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## Americans Behind Bars:

**The International Use of Incarceration,  
1992-1993****By Marc Mauer, Assistant Director, The Sentencing Project  
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AMERICANS BEHIND BARS:

THE INTERNATIONAL USE OF INCARCERATION, 1992-93

OVERVIEW

Interest in international comparisons on the use of incarceration has increased in recent years. From the Singapore caning of Michael Fay to changes in the use of prisons in eastern Europe to the use of prison labor in China, attention has focused on the ways in which nations utilize different sentencing policies.

In recent years, we have issued two prior reports comparing international rates of incarceration. These reports documented that the United States had become the world leader in its rate of incarceration, having surpassed South Africa and the former Soviet Union, and that the black male rate of incarceration in the U.S. far exceeded that of black males in South Africa.

We now look again at these issues, in what is the most comprehensive survey to date on international rates of incarceration. The main findings of this report are the following:

- Russia has now surpassed the United States to become the world leader in its rate of incarceration, with 558 citizens per 100,000 population in its prison system. The rise of organized crime, political instability, and the transition to an uncertain economic future have all played a factor in crime rates and the use of imprisonment.
- With 1.3 million Americans behind bars, the U.S. rate of incarceration is 519 per 100,000, second in the world among the 52 nations covered in this survey. The U.S. rate has increased by 22 percent since 1989, and is generally 5-8 times the rate of most industrialized nations.
- A racial breakdown of the U.S. inmate population shows that African-Americans are incarcerated at a rate that is more than six times that of whites -- 1,947 per 100,000, compared to 306 per 100,000.
- Black males in the U.S. are incarcerated at more than four times the rate of black males in South Africa -- 3,822 per 100,000 versus 851 per 100,000.
- The cost of incarceration nationally in the U.S. is estimated at \$26.8 billion annually. Estimated costs of incarceration for African-American males are \$11.6 billion annually.
- The number of AfricanAmerican males in prisons and jails in the U.S. 583,000 is greater than the number of AfricanAmerican males enrolled in higher education 537,000.
- Drug, property and public order offenders accounted for 84 percent of the 155 percent increase in new court commitments to state prison from 1980 to 1992, while violent offenders accounted for only 16 percent of the increase.

As we have stated in past reports, a nation's rate of incarceration in itself only describes one aspect of its criminal justice or social policies. For example, a nation with a high rate of incarceration might have a high rate of crime, a harsh sentencing system, a politically repressive government, or some combination of these and other factors. Similarly, one cannot assume that nations with low incarceration rates necessarily have low crime rates or are respectful of civil liberties. For example, the cost of largescale incarceration is prohibitive for many Third World nations, so they maintain a low imprisonment rate. Other nations maintain a relatively low incarceration rate, yet have brutal conditions of confinement. In Zaire, for example, although the incarceration rate is a relatively modest 88 per 100,000, it has been reported that nearly 7.5 percent of the inmates in the prison system die each year due to malnutrition and poor health care.

With these cautions in mind, we look at the dramatically high rate of incarceration in the United States and attempt to assess the factors that have created the anomaly of one of the wealthiest nations in the world sharing the unenviable position of incarceration leader with its former Cold War rival Russia. Whatever the mix of crime rates, criminal justice policies, or social policies that have led to this situation, the rate of incarceration in the United States is so much higher than in comparable nations that it requires a close examination of the various causal factors. Given the renewed "law and order" climate in the country, we also examine the anticipated impact of newlyadopted legislation and conclude with recommendations for what we believe would be a more rational criminal justice policy.

