth accounted for seven out of every 10 juveniles held in custody for violent offenses. Black youth alone represented 55 percent of the juveniles held for robbery and 65 percent of those held for drug trafficking (Table 13).

## V. PROMISING PRACTICES IN REHABILITATION AND REENTRY

During the 1950s and 1960s, many scholars and criminal justice professionals believed that prisons existed to treat, rehabilitate, and reintegrate offenders into society.<sup>186</sup> The medical (or rehabilitative) model recommended that correctional institutions create programs to prepare inmates for release. Accordingly, education and vocational programs, drug treatment and counseling services, therapeutic communities, and prison industry work programs were important elements of prison operations.<sup>187</sup> The main idea behind this model was that, by participating in these programs, inmates were working to impress parole boards by demonstrating that they deserved to be released. It was also believed that such programs prepared inmates for reentry. As described by Seiter and Kadela:

*Prisons diagnosed inmate problems and provided rehabilitative programs to reduce these problems. Parole boards considered inmates' prison program participation and attitude in determining preparation for release and weighed the acceptability of the inmates' release plans in the parole decision-making process. The inmates' return to the community was intensely supervised. If the resources and community ties were not strong, inmates were placed in halfway houses. In addition, for the first year or two, parole officers (whose primary responsibility was to guide the offender to programs and services) supervised offenders.*<sup>188</sup>

In summary, there was a methodical approach to the reentry process that focused on the inmates' transition from prison to the community. This process was not perfect. Yet, it was guided by the premise that positive steps should be taken to prepare inmates for life after prison.

During the 1970s, however, a growing coalition of researchers, public officials, and private citizens rallied against adult and juvenile justice systems for being "too soft" on offenders. Their arguments were bolstered by stories of inmates who were released from prison only to strike again. This coalition vehemently criticized judges, indeterminate sentencing, parole boards, and rehabilitation. Many of them considered imprisonment to be the best available weapon in the wars on crime and drugs.

By the 1980s, the rehabilitative model had given way to the surveillance or policing model. Under the new paradigm, inmates were no longer seen as being "sick." Rather, they had landed in prison as a result of "a conscious decision to commit crimes."<sup>189</sup> In addition, prison programs were only important insofar as they kept inmates busy and maintained order. At the same time, the focus of parole and probation shifted from aiding and counseling offenders to risk management.<sup>190</sup> Ideas regarding treatment, rehabilitation, and reintegration were

replaced by arguments for deterrence, incapacitation, and punishment. By the end of the 1990s, even as the nation's inmate population exploded, funding for prison programs and participation in these programs declined.<sup>191</sup>

More recently, prisoner reentry has recaptured the attention of scholars, criminal justice professionals, lawmakers, and activists. This has occurred, in part, for three reasons. First, more offenders are being released from prison today than in the past. According to the U.S. Department of Justice, "Despite changes in release policies, 652,199 adults were under State parole supervision at yearend 2000, more than a 3-fold increase since 1980, when 196,786 adults were on parole."<sup>192</sup> Second, a recent study of recidivism revealed that, of 272,111 former inmates tracked by the Department of Justice after their release in 1994, within three years 67.5 percent were rearrested for a new offense, 46.9 percent were reconvicted for a new crime, 25.4 percent were re-sentenced to prison for a new crime, and 51.8 percent were serving time in prison for a new sentence or a technical violation of their release.<sup>193</sup> Finally, the fiscal realities of state budgeting and mass incarceration have led some officials to explore new options. Mauer observes, "Essentially, policymakers are faced with a choice of whether they wish to contribute to an expanded prison system or provide vital social services. They can no longer do both."<sup>194</sup> Similarly, the National Governors Association has argued, "Effective reentry policies save money and make better use of limited resources by establishing a more coordinated and comprehensive continuum of care and supervision."<sup>195</sup>

### *The Challenges Faced by Former Inmates*

Most inmates will eventually return to society; however, ex-offenders face serious obstacles in their quest to "go straight" after being released. Specifically, because they typically have lower levels of educational attainment and poorer job skills than the general population, former inmates often struggle to find work and avoid future criminality.<sup>196</sup> Former inmates also experience difficulties with substance abuse and reconnecting with family, and are often greeted by communities that offer them little assistance. In addition, scholars argue that few inmates are receiving the types of services that they need to ensure success upon release, as "only a small percentage is receiving the benefit of extensive rehabilitation or pre-release programs."<sup>197</sup> These challenges are oftentimes more daunting for racial minorities.<sup>198</sup>

### *What Works? What Doesn't Work?*

When it comes to rehabilitation and recidivism, the idea that "nothing works" continues to enjoy currency in some political and intellectual circles. Several researchers, however, have identified a number of effective programs and practices that offer hope for the future. Many of these programs have

grown out of the new prisoner reentry movement. Seiter and Kadela suggest that reentry programs can be defined as: (1) correctional programs that focus on the transition from prison to community (e.g., pre-release, work release, halfway houses, or specific reentry programs); and (2) programs that initiate treatment (e.g., programs to address substance abuse, sex/violent offences, life skills, education, and cognitive/behavioral issues) in a prison setting and are connected with a community program to provide continuity of care.<sup>199</sup>

Many studies have evaluated the success or failure of reentry programs by their ability to reduce recidivism rates. Some analysts have found this to be problematic, particularly when researchers focus too closely on the programs that are administered by criminal justice agencies and, in the process, lose sight of the concerns of citizens regarding the enhancement of public safety.<sup>200</sup> Even so, a general consensus<sup>201</sup> exists about the success of the following programs or approaches to prisoner reentry:

- Family therapy and parent training directed at delinquents or pre-delinquents and their families;
- Education programs that link prison programs to community-based resources used after release;
- Vocational training and/or work release programs;
- Programs that promote job readiness skills for ex-offenders;
- Job training for older males no longer under the supervision of criminal justice systems;
- Drug treatment and substance abuse programs;
- Prison-based therapeutic communities involving clients (i.e., inmates) who are housed in a prison setting isolated from the general institutional population; and
- Halfway houses that assist in the transition from prison to the community.

These same researchers have suggested that the following types of programs may be doomed to fail:

- Gun buy-back efforts;
- “Scared straight” programs; and
- Rehabilitation programs grounded in ambiguous unstructured counseling.

## *Practices in the States*

### **California**

#### *Learning from Other States*<sup>202</sup>

- State officials hosted Dr. Reginald A. Wilkerson, director of the Ohio Department of Rehabilitation and Corrections. Wilkerson is credited with developing a model reentry program in 2002.<sup>203</sup> Ohio has launched a “Release Preparation Program” for all inmates, irrespective of their risk assessment levels. The program, which starts six months prior to an inmate’s release, “includes employment readiness and other workshops and seeks to provide transitional linkages so that the inmate will continue to receive needed services after release.”<sup>204</sup> Ohio also has established an Office of Reentry and Correctional Best Practices.<sup>205</sup>

#### *Ending Prison Construction*

- In California, 70 percent of former inmates return to prison within three years of their release. This reality, along with the tremendous cost of managing the nation’s second-largest prison system, has prompted the state to end its thirty-year prison construction binge. As of June 2005, California had no prisons under construction and no plans to construct new facilities.<sup>206</sup>

#### *The Establishment of the Department of Corrections and Rehabilitation*

- With the end of prison construction, lawmakers contend that they are now placing rehabilitation at the center of corrections policy. As of July 1, 2005, the state reorganized its Department of Youth and Adult Corrections by launching a new Department of Corrections and Rehabilitation. With this new entity, the state’s adult and juvenile justice systems no longer work autonomously.<sup>207</sup>

#### *Reorganizing Parole*

- California is currently in the process of reorganizing its parole policies. Included among the changes are:
  - Affording parole agents alternatives to short-term imprisonment by allowing them to closely monitor offenders and divert parolees to drug treatment programs or job training classes rather than sending them back to prison.
  - Expanding the Police and Corrections Team (PACT) programs to give local law enforcement better access to the parole system and to give parolees more access to community services.

