



# The State of Opportunity in America

## Criminal Justice and Opportunity

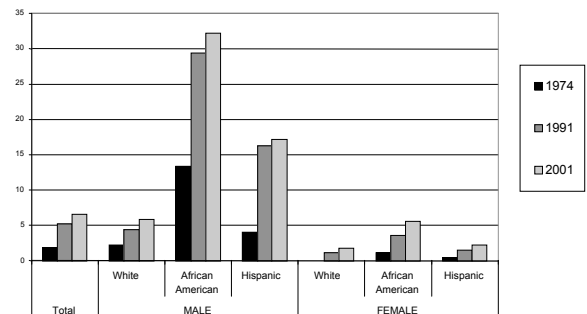
Today, many criminal justice policies and practices have closed the door to opportunity. The stigma of incarceration damages employment prospects and increases the likelihood of being discriminated against when seeking a job. Stigma and discrimination also affect opportunity prospects for the children of the incarcerated, more than 300,000 of whom are directly affected by the imprisonment of a parent. Whole communities suffer opportunity losses when large segments of residents are involved in the criminal justice system.

### Incarceration

High levels of incarceration render families less stable; siphon off resources that are needed for social, health, and education programs; and keep streets unsafe as offenders cycle in and out of prisons with few skills or resources to right their course.<sup>1</sup>

- In mid-2004, 2.13 million people were incarcerated. Of these, more than 1.4 million were in state or federal prisons and more than 713,000 people were in local jails.<sup>2</sup> In 2003 more than 5.6 million U.S. adults had been incarcerated at some point in their lives, about 1 in every 37 U.S. adult residents.<sup>3</sup>
- If this rate of incarceration persists, an estimated 6.6% of all babies born in the United States in 2001 will go to prison at some point in their lives, an increase from a 5% likelihood in 1991 and a 2% likelihood in 1974.<sup>4</sup>
- Based on current trends, about 1 in 3 African-American males, 1 in 6 Hispanic males, and 1 in 17 white males born in 2001 will spend time in prison at some point in their lifetimes.<sup>5</sup>

Figure 1 Lifetime Likelihood of Going to Prison by Race, Ethnicity and Gender, 1974, 1991, and 2001  
Source: Bonczar, 2003



### Disenfranchisement

Nearly 4 million currently or formerly incarcerated Americans were denied the vote in 2000, about 2% of the adult population. An estimated 1 in 7 African-American males is currently disenfranchised.<sup>6</sup>

- Forty-eight states and the District of Columbia do not allow inmates to vote. Thirty-two states deny the vote to felons while on parole. Twenty-eight states block voting among offenders on probation. Thirteen states disenfranchise felons for life, even after the ex-offenders have repaid their debt to society.<sup>7</sup>



### **Racial Profiling of Drug Offenses**

Law enforcement has targeted African-American communities in the effort to halt crack cocaine distribution but national surveys of drug use and statistics on arrests for drug possession and distribution reveal that this strategy is ineffective.

- In 2000, 71% of crack cocaine users were white, while only 18% of those who used crack were African American, and just 8% were Hispanic. Yet 84% of those arrested for possession of crack were African Americans, while fewer than 6% of those arrested for possession were white.<sup>8</sup>
- In contrast, although 81% of users of powder cocaine are white, 30% of those arrested for possession in 2000 were African American, and half were Hispanic.<sup>9</sup>

### **Sentencing Inequality**

Mandatory minimum sentencing policies have exacerbated racial and ethnic inequality in rates of incarceration, while doing little to deter crime.<sup>10</sup>

- In California, the state's three strikes law resulted in the incarceration of over four times as many offenders as any of the other twenty-one states that have adopted such laws.<sup>11</sup>
- African Americans and Latinos were disproportionately more likely to be imprisoned under the three strikes law.<sup>12</sup>
- African Americans make up 6.5% of the California population and nearly 30% of the state's prison population, but they represent 36% of second strikers and 45% of third strikers.<sup>13</sup>

### **Death Penalty**

While some studies of racial disparities in death penalty application find that the race of the defendant alone does not predict a death penalty sentence, significant disparities in application of the death penalty emerge when the race of the defendant is considered in combination with the race of the victim.

- Since 1976 African Americans have been murdered at rates seven to eight times higher than whites, resulting in a roughly equivalent number of African-American and white murder victims. Yet 80% of the more than 840 people put to death have been convicted of the murder of whites.<sup>14</sup>
- A 1990 General Accounting Office review of death penalty studies found that eight in ten studies were consistent in their findings: When African Americans murder whites, death penalty convictions are several times more likely than when the murder victim is a person of color, regardless of who committed the murder.<sup>15</sup>

### **Gender Inequality**

The criminal justice system responds to women offenders more harshly than it did three decades ago. Since 1980 the number of women in state and federal prisons and local jails has increased by more than 800%. Much of this increase relates to drug-related offenses.<sup>16</sup>