TABLE 1

INTERNATIONAL RATES OF INCARCERATION, 1992-93

NATION	Number of Inmates	Rate of Incarc.*	NATION	Number of Inmates	Rate of Incarc.*
Australia	15,895	91	Luxembourg	352	92
Austria	6,913	88	Macau	600	158
Bangladesh	39,539	37	Malaysia	22,473	122
Belgium	7,116	71	Mexico	86,334	97
Brazil	124,000	84	Netherlands	7,935	49
Brunei	186	70	New Zealand	4,694	135
Bulgaria	8,688	102	Northern Ireland	1,901	126

Canada	30,659	116	Peru (est.)	20,000	91
Cyprus	193	32	Philippines	16,122	30
Czech Republic	16,368	158	Poland	62,139	160
Denmark	3,406	66	Portugal	9,183	93
Egypt	35,392	62	Republic of Ireland	2,155	62
England/Wales	53,518	93	Romania	44,011	193
Fiji	731	96	Russia	829,000	558
Finland	3,295	65	Singapore	6,420	229
France	51,457	84	Slovak Republic	6,517	123
Germany	64,029	80	Solomon Islands	179	56
Greece	6,252	60	South Africa	114,047	368
Hong Kong	10,576	179	Spain	35,246	90
Iceland	101	39	Sri Lanka	10,470	60
India	196,221	23	Swaziland	760	88
Indonesia	41,121	22	Sweden	5,668	69
Italy	46,152	80	Switzerland	5,751	85
Japan	45,183	36	Thailand	90,864	159
Kiribati	81	112	United States	1,339,695	519
Korea (South)	62,711	144	Western Samoa	197	122

\* Rate per 100,000 population

#### FIGURE 1 INCARCERATION RATES FOR SELECTED NATIONS

Russia 558  
United States 519  
South Africa 368  
Singapore 229  
Hong Kong 179  
Poland 160  
New Zealand 135  
Canada 116  
Mexico 97  
England/Wales 93  
Australia 91  
Spain 90  
France 84  
Germany 80  
Sweden 69  
Denmark 66  
Egypt 62  
Netherlands 49  
Japan 36  
India 23

#### Rates of Incarceration per 100,000 Population

#### INTERNATIONAL TRENDS IN THE USE OF INCARCERATION

As can be seen in Figure 1, the Russian Republic has now replaced the United States as the world leader in its use of incarceration, with a rate of incarceration of 558 per 100,000. By all accounts, this has been the result of a greatly increased use of incarceration since the fall of the Soviet Union. For comparative purposes, estimates of the use of incarceration by the Soviet Union in 1989 ranged from 268 to 353 per 100,000.

A variety of factors have led to the increased use of incarceration in Russia. News accounts have discussed the rise of organized crime, coming at a time of much economic and political instability. As the country moves toward a market economy, the social disruption and loss of a limited social "safety net" for some may contribute to higher crime rates. It has been reported that during the first quarter of 1994, there was an average of 84 murders a day in Russia, a per capita rate that is about double that of the U.S. The use of the prison system for political prisoners, both in the past and at present, is an issue for which there are few precise figures. The State Department has also reported that because the court system does not have the resources to handle the increasing number of arrests, defendants are often held in pretrial detention for more than a year without judicial review.

While comparative data are not readily available, some reports indicate that the high rate of incarceration in Russia may be in good part a result of harsher sentencing practices than other nations, and not primarily differences in crime rates. Comparing prison populations and sentencing practices in Russia to England and Wales, Roy D. King concluded that "it would seem that many offenders are swept into the prison system for much more trivial offences, for much longer periods, and at much earlier points in their criminal careers [in Russia] than would be the case in Britain."

The rate of incarceration in South Africa continues to remain far above that of most other nations as well, at 368 per 100,000 population. It should be noted that these figures are from the end of 1993, prior to the historic change of government in 1994. Therefore, it is too early to know what changes, if any, will be instituted by the new government. One early indication of a possible direction was a reduction of almost all prison sentences by six months following a nationwide series of prison disturbances in June, 1994. In a number of European countries, though not all, incarceration rates have been rising in recent years. In the Netherlands, long considered a leader in the limited use of incarceration, the rate of incarceration doubled during the 1980s. Even with this increase, however, the country's current rate of 49 per 100,000 still places it at onetenth the U.S. rate and far below most industrialized nations.

Comparing data for 1989 from our first report, we find that Italy's rate of incarceration increased by 33 percent in the period 1989-92, while Austria, Spain, and Switzerland registered gains in the 1416 percent range, and France and Denmark were virtually unchanged.