*Los Angeles County Men's Central Jail, Social Mentoring Academic and Rehabilitative Training (SMART)*

- The SMART Program offers health services, substance abuse treatment, GED courses, anger management, and life skills training for gay males in the county. County officials created the program in 1999 after discovering that the recidivism rate for gay men was higher than that for the general population.

- Project Re-Connect also offers referrals for housing, food, clothing, transportation, medical services, and educational programs.

*The Establishment of the Office of Program, Transition, and Post-Release Services*

- Created in 2001, the office offers pre- and post-release programs. The pre-release program features a 100-hour required transitional course, which covers topics such as values clarification, goal setting and achieving, problem solving and decision making, maintaining employment, financial management, sexual responsibility, and parenting skills. For post-release programs and services, the state has up to 400 beds provided by faith and character transitional providers for inmates being released from prison.
- Additional services include: family development, victim awareness, anger management, rethinking personal choice, distance learning, substance abuse, and chaplaincy and volunteer programs.

**The District of Columbia**

*The Omnibus Juvenile Justice Act of 2004*

- Adopted by District lawmakers in late 2004, this measure blends both the “get tough” and treatment approaches to juvenile justice policy. On the “get tough” side, the measure allows judges to order parents or caretakers to appear in court with their child and to pay up to \$10,000 in restitution to the victims of their child’s crime. It also offers prosecutors, government agencies, victims, and other parties greater access to confidential information about youth suspects.
- At the same time, however, the measure requires the closure of Oak Hill Academy, an alternative middle and high school for adjudicated detained and committed youth between the ages of 11 and 21 years. In its place, the District will design and construct a new smaller facility patterned after the Missouri Model, which places and treats young people in smaller settings.
- Lastly, the Juvenile Justice Act places greater emphasis on rehabilitating youth offenders and appropriately treating “incompetent juveniles” rather than ignoring their deficiencies.<sup>208</sup>

*Broward County Sheriff's Office, Day Reporting and Re-Entry Division*

- Established in 2004, this division offers case management and transitional services to persons serving time in the Broward County jail. It also has two specialized tracks: (A) a Community Service Work Program for repeat misdemeanants as an alternative to jail, and (B) an Aftercare Program for successful graduates of the in-custody ninety-day boot camp.

**Florida**

*Orange County Jail, Jail Educational and Vocational Program*

- Since 1987, the Orange County Corrections Division has offered intensive educational and vocational programming to most of its inmates. The county jail has roughly 3,300 beds.

*Project Re-Connect*

- Established in 1998, Project Re-Connect provides post-release job placement services to former inmates (ages 25 and under) who complete either a GED or a vocational program during their imprisonment. Individuals who are eligible for the program are identified 30 days prior to their release.

**Georgia**

*Georgia Board of Pardons and Paroles, Results-Driven Supervision (RDS)*

- Researchers with the Board of Pardons found that special supervision in four behavioral areas (education, substance abuse, employment, and cognitive skills) produces significant results in deterring crime—even in persons once considered “intractable.” Consequently, since 1997, RDS has allowed parole officials to assess each parolee under their care to determine weaknesses in the aforementioned areas and then create “tracks” of short- and long-term goals. Sanctions are issued if a former inmate fails to stay on course. The program is credited for increasing the rate of success for parolees.



## Illinois

### *Cook County*

- The county received a grant from the Annie E. Casey Foundation to develop alternatives to pretrial detention for youth offenders who are not considered dangerous. Rather than sending juveniles to detention facilities, some are spending time at youth service centers. The county's screening process is rigorous and examines an offender's prior arrest record to ascertain if the child should be sent to a detention facility. Alternatives to confinement include home-confinement, electronic monitoring, and reporting centers. Since 1994, the county has cut its detention population in half and sends 90 percent of its juveniles to court on time, crime-free.<sup>209</sup>

## Maryland

### *Break the Cycle*

- With this program, Maryland has developed "a form of intensive probation focusing on drug treatment, drug testing, and sanctions."<sup>210</sup> It uses bi-weekly testing for the first two months of supervision to detect illegal drug usage. Testing is then reduced to once per week for an additional two months. Thereafter, drug testing is reduced to once per month. Drug testing is increased if the offender tests positive. Program evaluators from the University of Maryland found that Break the Cycle was effective in reducing drug abuse and re-arrest.

### *The Correctional Options Program (COP)*

- Introduced in 1994, COP is "a comprehensive program of graduated sanctions and services that was established as a tool to divert carefully screened low-risk, drug-involved offenders from prison. It was designed to safeguard the public; assure that offenders are accountable for their actions; provide substance abuse, educational, vocational, and employment services; and strengthen participants' parenting, daily living, and social skills."<sup>211</sup> Analysts have found that COP has been an effective tool in reducing substance abuse among offenders and reducing criminal behavior.

### *Maryland Division of Correction, Partnerships for Reentry Programming (PREP)*

- Developed in 2000, PREP acts as an umbrella for smaller programs, thereby bringing together organizations and agencies that help inmates develop job skills and secure employment.

### *Reentry Enforcement Services Targeting Addictions, Rehabilitation, and Treatment (RESTART)*

- This program will work to coordinate pre-release services for offenders to prevent recidivism. It connects the state's programs and services. RESTART will be phased in over the next three years. Officials hope to provide a minimum of 9,800 units of treatment for inmates. These units will be divided into the following services: vocational training/academic instruction, addictions treatment, expanded mental health services, expanded case management, and pre-release programming support.

## Michigan

### *Eliminating Mandatory Minimum Drug Laws*

- In December 2002, former Republican Governor John Engler signed a bill that eliminated mandatory minimums for drug crimes. As reported by the *Associated Press*, the bill "requires judges to follow state sentencing guidelines when sending drug criminals to prison but gives them more discretion by eliminating minimum sentences."<sup>212</sup> Prior to this change, Michigan was said to have among the harshest drug laws in the country. Moreover, former Governor William Milliken—the man who signed the drug laws into effect in 1978—called the old measure "the worst mistake of my career" and "an overly punishing and cruel response that gave no discretion to a sentencing judge, even for extenuating circumstances."<sup>213</sup>

### *Michigan Prisoner Re-Entry Initiative*

- Established in 2004, this program is based on the National Institute of Corrections' Transition from Prison to Community Initiative model (TPCI). The TPCI model focuses on critical decision points such as assessment and classification, supervision, discharge from supervision, and aftercare and community services. The Michigan program starts with the inmate intake process and continues through incarceration and release. According to the Department of Corrections, once the program is fully operational, it will involve partnerships with the state and local police agencies, academicians, community organizations, faith-based organizations, crime victims, and other members of the public.

## Mississippi

### *The Juvenile Justice Reform Act of 2005*

- The law creates a new system of community-based programs for youth offenders as an alternative to incarceration. The measure also seeks to provide every county in the state access to programs that offer after-school services, family counseling, and health care.<sup>214</sup>

## New Mexico

### *New Mexico Corrections Department, Community Corrections*

- Community corrections programs mainly serve offenders in the community who are considered to be at higher risk to re-offend and therefore have greater treatment needs. This initiative also serves as a diversionary program for probation/parole violators who would otherwise be imprisoned.

## New York

### *New York City Department of Health and Hygiene, New York City Link*

- Since 1996, New York City Link, a short-term case management linkage program, has focused on transition from prison to community for offenders with serious and persistent mental illnesses.