- Today the total number of women involved in the criminal justice system--in prison, on probation, or on parole--exceeds one million.<sup>17</sup>
- Between 1986 and 1999 the number of women incarcerated in state prisons for drug offenses grew by almost 900%, far exceeding the increase in imprisonment of male drug offenders during the same period.<sup>18</sup>
- Women of color have been affected most by the sharp rise in imprisonment of female drug offenders, even though rates of drug use among women of color are equal to or lower than rates among white women. In 1997 about 44% of Hispanic and 39% of African-American women in state prisons were convicted of a drug offense.<sup>19</sup>

### **Drug Treatment for Substance-Abusing Prisoners**

Rates of substance abuse among incarcerated populations are so high that the U.S. criminal

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justice system is arguably the nation's largest portal for people with mental illness and substance abuse problems. Despite the reported prevalence of substance abuse programs, these programs often fail to reach inmates who need them most.

- Only about one-third of state prisoners and about one-quarter of federal prisoners had participated in drug or alcohol treatment since admission.<sup>20</sup>
- Moreover, the availability of substance abuse treatment for the incarcerated--detoxification, professional counseling, or residential treatment--is declining. The percentage of

inmates in state and federal prisons who received treatment for a substance abuse problem declined between 1991 and 1997, from 25% of state and 16% of federal prisoners to less than 10% of both state and federal prisoners.<sup>21</sup>

In contrast, a larger share of prisoners (20% of both state and federal inmates) with substance abuse problems received other kinds of drug abuse programs such as self-help groups, peer counseling, and education awareness. This percentage increased by 5% since 1991.<sup>22</sup>

## Conclusions and Recommendations

*Without a renewed national commitment and concrete policy changes to reverse these negative trends, the promise of opportunity for all is at great risk for this and future generations. Fulfilling the promise of opportunity for all will be one of the great challenges of the twenty-first century. It will require bold leadership from our government, civic, and business leaders, creative and effective solutions, and the sustained political will of the American people. Fortunately, however, a significant body of pragmatic policies has proven effective in expanding opportunity in concrete and measurable ways. The State of Opportunity report recommends six types of policy approaches:*

- Regularly assess the impact of public policies on opportunity;
- Modernize safety net programs that help people meet their basic needs, starting with equitable and affordable healthcare for all Americans;
- Build Americans' skills to adapt to a globalizing economy, evolving technology, and an increasingly diverse population;
- Renew a commitment to human rights in the United States;
- Prioritize crime prevention and rehabilitation over increased incarceration; and
- Protect voting rights and promote political participation.

<sup>1</sup> M. Mauer and M. Chesney-Lind, *Invisible Punishment: The Collateral Consequences of Mass Imprisonment* (New York: The New Press, 2002).

<sup>2</sup> P.M. Harrison and A.J. Beck, "Prison and Jail Inmates at Midyear 2004," *Bureau of Justice Statistics Bulletin* (Washington, D.C.: U.S. Department of Justice, April 2005).

<sup>3</sup> T.P. Bonczar, "Prevalence of Imprisonment in the U.S. Population, 1974-2001," Bureau of Justice Statistics (Washington, D.C.: U.S. Department of Justice, August 2003).

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> M. Mauer, "Mass Imprisonment and the Disappearing Voters," in eds. M. Mauer and M. Cheney-Lind, 2003.

<sup>7</sup> *Ibid.*

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<sup>8</sup> Leadership Conference on Civil Rights Education Fund, *Wrong Then, Wrong Now: Racial Profiling Before and After September 11, 2001*, www.lccr.org (30 September 2005).

<sup>9</sup> Ibid.

<sup>10</sup> V. Schiraldi, J. Colburn, and E. Lotke, *Three Strikes and You're Out: An Examination of the Impact of Strikes Laws 10 Years After Their Enactment*, September 2004, www.justicepolicy.org (30 September 2005).

<sup>11</sup> S. Ehlers, V. Schiraldi, and E. Lotke, *Racial Divide: An Examination of the Impact of California's Three Strikes Laws on African Americans and Latinos*, October 2004, www.justicepolicy.org (30 September 2005).

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Amnesty International, *Death by Discrimination: The Continuing Role of Race in Capital Cases* (New York: Amnesty International, April 2003).

<sup>15</sup> Ibid.

<sup>16</sup> L.A. Greenfeld and T.L. Snell, "Women Offenders," Bureau of Justice Statistics (Washington, D.C.: U.S. Department of Justice, December 1999 [revised October 2000]).

<sup>17</sup> Ibid.

<sup>18</sup> American Civil Liberties Union, Break the Chains, and The Brennan Center for Justice, *Caught in the Net: The Impact of Drug Policies on Women and Families*, March 2005, www.brennancenter.org (29 October 2005).

<sup>19</sup> Ibid.

<sup>20</sup> C.J. Mumola, "Substance Abuse and Treatment, State and Federal Prisoners, 1997," Bureau of Justice Statistics (Washington, D.C.: U.S. Department of Justice, January, 1999).

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

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