In the U.S., which was the world leader in 1989, incarceration rates have increased by 22 percent from 426 per 100,000 in 1989 to 519 per 100,000 for 1992/93. Thus, the rate of incarceration in the U.S. is approximately five to eight times the rate of Canada and most European nations. With a total of 1.3 million inmates in the U.S., at an estimated annual cost of incarceration of \$20,000 a year, the national cost of imprisonment in the U.S. is approximately \$26.8 billion. Costs of incarceration for the 583,000 incarcerated African-American males are estimated at \$11.6 billion annually.

As has been seen in previous reports, the rate of incarceration for African-American males is a major component of the high U.S. rates. Tables 2 and 3 below compare racial differences in incarceration in the U.S. and South Africa while still under apartheid.

**TABLE 2  
U.S. INCARCERATION RATES BY RACE (MALE AND FEMALE)**

Race	# of Inmates	Rate of Incarceration
Black	626,207	1947
White	658,233	306

**TABLE 3  
INCARCERATION OF BLACK MALES**

Nation	# of Black Male Inmates	Rate of Incarceration
United States	583,024	3822
South Africa	106,107	851

**WHY DOES THE UNITED STATES HAVE SUCH A HIGH RATE OF INCARCERATION?**

It would appear logical in many respects to assume that a high rate of incarceration is a direct response to high crime rates. In recent years, though, many criminologists and policymakers have concluded that imprisonment rates are to a great degree a function of criminal justice and social policies that either encourage or discourage the use of incarceration. The current wave of "Three Strikes and You're Out" proposals illustrates this well. States that have passed such legislation will soon experience an increase in their prison populations of varying degrees depending on the scope of the legislation. While one can debate whether or not these policies are appropriate or will have an impact on crime, it is clear that conscious policy choices are creating a higher rate of imprisonment.

We can see this as well by comparing incarceration rates among the states, where we find that a state's use of imprisonment is not necessarily directly related to its crime rate. For example, while Louisiana had the nation's highest rate of incarceration in 1992 and also had a high crime rate (fifth in the nation), Oklahoma was third in its imprisonment rate despite being just 21st in its crime rate.

At the other end of the spectrum, North Dakota was lowest in the nation in both crime and incarceration rates, but Mississippi was 40th nationally in its rate of incarceration despite having the 16th highest crime rate. Decisions made by legislators and criminal justice officials, including sentencing legislation, parole policies, and the availability of sentencing options and community resources, all play a role in determining incarceration rates.

In the following sections, we examine several factors that might be thought to contribute to the high rate of incarceration in the United States. These include:

- overall crime rates
- violent crime rates
- severity of sentencing policies
- cultural attitudes toward punishment

Does the United States Have a High Rate of Incarceration Because of Higher Crime Rates Than Other Nations?

As we have seen, high incarceration rates can be a function of high crime rates, criminal justice policies, or social policies in other areas that influence crime. Some persons contend that the United States has a high rate of incarceration due to its high rate of crime or violent crime rate, compared to other nations.

Although there are a number of methodological problems involved in comparing crime and incarceration rates among nations, criminologists have attempted to study this issue in a variety of ways. A recent survey of this issue looked at whether incarceration rates in six industrialized nations (England and Wales, West Germany, France, New Zealand, Netherlands, and Sweden) could be explained by national crime rates. The conclusion was that "only a small measure of the differences in prison population between one jurisdiction and another or the changes in prison populations within particular jurisdictions seem to be related to crime rates."

Further, the assumption that crime rates are substantially higher in the U.S. than in other industrialized nations is not true for most offenses. A comprehensive survey of victimization rates in the industrialized world conducted by the Dutch Ministry of Justice documented that rates of property crime and some assaultive crimes in the U.S. are not significantly different than in many comparable nations. The twenty nation survey found that four nations (New Zealand, Netherlands, Canada, and Australia) exceeded the U.S. rate of victimization for the eleven crimes surveyed, including robbery, burglary, and car theft. Among individual offenses, the survey found that burglary rates in the U.S. were exceeded by New Zealand, Czechoslovakia, Australia, and Canada; that England, Australia, and New Zealand had higher rates of car theft; and that five nations (Czechoslovakia, Poland, Australia, Canada, and West Germany) had higher rates of sexual assault against women.