### *New York State Division of Probation and Correctional Alternatives, TANF for Community Corrections*

- Since 2000, this program has issued annual contracts to 21 community-based organizations and local government programs for programming that promotes parental skills training, gainful employment, and the reduction of recidivism among ex-offenders.

### *Reforming the Rockefeller Drug Laws*

- In December 2004, after decades of failed attempts to change New York's drug laws, lawmakers finally reached a compromise to soften the penalties under the Rockefeller Drug Laws. Under the changes, a low-level first-time drug offender would no longer receive a sentence of 15 years to life for his or her offense. Rather, the prison term would be eight to twenty years. Some activists, including hip-hop mogul Russell Simmons, were pleased with the reforms.<sup>215</sup> Critics, however, maintain that lawmakers have not done enough to reform the Rockefeller Drugs Laws, although the state's drug laws are still among the toughest in the country.<sup>216</sup>

## Texas

### *Texas Workforce Commission, Project Reintegrating Offenders (RIO)*

- Established in 1994, Project RIO is administered by the Texas Workforce Commission in partnership with the Texas Department of Criminal Justice, the Windham School District, and the Texas Youth Commission. The objective of the program is to provide a connection between educational, vocational training, and employment services during imprisonment and after release.

## VI. POLICY IMPLICATIONS AND RECOMMENDATIONS

The nation's youth of color are experiencing a time of crisis. They face daunting challenges to securing a good education, finding quality jobs, and becoming productive members of the American community. If we fail to address these issues, millions of young people will be fed into the nation's criminal justice systems. Already, as Marable states, U.S. prisons have become "vast warehouses, for the poor and unemployed, for low-wage workers and the poorly educated, and, most especially, for Latino and African American males."<sup>217</sup>

By focusing almost exclusively on the behavior of the individual, some researchers and lawmakers have lost sight of the political, economic, and social circumstances in which individuals exist. Given the convergence of criminal justice policy and the long-running assault on the social welfare state, imprisonment has become the first response to many of the social problems that burden the poor. Difficulties such as homelessness, unemployment, drug addiction, and mental illness "disappear from public view when the human beings contending with them are relegated to cages."<sup>218</sup>

Consequently, policymakers must consider changes that will help to transform the urban communities in which so many of these young people reside.<sup>219</sup> The following policy recommendations flow from the analysis presented in this paper:

### *The Political Discourse on Crime and Punishment*

- Rely on research rather than rhetoric. Lawmakers must weigh the potential intended and unintended consequences of proposed changes in crime and drug control policy.
- Consider how racial minorities have been constructed as targets of public policy.
- Adopt an approach to criminal justice that balances the needs of society, victims, and inmates.

### *Truth-in-Sentencing and Three Strikes and You're Out*

- Repeal or revise Truth-in-Sentencing and Three Strikes laws that have proven ineffective in the fight against crime and drugs.

### *Drugs and Imprisonment*

- Rescind the 100-to-1 powder cocaine/crack cocaine ratio and other drug sentencing laws that have incarcerated nonviolent offenders while failing to capture "drug kingpins."
- Divert nonviolent, non-dangerous drug addicts and offenders from the prison system.

### *The Private Corrections Industry*

- Conduct an audit of private correctional institutions to determine: (1) the physical conditions of the inmate population, (2) the effectiveness of inmate rehabilitation programs in these institutions, and (3) the purported cost-savings of private prisons over public institutions.

### *Juvenile Justice*

- Provide family therapy and parent training directed at delinquents or pre-delinquents and their families.
- Divert nonviolent and non-dangerous juveniles from confinement.
- Explore rehabilitation options in community-based programs for youth offenders.
- Increase job opportunities for minority youth.

### *Rehabilitation and Prisoner Reentry*

- Improve alcohol, drug treatment, and ancillary services for inmates during their incarceration.
- Strengthen educational and vocational programs.
- Assist inmates in their re-introduction to society by putting them in touch with institutions and organizations that might be of assistance upon release.
- Aggressively recruit private businesses to employ inmates after they are released from prison.

APPENDIX

SELECTED FEDERAL CRIME AND DRUG CONTROL POLICIES, 1965-1997		
Year	Administration and Party ID	Policy
1965	Johnson (D)	<p><i>Law Enforcement Assistance Act of 1965 (P.L. 89-197)</i></p> <ul style="list-style-type: none"> <li>• Authorized a three-year program of financial and technical assistance to state and local law enforcement agencies.</li> <li>• Established the Office of Law Enforcement Assistance (OLEA) and authorized \$10 million to train local law enforcement personnel and augment policing methods.</li> </ul>
1968	Johnson (D)	<p><i>The Omnibus Crime Control and Safe Streets Act (P.L. 90-351)</i></p> <ul style="list-style-type: none"> <li>• Created block grants that gave states the wherewithal to decide how federal funds were distributed to localities to improve and strengthen law enforcement.</li> <li>• Replaced the OLEA with the Law Enforcement Assistance Administration (LEAA). LEAA's purpose was four-fold: (1) to encourage state comprehensive planning for criminal justice improvements; (2) to provide technical and financial support to augment and strengthen law enforcement and criminal justice; (3) to conduct research and development projects to enhance criminal justice operations; and (4) to develop and transfer to the states new techniques and methods to cut crime, and identify, capture, and rehabilitate criminals.</li> </ul>
1970	Nixon (R)	<p><i>The Organized Crime Control Act (P.L. 91-452)</i></p> <ul style="list-style-type: none"> <li>• Authorized LEAA block grants to assist state and local law enforcement in fighting organized crime.</li> </ul>
1970	Nixon (R)	<p><i>The Comprehensive Drug Abuse Prevention and Control Act (P.L. 91-513)</i></p> <ul style="list-style-type: none"> <li>• Unified and revised federal narcotics and dangerous drug laws and the punishments for violating those laws.</li> <li>• Provided new tools to enforce the law.</li> <li>• Authorized expanded drug education and rehabilitation programs.</li> </ul>
1970	Nixon (R)	<p><i>The Omnibus Crime Control Act (P.L. 91-644)</i></p> <ul style="list-style-type: none"> <li>• Augmented federal support to state and local law enforcement agencies through LEAA.</li> <li>• Increased the share of cost of crime control programs that might be covered by federal funds from 60 percent to 75 percent.</li> <li>• Required that 20 percent of LEAA funds be spent on corrections.</li> </ul>
1974	Ford (R)	<p><i>The Juvenile Justice and Delinquency Prevention Act (P.L. 93-415)</i></p> <ul style="list-style-type: none"> <li>• Designed to “keep juveniles from entering the treadmill of the criminal process, and to guarantee procedural and constitutional protection to juveniles under Federal jurisdiction.”</li> <li>• Required deinstitutionalization of status offenders and non-offenders, as well as the separation of juvenile delinquents from adult offenders, as a condition for state participation in the Formula Grants Program.</li> </ul>
1976	Ford (R)	<p><i>The Parole Commission and Reorganization Act (P.L. 94-233)</i></p> <ul style="list-style-type: none"> <li>• Established an independent and regionalized United States Parole Commission.</li> <li>• The Commission was charged with providing “fair and equitable parole procedures.”</li> </ul>
1976	Ford (R)	<p><i>The Crime Control Act (P.L. 94-503)</i></p> <ul style="list-style-type: none"> <li>• Extended LEAA for three years.</li> <li>• Also created a program that allowed citizen groups to apply for special LEAA funds.</li> </ul>

SELECTED FEDERAL CRIME AND DRUG CONTROL POLICIES, 1965-1997 (cont.)		
Year	Administration and Party ID	Policy
1976	Carter (D)	<p><i>The Justice System Improvement Act (P.L. 96-157)</i></p> <ul style="list-style-type: none"> <li>• Required states to distribute a fixed amount of LEAA funds to cities with more than 100,000 residents. Thus, states had less authority to disapprove applications for funding from larger cities.</li> <li>• Created the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, and the Bureau of Justice Statistics. These agencies were responsible for collecting, analyzing, publishing, and disseminating information on crime, criminal offenders, victims of crime, and the operation of justice systems at all levels of government.</li> </ul>
1984	Reagan (R)	<p><i>The Comprehensive Crime Control Act (P.L. 98-473)</i></p> <ul style="list-style-type: none"> <li>• Overhauled the federal sentencing system, revised the bail statutes to permit pretrial detention of persons considered dangerous to the community, tightened the legal definition of insanity, and instituted mandatory minimum sentences for career criminals.</li> <li>• Increased the maximum fines for serious drug offenders, gave federal prosecutors the authority to seize the assets of drug traffickers, and created a victim compensation program within the Department of Justice.</li> <li>• Established a U.S. Sentencing Commission to develop and recommend sentences for federal crimes.</li> </ul>
1986	Reagan (R)	<p><i>The Anti-Drug Abuse Act of 1986 (P.L. 99-570)</i></p> <ul style="list-style-type: none"> <li>• Authorized \$1.7 billion in funds to fight drug abuse, \$690 million of which was earmarked for assisting state and local drug enforcement efforts.</li> <li>• Enacted stiffer prison sentences for drug dealers who recruited young people to sell drugs or who sold narcotics near schools.</li> <li>• Created the framework of mandatory minimum penalties for drug trafficking offenses involving powder cocaine and crack (the “100 to 1” ratio).</li> </ul>
1988	Reagan (R)	<p><i>The Anti-Drug Abuse Act of 1988 (P.L. 100-690)</i></p> <ul style="list-style-type: none"> <li>• Authorized \$2.7 billion in funds to fight drug abuse. Actual appropriations raised the total anti-drug budget to \$6.5 billion in fiscal year 1989.</li> <li>• Included a death penalty provision for homicides committed by “drug kingpins”—including the drug-related killing of law enforcement officers.</li> <li>• Added a sentence enhancement if the kingpin or someone in their company possessed a weapon in connection with the offense, even if the weapon was not used or in immediate possession.</li> <li>• Established more severe penalties for simple possession of drugs for personal usage.</li> <li>• Aimed to reduce the demand for drugs through increased treatment and prevention efforts.</li> <li>• Created the Office of National Drug Control Policy (ONDCP) that was to be headed by a cabinet-level director (the national drug czar).</li> <li>• Required the president to issue an annual drug control strategy.</li> </ul>
1989	Bush (R)	<p><i>The International Narcotics Control Act (P.L. 101-231)</i></p> <ul style="list-style-type: none"> <li>• Authorized \$115 million for international narcotics control assistance for fiscal year 1990.</li> <li>• Added \$125 million for military and law enforcement assistance in Colombia, Peru, and Bolivia.</li> </ul>

SELECTED FEDERAL CRIME AND DRUG CONTROL POLICIES, 1965-1997 (cont.)		
Year	Administration and Party ID	Policy
1990	Bush (R)	<p><i>The Comprehensive Violent Crime Control Act (P.L. 101-647)</i></p> <ul style="list-style-type: none"> <li>• Authorized \$200 million in federal matching grants to assist states in establishing more effective prison programs, including alternatives to incarceration.</li> <li>• Created a grant program to develop and implement multidisciplinary child abuse investigation.</li> <li>• Erected provisions against child pornography that required more stringent record keeping and enhanced penalties.</li> <li>• Established a \$20 million rural drug initiative.</li> <li>• Expanded the Public Safety Officers' Death Benefits program.</li> <li>• Authorized additional hiring of FBI and DEA agents.</li> <li>• Added 12 chemicals to the list of precursor chemicals regulated under the Chemical Diversion and Trafficking Act.</li> </ul>
1994	Clinton (D)	<p><i>The Violent Crime Control and Law Enforcement Act (P.L. 103-322)</i></p> <ul style="list-style-type: none"> <li>• Authorized federal assistance to states to develop, expand, or improve correctional institutions and programs to ensure prison space for violent repeat offenders, provided that the states adopted Truth-in-Sentencing.</li> <li>• Required the imposition of a sentence of life imprisonment for individuals convicted of a third violent felony.</li> <li>• Designated 60 new offenses punishable by the federal death penalty.</li> <li>• Enacted the "Violence Against Women Act of 1994."</li> <li>• Restricted the manufacture, transfer, and possession of certain semiautomatic assault weapons, and prohibited possession or transfer of large capacity ammunition feeding devices.</li> <li>• Provided for the prosecution as adults of juveniles 13 years of age or older for certain violent crimes and for certain crimes involving firearms.</li> <li>• Established increased penalties for certain criminal street gang activities, and authorized use of law enforcement grant funds for anti-gang programs.</li> <li>• Increased penalties for certain drug crimes and for driving under the influence of drugs or alcohol if a minor is seriously injured or killed in an accident.</li> <li>• Authorized grants to state and local law enforcement for the creation or improvement of DNA testing in forensic laboratories, established standards for DNA testing, and required the FBI to create a national index of convicted offenders' DNA profiles.</li> <li>• Established a "National Commission on Crime Control and Prevention."</li> <li>• Established the "Ounce of Prevention Council" to administer grant programs for summer and after-school education and recreation, mentorship, and substance and child abuse prevention treatment programs.</li> </ul>
1997	Clinton (D)	<p><i>The Drug Free Communities Act (P.L. 105-20)</i></p> <ul style="list-style-type: none"> <li>• Established a program to support and encourage local communities to reduce substance abuse among youth.</li> <li>• Sought to build coalitions of young people, parents, businesses, the media, schools, youth organizations, law enforcement, religious and fraternal organizations, civic groups, and state, local, and/or tribal government agencies.</li> </ul>