The victimization survey also confirms that the commission of a crime is to a certain extent a result of opportunity. For example, car theft rates are highest in countries where automobile ownership is high (such as the U.S., Australia, and England), while bicycle thefts also correlate with high ownership rates (as in the Netherlands and Sweden). Similarly, burglary rates are highest in countries with a significant proportion of semidetached or detached homes (including the U.S., Poland, England, and Australia). These findings have implications for crime prevention, such as making greater use of mass transit.

The data on crime victimization overall, therefore, does not provide an explanation for the high incarceration rate in the U.S. While it remains possible that crime rates account for part of the difference in rates of incarceration, the magnitude of the difference between the U.S. and other nations is so great that overall crime rates cannot account for the disparity.

Do Rates of Violent Crime Explain the High Rate of Incarceration in the U.S.?

Looking at rates of violent crime, we see sharper distinctions between the U.S. and most industrialized nations, in large part due to the role of firearms in U.S. crime rates. Rates of assault and murder with firearms are far higher in the U.S. than in comparable nations, with murder rates in the U.S. generally five to ten times the rate of most European nations. Since a violent offender is generally more likely to be incarcerated upon conviction than a nonviolent offender, a higher violent crime rate would be expected to result in a higher imprisonment rate.

We do not have sufficient data to analyze the relative proportions of violent and nonviolent offenders in other prison systems, or to assess how they compare to the U.S. in this regard. What is available, though, is information regarding the increase in the American prison population in recent years. Examining these data demonstrates that the substantial rise in the inmate population since 1980 was not primarily due to incarceration of violent offenders.

As seen in Table 4 below, data from the Bureau of Justice Statistics show that new court commitments to state prison increased by 155 percent from 1980 to 1992. A breakdown of this increase, though, shows that violent offenders accounted for only 16 percent of this increase, with the remaining 84 percent being due to increased incarceration of drug and property offenders and persons convicted of public order offenses. Thus, while it may be true that part of the explanation for high incarceration rates in the U.S. is due to higher rates of violent crime, this is clearly not the primary factor behind the unprecedented increase in the prison population that we have seen in recent years.

**TABLE 4  
INCREASE IN NEW COURT COMMITMENTS  
TO STATE PRISON BY CRIME TYPE,**

Offense	Court Commitments 1980	Court Commitments 1992	Increase 1980-92	% of Total Increase
Total	131,215	334,301	203,086	100%
Violent	63,200	95,300	32,100	16%
Property	53,900	104,300	50,400	25%
Drug	8,900	102,000	93,100	46%
Public order	5,200	29,400	24,200	12%

Note: Columns do not add up to 100% due to rounding and a small number of "other" offenses. Data calculated from Darrell K. Gilliard and Allen J. Beck, "Prisoners in 1993," Bureau of Justice Statistics, 1994.

### Are Sentencing Policies in the U.S. Harsher Than in Other Nations?

Another way to explore this issue is to examine relative sentences in different nations for convicted offenders. Those who contend that the high rate of incarceration in the U.S. is primarily a product of high crime rates suggest that a comparison of sentencing policies is necessary in order to ascertain whether the U.S. is more punitive than other nations on a per crime basis. The evidence on this issue is somewhat mixed, but does not necessarily support the contention that high crime rates are the sole explanation for the high rate of incarceration in the U.S.

A 1987 study conducted by the Justice Department examined imprisonment decisions for the crimes of burglary, robbery, and theft in the U.S. compared with Canada, England, and the former West Germany. The study found that the chances of receiving a prison term for an arrest on these offenses was roughly comparable in the U.S., Canada, and England, but lower, particularly for theft, in West Germany. A key issue that was not addressed in the study, though, was comparative length of sentence. It is possible, for example, that while convicted offenders in the U.S. are sentenced to prison at comparable rates to these two other nations, sentence lengths in the U.S. may be longer or shorter than in other countries.