## NOTES

### Chapter I (pp. 1-4)

1. Richard Wright, *Native Son* (New York: HarperCollins Publishers, 1993, orig. pub. 1940), 20.
2. Wright 1993: 21.
3. John H. Franklin and Alfred A. Moss, Jr., *From Slavery to Freedom: A History of African Americans*, 8<sup>th</sup> ed. (New York: McGraw-Hill, 2000).
4. Ralph Gomes and Linda F. Williams, eds., *From Exclusion to Inclusion: The Long Struggle for African American Political Power* (New York: Greenwood Press, 1992).
5. Lucius J. Barker, Mack H. Jones, and Katherine Tate, *African Americans and the American Political System*, 4<sup>th</sup> ed. (Upper Saddle River, NJ: Prentice Hall, 1999), 33.
6. Rudolph O. de la Garza, Z. Anthony Kruszewski, and Tomás A. Arcineiga, *Chicanos and Native Americans: The Territorial Minorities* (Englewood Cliffs, NJ: Prentice-Hall, 1973); Rodney Hero, *Latinos and the U.S. Political System: Two-tiered Pluralism* (Philadelphia: Temple University Press, 1992.); Paula D. McClain and Joseph Stewart, Jr., “Can We All Get Along?” *Racial and Ethnic Minorities in American Politics* (Boulder: Westview Press, 1992).
7. Clarke E. Cochran, Lawrence C. Mayer, T. R. Carr, and N. Joseph Cayer, eds., *American Public Policy: An Introduction*, 7<sup>th</sup> ed. (Belmont, CA: Wadsworth, 2003); Thomas R. Dye, *Understanding Public Policy*, 10<sup>th</sup> ed. (Upper Saddle River, NJ: Prentice-Hall, 2001).
8. Jay P. Greene and Marcus A. Winters, “Public High School Graduation and College-Readiness Rates: 1991–2002,” (2005), [http://www.manhattan-institute.org/html/ewp\\_08.htm](http://www.manhattan-institute.org/html/ewp_08.htm).
9. The state with the poorest graduation rate in the nation for black students was New York (42 percent), followed by Georgia (48 percent), Florida (49 percent), Wisconsin (50 percent), and Nebraska (50 percent). New York also had the lowest graduation rate for Latinos (36 percent), followed by Massachusetts (46 percent), Colorado (47 percent), Michigan (48 percent), and Connecticut (49 percent).
10. Illinois (14 percent), Indiana (14 percent), Wisconsin (14 percent), Michigan (15 percent), and Minnesota (15 percent) had the lowest percentages of black high school graduates equipped to enroll in a university. Latinos were the most unprepared in Massachusetts (14 percent), Ohio (13 percent), Illinois (12 percent), Michigan (11 percent), and New York (11 percent).
11. Barker, Jones, and Tate 1999; Lydia Saad, “Black Dissatisfaction Simmers Beneath Good Race Relations,” (The Gallup Organization, 2003), <http://www.gallup.com/poll/content/default.aspx?ci=9100>. A recent study by the Gallup Organization asked respondents: “On the average, blacks have worse jobs, income, and housing than white people. Do you think this is mostly due to discrimination against blacks or is it mostly due to something else?” Eighty-one percent of whites responded “something else,” compared with 72 percent of Latinos and 53 percent of blacks. Respondents were also asked: “Do you feel that racial minorities in this country have equal job opportunities as whites, or not?” Fifty-five percent of whites responded that minorities had equal opportunities on the job market, compared with only 17 percent of blacks and 39 percent of Latinos. See Saad 2003.
12. Oliver and Shapiro observe, “Just as blacks have had ‘cumulative disadvantages,’ whites have had ‘cumulative advantages.’ Practically every circumstance of bias and discrimination against blacks has produced a circumstance and opportunity of positive gain for whites. When black workers were paid less than white workers, white workers gained a benefit; when black businesses were confined to the segregated black market, white businesses received the benefit of diminished competition; when FHA policies denied loans to blacks, whites were the beneficiaries of the spectacular growth of good housing and housing equity in the suburbs. The cumulative effect of such a process has been to sediment blacks at the bottom of the social hierarchy and to artificially raise the relative position of some whites in society.” See Melvin A. Oliver and Thomas Shapiro, *Black Wealth/White Wealth: A New Perspective on Racial Inequality* (New York: Routledge, 1995), 51.
13. Jack Ludwig, “Has the Civil Rights Movement Overcome?” (The Gallup Organization, 2004), <http://www.gallup.com/poll/content/default.aspx?ci=11905>.
14. Inmates of color have lower levels of education than white inmates. In 1997, 44.1 percent of black state prison inmates and 53 percent of Latino inmates had not graduated from high school or received a GED, compared with 27.2 percent of whites in state prisons. For male inmates ages 20 to 39, 43.9 percent of blacks, 51.8 percent of Latinos, and 27.7 percent of whites had not completed high school. Harlow observes that these men were “markedly less educated than their counterparts in the general population.” See Caroline Wolf Harlow, “Education and Correctional Populations,” U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (Washington, DC: GPO, 2003), <http://www.ojp.usdoj.gov/bjs/pub/pdf/ecp.pdf>. Another study found that, for males born between 1965 and 1968, three percent of whites and 20 percent of blacks had served time in prison by the time they reached their mid-30s. For black

- males, nearly 60 percent of high school dropouts were sent to prison by 1999. See Becky Pettit and Bruce Western, "Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration," *American Sociological Review* 69 (April 2004): 151-69.
15. The Bureau of Justice Statistics of the U.S. Department of Justice defines "sentenced inmates" as persons with prison terms of one year or longer.
  16. The phrase "criminal justice systems" is intentionally used instead of "criminal justice system" because there are 51 such systems in the United States (the 50 states and the federal government). The estimated 6.9 million inmates under the watch of federal or state criminal justice systems include persons either in prison or jail, or on probation or parole. The data are available at the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
  17. Alfred Blumstein, "U.S. Criminal Justice Conundrum: Rising Prison Populations and Stable Crime Rates," *Crime & Delinquency* 44 (January 1998): 127-35.
  18. Sarah Lawrence and Jeremy Travis, "The New Landscape of Imprisonment: Mapping America's Prison Expansion" (The Urban Institute 2004), <http://www.urban.org/url.cfm?ID=410994>.
  19. James J. Stephan and Jennifer C. Karberg, "Census of State and Federal Correctional Facilities, 2000," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (Washington, DC: GPO, 2003), <http://www.ojp.usdoj.gov/bjs/pub/pdf/csfc00.pdf>.
  20. The situation was not much better for black and Latina women. In 2003, white women comprised just over 42 percent of the 92,785 females held under the jurisdiction of the federal or state governments. White female sentenced inmates (39,100) also outnumbered black (35,000) and Latina women (16,200). According to statisticians at the U.S. Department of Justice Bureau of Justice Statistics, however, black women, with an incarceration rate of 185 per 100,000, were more than twice as likely as Latinas (84 per 100,000) and roughly five times more likely than white females (38 per 100,000) to be in prison at the end of 2003. See Paige M. Harrison and Allen J. Beck, "Prisoners in 2003," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (Washington, DC: GPO, 2004), <http://www.ojp.usdoj.gov/bjs/pub/pdf/p03.pdf>.
  21. Melissa Sickmund, "Juveniles in Corrections," U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (Washington, DC: GPO, 2004), <http://www.ncjrs.org/pdffiles1/ojjdp/202885.pdf>.
  22. Lynn Bauer and Steven D. Owens, "Justice Expenditures and Employment in the United States, 2001," U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (Washington, DC: GPO, 2004), <http://www.ojp.usdoj.gov/bjs/pub/pdf/jeeus01.pdf>.
  23. In fiscal year 2001, seven cents out of every dollar spent by state and local governments went to criminal justice activities. According to Bauer and Owens, "Among all state and local expenditures, 3 percent was for police protection, nearly 3 percent for corrections, and 2 percent for judicial and legal services." In contrast, these authors note, "30 percent of state and local government spending went to education, 14 percent to public welfare, 7 percent to health and hospitals, and over 4 percent to interest on debt." See Bauer and Owens 2004, 4.
  24. Bauer and Owens 2004.
  25. Steven R. Donziger, ed., *The Real War on Crime: The Report of the National Criminal Justice Commission* (New York: Harper Perennial, 1996); Jesse Jackson, "Remarks Before One Million Men by Reverend Jesse L. Jackson, Sr. Monday, October 16, 1995," *Million Man March, Day of Atonement: A Commemorative Anthology*, eds. Haki R. Madhubuti and Maulana Karenga (Chicago: Third World Press, 1996); Angela Y. Davis, "Race and Criminalization: Black Americans and the Punishment Industry," *The House That Race Built: Black Americans, U.S. Terrain*, ed. Wahneema Lubiano (New York: Pantheon Books, 1997), 264-79; Angela Y. Davis, "Masked Racism: Reflections on the Prison Industrial Complex," *ColorLines* (Fall 1998), [http://www.arc.org/C\\_Lines/CLArchive/story1\\_2\\_01.html](http://www.arc.org/C_Lines/CLArchive/story1_2_01.html); Eric Schlosser, "The Prison-Industrial Complex," *The Atlantic Monthly* (December 1998): 51-77; Joel Dyer, *The Perpetual Prisoner Machine: How America Profits from Crime* (Boulder: Westview Press, 2000); David Ladipo, "The Rise of America's Prison-Industrial Complex," *New Left Review* 7 (January-February 2001): 109-23.
  26. Five of the states can be considered racially or ethnically heterogeneous: Florida, Illinois, Maryland, Michigan, and New York. Five other states are bifurcated: California, Georgia, Mississippi, New Mexico, and Texas. Because it focuses on state-level politics and policies, Hero's work does not consider the District of Columbia. However, the District, as a majority black city with a large white population (31 percent), can help us gain insight into the politics of policy formulation and implementation in central cities with similar demographics. Hero suggests that heterogeneous states typically have rather large white ethnic populations, as well as significant minority populations, and moderately large white populations. By contrast, bifurcated states have large minority populations (primarily black and/or Latino), large white (non-ethnic)