In fact, European comparisons by Young and Brown found that sentence length was in fact a more critical variable than prison admissions in determining prison populations. In looking at the Netherlands and Sweden, both of which have low rates of incarceration, they concluded that the rate of sentencing to prisons was comparable to other nations, but that shorter average sentences accounted for the difference in incarceration rates.

One of the few studies that have attempted to compare the U.S. with other nations, although with some methodological limitations, came to the conclusion that U.S. sentencing practices were in fact more severe. In an examination of sentencing practices in the U.S. and France, Richard Frase looked at whether crime rates, and particularly violent crime, could explain the substantial difference in incarceration rates between the two nations. His conclusion was that even controlling for differences in crime rates, American sentencing severity the use of prison as a sentence and the length of prison sentences was almost twice as high as in France. (By a somewhat more conservative estimation technique, Frase still estimated that American sentencing severity was about 50 percent greater than in France.)

One limitation of the U.S. studies is that they analyze data from the early 1980s. Sentencing patterns in the U.S. have changed substantially since that time, with there now being a greater likelihood of incarceration for many offenses. Bureau of Justice Statistics data show that for every 1,000 arrests, the commitment rate to state prison has increased by 6 percent for robbery, 29 percent for aggravated assault, 49 percent for burglary, and fully 447 percent for drugs from 1980 to 1992. For drug offenses in particular, the length of imprisonment is also increasing in many jurisdictions due to the impact of mandatory sentencing laws. While we do not have data describing sentencing trends in other nations during this period, the changes in U.S. drug policy in particular suggest that the incarceration differential with other nations may continue to increase for some period of time.

### A Cross-National Look at Sentence Length

If in fact sentence length is a key variable in understanding relative rates of incarceration, then the question is why different nations impose varying degrees of sentence length on offenders. Recent research in this area, analyzed by Warren Young and Mark Brown, provides some provocative conclusions. After reviewing explanations for harsher sentencing policies that look at issues such as unemployment rates and public policy decisions, they conclude that these do not provide sufficient correlations for crossnational distinctions. They find instead that the most substantial explanation lies in the cultural attitudes of a society; that is, what most people would consider the "right" punishment. Attitudes toward punishment tend to be shared within a society and affect decisionmaking regarding the harshness of sentencing. But why are some nations more punitive than others? Research by Wilkins and Pease suggests that "a society's penal climate or its relative punitiveness is linked to its relative egalitarianism: the greater a society's tolerance of inequality, the more extreme the scale of punishment utilized." Thus, sentencing severity is a type of negative reward for those at one end of the spectrum, compared to the positive rewards of income and status. A society like the United States, therefore, premised on a strong degree of individualism and with greater disparity of wealth than most industrialized nations, will be more likely to display harsher cultural attitudes toward sentencing policy than a nation with a broader social welfare system.

The implications of this analysis are quite profound, for it suggests that changes in criminal justice policy alone will not eliminate the differential in international rates of incarceration. This is not to deny the importance of changes in criminal justice policy, which can have a significant impact for sentencing of many offenders. The analysis tells us, though, that if a society is committed to lowering its rate of incarceration, either on fiscal or moral grounds, an overall reevaluation of cultural attitudes and values that determine sentencing policy needs to be initiated.

### Summary: Toward an Understanding of Crime and Incarceration

What can we conclude from this assessment of crime rates and incarceration? Several key themes emerge:

1. Crime rates for most property crimes and some assaultive offenses in the U.S. are not significantly greater than for other industrialized nations, and therefore are not a major explanation for the high rate of incarceration in the U.S.
2. Higher rates of violent crime in the U.S. are responsible for at least part of the nation's high incarceration rate compared to other nations. The dramatic increase in the prison population since 1980, though, was not primarily a result of sentencing greater numbers of violent offenders, since violent offenders represented only 16 percent of the increase in court commitments from 1980 to 1992.
3. The impact of the "war on drugs" has been responsible for much of the increase in the prison population, with 46 percent of new court commitments since 1980 being due to drug offenses.