populations, and rather small proportions of ethnic whites. Homogeneous states lack such racial and ethnic diversity, as they feature small minority populations and few ethnic whites. All of this is significant because the racial or ethnic composition of a state's population can affect state politics and policies. According to Hero, each variation of racial composition is associated with a different type of pluralism. In homogeneous states, there is "consensual pluralism" (i.e., while there may be greater political competition, including high political party competition, that competition is moderated by an underlying consensus arising from homogeneity). In heterogeneous states, there exists "competitive pluralism" (i.e., competition between various groups, including racial or ethnic groups, which is stimulated by greater white ethnic and moderate-to-high minority diversity, and likely is heightened by greater urbanization and factors such as population density). Lastly, in bifurcated states there is "hierarchical" or "limited" pluralism (i.e., a history of various legal and political constraints, such as poll taxes, literacy tests, and other measures designed to suppress political participation). Hero notes, "Despite major social and political changes during the last generation, this condition continues, albeit in a modified form." See Rodney E. Hero, *Faces of Inequality: Social Diversity in American Politics* (New York: Oxford Press, 1998), 15-16, 22.

## Chapter II (pp. 5-6)

27. During his farewell address in 1961, Eisenhower used his final presidential speech to discuss what he identified as an emerging problem—the rapid growth of an immense military establishment. He warned, "We must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist." See Dwight D. Eisenhower, "Farewell Radio and Television Address to the American People," *The Military-Industrial Complex*, ed. Carroll W. Pursell, Jr. (New York: Harper & Row, 1972), 206.
28. Katherine Beckett, *Making Crime Pay: Law and Order in Contemporary American Politics* (New York: Oxford University Press, 1997); Nils Christie, *Crime Control As Industry: Towards Gulags, Western Style*, 3<sup>rd</sup> ed. (London: Routledge, 2000); J. R. Lilly and Paul Knepper, "The Corrections-Commercial Complex," *Crime & Delinquency* 39 (April 1993): 150-66; Randall G. Shelden, "It's More Profitable to *Treat* the Disease than to *Prevent* it: Why the Prison Industrial Complex Needs Crime" (Center on Juvenile and Criminal Justice, 2004), <http://www.cjcj.org/pdf/treat.pdf>. Research on policy subgovernments first emerged during the late 1930s. Subgovernments are meant to describe the relatively stable, cooperative relationship that often developed between congressional committees, administrative agencies,
- and one or more supportive interests groups that shared the same policy area. See Roger Davidson, "Breaking Up Those 'Cozy-Triangles': An Impossible Dream?" *Legislative Reform and Public Policy*, eds. Susan Welch and John G. Peters (New York: Praeger, 1977); J. Leiper Freeman, *The Political Process* (New York: Random House, 1965); Ernest Griffith, *Impasse of Democracy* (New York: Harrison-Hilton Books, 1939); Grant Jordan, "Sub-governments, Policy Communities, and Networks: Refilling the Old Bottles?" *Journal of Theoretical Politics* 2, no. 3 (1990): 319-38; Kenneth Meier, *Politics and the Bureaucracy: Policymaking in the Fourth Branch of Government* (North Scituate, Massachusetts: Duxbury Press, 1979); David Truman, *The Governmental Process* (New York: Knopf, 1951). Some scholars have expanded the definition of subgovernments to include journalists, researchers, and others who play significant roles in generating, disseminating, and evaluating policies. See Paul Sabatier, "An Advocacy Coalition Framework of Policy Change and the Role of Policy-oriented Learning Therein," *Policy Sciences* 21 (1988): 129-168.
29. Adolphus G. Belk, Jr., "Making it Plain: Deconstructing the Politics of the American Prison-Industrial Complex," PhD diss. (University of Maryland, College Park, 2003).
30. During the 1970s and 1980s, policy issue networks emerged as an alternative way of understanding the formulation of public policy. Issue networks are comprised of a large number of participants with varying degrees of commitment or dependence on others in their environment. See Hugh Heclo, "Issue Networks and the Executive Establishment," *The New American Political System*, ed. Anthony King (Washington, DC: American Enterprise Institute, 1978). Issue networks have "vertical components," which cut through the various levels of government, and "horizontal components" that can extend outside of government. See Michael W. Kirst, Gail Meister, and Stephen R. Rowley, "Policy Issue Networks: Their Influence on State Policymaking," *Policy Studies Journal* 13 (December 1984): 249.
31. L. R. Wray, "A New Economic Reality: Penal Keynesianism," *Challenge* 43 (September-October 2000): 51.
32. Wray 2000: 53.
33. Wray 2000: 53.
34. Roy Walmsley, "World Prison Population List, Fifth Edition," *Home Office Research, Development and Statistics Directorate* (2003), <http://www.homeoffice.gov.uk/rds/pdfs2/r234.pdf>.

35. Mattera and Khan explain, “When a government agency issues securities it does so with the help of a financial institution known as an underwriter. The underwriter, usually an investment banking firm, facilitates the [bond] issue by pre-purchasing the securities (at a discount) and then reselling them to dealers or the public at a profit. In some deals more than one underwriter is involved, with one serving as the lead underwriter. The underwriters usually make a profit in the range of 2-3 percent of the face value of the [bond] issue.” Other financial institutions active in this area include Stephens Inc., Prudential Securities, and Lehman Brothers. See Philip Mattera and Mafruz Khan, “Jail Breaks: Economic Development Subsidies Given to Private Prisons,” *Good Jobs First—A Project of the Institute on Taxation and Economic Policy* (2001), [http://www.soros.org/initiatives/justice/articles\\_publications/publications/jailbreaks\\_20011001](http://www.soros.org/initiatives/justice/articles_publications/publications/jailbreaks_20011001), 37.
36. Pamela LiCalzi O’Connell, “New Economy: Behind Bars, a Market for Goods,” *New York Times*, May 14, 2001; Sam V. Meddis and Deborah Sharp, “Prison Business is a Blockbuster—As Spending Soars, so do the Profits,” *USA Today*, December 13, 1994.
37. Most states and the federal government operate some type of prison industry. In Oregon, inmates at the Eastern Oregon Correctional Institution make the “Prison Blues” brand of blue jeans, which is marketed with the slogan “made on the inside to be worn on the outside.” The brand was established by Inside Oregon Enterprises, a division of the Department of Corrections, and has an Internet website, <http://www.prisonblues.com>. Prisoners in Oregon are required by law to work. This law came into existence when voters overwhelmingly passed a 1994 ballot initiative requiring all eligible inmates to work or be in a work-training program at least 40 hours per week.
38. Vince Beiser and Andrew Lichtenstein, “Look for the Prison Label,” *The Village Voice*, May 21, 1996; Gordon Lafer, “Captive Labor,” *American Prospect* (September/October 1999); Christian Parenti, “Making Prison Pay,” *The Nation*, January 29, 1996; James L. Tyson, “The Rise of a Cellblock Work Force,” *Christian Science Monitor*, July 12, 1999.
39. David Leonhardt, “As Prison Labor Grows, So Does the Debate,” *New York Times*, March 19, 2000.
40. Laurie J. Flynn, “Dell Stops Hiring Prisoners For Its Recycling Program,” *New York Times*, July 4, 2003.
41. The Federal Bureau of Prisons (UNICOR) was established in 1934 by an executive order issued by President Franklin Roosevelt. Products made and sold by UNICOR include office supplies and furniture, linens and clothing, and industrial equipment. UNICOR has also made and sold helmets, flak vests, missile cables (including those used on the Patriot missiles during the first Gulf War), wiring harnesses for jets and tanks, radio mounts, and weather instrument parachutes. See U.S. Department of Justice, Federal Bureau of Prisons, “Factories with Fences: The History of Federal Prisons Industries,” (Washington, DC: Federal Prisons Industries, Inc., 1996).
42. *60 Minutes*, “Prisons, Inc.,” June 25, 2000.
43. Harrison and Beck 2004.
44. Paulette Thomas, “Making Crime Pay,” *Wall Street Journal*, May 12, 1994.
45. Mattera and Khan 2001.
46. Davidson 1977; Meddis and Sharp 1994; Cindy Rodriguez, “Census seen as captive to jail population,” *Boston Globe*, January 26, 2001; Julie Tamaki, “Prison is Town’s Savior, but at a Price,” *Los Angeles Times*, March 7, 2000.
47. Belk 2003; Adolphus G. Belk, Jr., “Pigs, Peanuts, Trash, and Prisons: The Politics of Punishment in the Old Dominion and Sussex County, Virginia,” *The Journal of Race and Policy* I (Spring/Summer 2005): 135-158; Ryan S. King, Marc Mauer, and Tracy Huling, “Big Prisons, Small Towns: Prison Economics in Rural America,” (The Sentencing Project, 2003), <http://www.sentencingproject.org/pdfs/9037.pdf>.
48. Schlosser 1998.
49. Joseph D. Davey, *The Politics of Prison Expansion Winning Elections by Waging War on Crime* (Westport, Connecticut: Praeger, 1998).

**Chapter III (pp. 7-11)**

50. Wesley G. Skogan, “Crime and Punishment,” *Politics in the American States—A Comparative Analysis*, 6<sup>th</sup> ed., eds. Virginia Gray and Herbert Jacob (Washington, DC: CQ Press, 1996).
51. Jon F. Hale, “The Making of the New Democrats,” *Political Science Quarterly* 110 (Summer 1995): 207-32.
52. Thomas E. Cronin, Tania Z. Cronin, and Michael E. Milakovich, *U.S. v. Crime in the Streets* (Bloomington: Indiana University Press, 1981).

53. James O. Finckenauer, "Crime as a National Political Issue: 1964-76, From Law and Order to Domestic Tranquility," *Crime & Delinquency* 24 (January 1978): 13-27; Joel Rosch, "Crime as an Issue in American Politics," *The Politics of Crime and Criminal Justice*, eds. Erika S. Fairchild and Vincent J. Webb (Beverly Hills: Sage Publications, 1985).
54. Thomas B. Edsall and Mary D. Edsall, *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics* (New York: W. W. Norton, 1992).
55. Edsall and Edsall 1992.
56. Finckenauer 1978.
57. Respondents were asked the following question: "Which THREE of these national problems (a list of 10 domestic problems was handed to respondents) would you like to see the government devote most of its attention to in the next year or two?" See *Gallup Political Index*, Report No. 1 (Princeton, NJ: The American Institute of Public Opinion, June 1965).
58. See *Gallup Political Index*, Report No. 33 (Princeton, NJ: Gallup International, March 1968).
59. For instance, the Commission on Law Enforcement and Administration of Justice, chaired by then Attorney General Nicholas Katzenbach, was organized to "deepen our understanding of the causes of crime and how society should respond to the challenge of the present levels of crime." See Isidore Silver, ed., *The Challenge of Crime in a Free Society: A Report by the U.S. President's Commission on Law Enforcement and Administration of Justice* (New York: E. P. Dutton & Co, 1968), 57. The group consisted of 19 commissioners, 63 staff members, 175 consultants, and hundreds of advisers. Commission members hailed from every corner of the country and represented a wide range of opinions. They hoped to "steer the issue away from partisan politics and in the direction of bipartisan reform." See Cronin, Cronin, and Milakovich 1981: 28. The commissioners also wanted to develop clear and reliable information to counter "the depth of ignorance" surrounding the nation's crime problem. After the Commission spent two years and \$2.5 million to systematically examine the problem, its final report, *The Challenge of Crime in a Free Society*, was released in 1967. The report concluded with two hundred recommendations for combating crime, and described "reducing poverty, discrimination, ignorance, disease and urban blight, and the anger, cynicism or despair those conditions can inspire" as significant steps toward reducing crime. See Silver 1968: 621.
60. Wallace first ran for president in 1964. He rose to political power in Alabama in January 1963 when he became the state's governor. Wallace refused to lose the gubernatorial election on "the nigger question" and ran on a pro-segregation platform. See Dan T. Carter, *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*, 2<sup>nd</sup> ed. (Baton Rouge: Louisiana State University Press, 2000), 98. He rose to national prominence six months later when he blocked the schoolhouse door in an effort to prevent black students from entering the University of Alabama. During this stage of his political career, Wallace aligned himself with groups such as the Alabama Citizen's Council and the Liberty Lobby. One his speechwriters was a known member of the Ku Klux Klan.
61. Nancy Marion, *A History of Federal Crime Control Initiatives, 1960-1993* (Westport, Connecticut: Praeger, 1994). Over time, the Law Enforcement Assistance Administration grew to be seen as a cash cow by governors, mayors, and police chiefs who felt entitled to financial assistance. See Virginia Gray and Bruce Williams, *The Organizational Politics of Criminal Justice* (Lexington, Massachusetts: Lexington Books, 1980).
62. During his acceptance speech for the GOP nomination, Nixon remarked, "when the nation with the greatest tradition of the rule of law is plagued by unprecedented lawlessness, when a nation that has been known for a century for equality of opportunity is torn by unprecedented racial violence, and when the President of the United States cannot travel abroad or to any major city without fear of a hostile demonstration—then it's time for new leadership for the United States of America." Furthermore, he had a response for civil rights activists and critics who maintained that "law and order" was simply coded speech for racism: "If we are to have respect for law in America, we must have laws that deserve respect. Just as we cannot have progress without order, we cannot have order without progress." See Richard Nixon, "Acceptance of the Republican Nomination for President" (Richard Nixon Library and Birthplace, 1968), <http://www.nixonfoundation.org>.
63. See Richard Nixon, "Annual Message to Congress on the State of the Union," *Public Papers of the Presidents of the United States, Richard Nixon: 1970* (Washington, DC: GPO, 1971).
64. Marion 1994.
65. Devolution was a major component of Nixon's presidential agenda. He suggested that the time had come for "New Federalism," where power would "flow from Washington back to the States and to the people of the United States." See Nixon 1970.

66. McWilliams maintains that America has a long history of fighting “wars” against drugs. Oftentimes, the battles are plagued by racism and xenophobia, as racial and ethnic minorities are associated with different drugs (e.g., blacks and cocaine, Asians and opium). His analysis of America’s drug wars reaches from the colonial era to the late 1980s. See John C. McWilliams, “Through the Past Darkly: The Politics and Policies of America’s Drug War,” *Journal of Policy History* 3, no. 4 (1991): 356-392.
67. Marion 1994.
68. See *Gallup Opinion Index*, Report No. 112 (Princeton, NJ: Gallup International, October 1974).
69. “Decarceration” was defined as treating offenders by removing them from the institutional setting. See Robert Martinson, “What works?—questions and answers about prison reform,” *The Public Interest* 35 (Spring 1974): 39.
70. Martinson 1974: 49.
71. Rick Sarre, “Beyond ‘What Works?’ A 25 Year Jubilee Retrospective of Robert Martinson,” presented at the History of Crime, Policing, and Punishment Conference convened by the Australian Institute of Criminology in conjunction with Charles Sturt University (1999), <http://www.aic.gov.au/conferences/hcpp/sarre.html>.
72. Sarre 1999: 2.
73. Wilson also thought that academicians could make invaluable contributions to the public discourse on crime and punishment. In a subsequent edition of *Thinking About Crime*, he wrote, “if their findings were tended to, a bit less nonsense might be uttered.” See James Q. Wilson, *Thinking About Crime* (New York: Vintage Books, 1985), 4.
74. Wilson defined “predatory crime” as offenses committed for monetary gain, such as robbery, burglary, larceny, and auto theft. See Wilson 1985.
75. “Underclass” is a pejorative terms used almost exclusively to describe poor, urban blacks and Latinos. Gans notes that Gunnar Myrdal used the term in 1963 to describe the workers that were being driven out of the new post-industrial economy: “Myrdal’s fullest definition of ‘underclass’ is ‘an underprivileged class of unemployed, unemployables and underemployed who are more hopelessly set apart from the nation at large and do not share in its life, its ambitions and its achievements.’” See Herbert J. Gans, *The War Against the Poor: The Underclass and Anti-Poverty Policy* (New York: Basic Books, 1995), 28. Others, such as Ricketts and Sawhill, describe the underclass as being heavily comprised of racial minorities, particularly African Americans. See Erol R. Ricketts and Isabel V. Sawhill, “Defining and Measuring the Underclass,” *Journal of Policy Analysis and Management* 7 (1998): 316-325. Critics of the phraseology, including Kelley, have argued that it currently focuses more on the behavior of its alleged members than on class, income, or the type of work that they do for a living. See Robin D. G. Kelley, *Yo’ Momma’s Disfunktional! Fighting the Culture Wars in Urban America* (Boston: Beacon Press, 1997).
76. Wilson described one group of such persons as affluent whites (young, single, and/or elderly) without children. A second group of persons with “special disabilities” included poor whites who lacked the wherewithal to leave the city once the character of the neighborhood declined. Black Americans comprised the third group. Wilson believed that, as a result of racial segregation, blacks of various socioeconomic classes were forced to live in the same communities. He wrote, “The residential isolation of blacks of various class levels in the central cities is a deeply destructive social phenomenon. As both Sar Levitan and Thomas Sowell have observed, the dominant ethic of many inner-city areas is established by a lower class from which the working class and the middle class cannot escape, and which they cannot publicly repudiate without giving aid and comfort to whites who wish to believe the worst about blacks.” Wilson later added, “The real price of segregation, in my opinion, is not that it forces blacks and whites apart but that it forces blacks of different class positions together.” See Wilson 1985: 36.
77. Wilson 1985: 145.
78. Ronald Bayer, “Crime, Punishment, and the Decline of Liberal Optimism,” *Crime & Delinquency* 27 (April 1981): 169-90.
79. The appearance of crack-cocaine was the last step in transforming cocaine from “a faddish drug used predominantly by a small coterie of affluent whites and some blacks to a mass product used by hundreds of thousands of people of all races.” See Clarence Lusane and Dennis Desmond, *Pipe Dream Blues: Racism & the War on Drugs* (Boston: South End Press, 1991), 49. Yet, crack was largely viewed as a drug used by black or Latino city dwellers. Crack became king in cities devastated by joblessness and decay—conditions that characterized urban centers following the decline of American industry. Crack dealing and usage increased as the 1980s progressed. Moreover, crack was distributed in ways never before possible because it was packaged in small amounts costing about five dollars. In addition, crack was sold on street corners, thus making it accessible to a wider range of people. Some even suggested that crack and the underground drug trade were major employers of urban black and Latino

- youth. See Lusane and Desmond 1991; Terry Williams, *Crackhouse: Notes from the End of the Line* (New York: Penguin Books, 1992). The rise of the crack trade, coupled with the cocaine-induced death of University of Maryland basketball star Len Bias, contributed to heightened public concern about drugs.
80. Susan Caringella-MacDonald, "State Crises and the Crackdown on Crime Under Reagan," *Contemporary Crises* 14 (1990): 91-118.
  81. By his own admission, President George H. W. Bush was deeply disappointed with the Comprehensive Violent Control Act of 1990. Although he signed the bill, Bush angrily chided Congress for not delivering his anti-crime package. Controversial provisions pertaining to the federal death penalty, habeas corpus, the exclusionary rule, and gun control were dropped "at the eleventh hour." He pushed for a stronger crime bill for the remainder of his term in the White House. See George H. W. Bush, "Statement on Signing the Crime Control Act of 1990," *Public Papers of the Presidents of the United States, George Bush: 1990, II* (Washington DC: GPO, 1990), 1715-16.
  82. United States Sentencing Commission, "Special Report to the Congress: Cocaine and Federal Sentencing Policy" (1995), <http://www.ussc.gov/crack/exec.htm>.
  83. United States Sentencing Commission 1995.
  84. Marion 1994.
  85. Public opinion data demonstrate that, one month after Clinton announced his candidacy, he was the presidential aspirant with whom Americans were the *least* familiar. Only 58 percent of those surveyed had ever heard of him. Indeed, this number was even lower prior to Clinton's announcement of his candidacy (48 percent in September 1991). More popular Democratic contenders, both official and unofficial, included Jerry Brown, Mario Cuomo, Douglas Wilder, Tom Harkin, Bob Kerrey, and Paul Tsongas. See *The Gallup Poll Monthly*, Report No. 314 (Princeton, NJ: The Gallup Poll, November 1991), 6-7.
  86. Hale 1995.
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108. Ditton and Wilson 1999. The eight states that eliminated parole in the same year that they adopted TIS were: Arizona, Delaware, Kansas, Mississippi, Ohio, Virginia, Washington, and Wisconsin.

#### Chapter IV (pp. 12-24)

103. Washington State was a national leader in both the Truth-in Sentencing (TIS) and Three Strikes movements. It adopted TIS after the highly publicized 1988 murder of Diane Ballasiotes, a 29-year-old Seattle advertising executive. The assailant was a convicted rapist who had been released from prison. Citizen pressure for tougher sentencing laws intensified after the rape and near murder of a 7-year-old Tacoma boy whose penis was cut off by his attacker. See Don Carter, "Shriner Convicted of Mutilating Boy," *Seattle Post-Intelligencer*, February 8, 1990; Kate Shatzkin, "Lack
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118. Thirteen states suggested that they did not enact TIS laws based on reservations about cost. These states were Alabama, Arkansas, Colorado, Hawaii, Indiana, Kentucky, Montana, Nebraska, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming. Officials in Idaho, Massachusetts, Nevada, New Hampshire, and Texas suggested that their existing sentencing policies and practices were working well.
119. Arizona, Connecticut, Iowa, Kansas, Louisiana, Maine, Minnesota, Missouri, North Carolina, North Dakota, New Jersey, Ohio, Oregon, South Carolina, Tennessee, Virginia, and Washington also met the 85 percent sentencing requirement.
120. These states were California, Michigan, New York, Pennsylvania, and Utah.
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123. Eligible applicants included all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. See United States Department of Justice n.d.
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