4. Crossnational comparisons of rates of incarceration suggest that the length of prison sentences, rather than the number of persons sentenced to prison is the main determinant of differing rates of incarceration. Thus, alternatives to incarceration may have some impact on lowering a jurisdiction's incarceration rate, but this will generally be of less magnitude than altering sentence lengths.

5. Once prisons are built, they are in many respects a self-perpetuating entity. Prisons are constructed to last for 50-100 years and their continued use over time contributes to a culture that makes their use seem logical and rational. While few persons would argue with the necessity for a certain level of imprisonment in society, it is far from clear that incarceration is the only, or best, means of either preventing or controlling crime. A broad range of policies both within and outside the criminal justice system exist to accomplish these objectives, and different nations make use of these resources to varying degrees. Unless incarceration is examined in this context, policymakers will be confronted with a set of crime control options that is much more restrictive than necessary.

**WHAT HAS BEEN THE IMPACT OF INCREASED INCARCERATION ON CRIME?**

While there are a variety of reasons why judges sentence offenders to prison, the underlying goal is to reduce crime, whether accomplished through incapacitation, deterrence, or rehabilitation in prison. Given the enormous increase in the use of imprisonment in the past two decades, along with heightened public concern about crime, it is critical to examine the effect these policies have had on public safety.

There is a small body of opinion, generally represented by the National Rifle Association and its allies, that contends that the prison buildup of the 1980s had a dramatic effect on crime rates and that "Incarceration works." This assertion turns out to be based on serious distortions of criminal justice data. The NRA claims, for example, that the 150 percent increase in incarceration from 1980 to 1991 led to a 24 percent drop in "serious victimization." Upon closer examination, however, the NRA definition of "serious victimization" includes violent crimes, but also the nonviolent crime of burglary, one of the FBI's seven Index offenses. While burglary rates did decline during the 1980s their inclusion with violent crimes distorts actual trends. Had the NRA included the Index offense of auto theft rather than burglary in its calculations, the results would have been very different, since auto theft victimization increased by 33 percent during this period. Looking only at violent crime, we find that the more than doubling of the prison population paralleled a 4 percent decline in violent crime during this period.

The "relationship" claimed by the NRA also turns out to be one that is not consistent over time. By breaking down crime and incarceration into two periods, 1980-86 and 1986-91, as seen below in Tables 5 and 6, we find that incarceration rates rose by 65 percent and violent crime declined by 16 percent in the first period, but that from 1986 to 1991, despite the fact that imprisonment rose 51 percent, violent crime also increased, by 15 percent. Clearly, no cause and effect relationship can be discerned here.

**TABLE 5  
CHANGES IN IMPRISONMENT  
1980 - 1991**

	1980	1986	Change	1986	1991	Change
Prisoners	329,821	545,378	+65%	545,378	824,133	+ 51%

**TABLE 6  
CHANGES IN VICTIMIZATION RATES  
1980 - 1991**

Offense Category	Victimization Rates per 1,000 Population					
	1980	1986	Change	1986	1991	Change
Burglary	84.3	61.5	-27%	61.5	53.9	-12%
Violent Crimes:						
Murder*	0.102	0.086	-16%	0.086	0.098	+14%
Rape	0.9	0.7	-22%	0.7	0.9	+29%
Robbery	6.6	5.1	-23%	5.1	5.9	+16%
Assault	25.8	22.3	-15%	22.3	25.5	+14%
Total Violent Crime	33.4	28.2	-16%	28.2	32.4	+15%

\* Murder rates, reported by the FBI per 100,000, are shown to three decimal places in order to observe trends.

What about crime rates overall, though, in addition to violent crime? Here, too, we see no consistent impact. Some crimes, such as burglary and larceny, have declined steadily since 1980. Others, such as auto theft, have increased significantly. One measure of crime's impact on society is the financial harm suffered by victims. In this regard, the increase in auto theft has been far more costly, since the median loss to victims (\$3,600) is substantially greater than for victims of burglary or larceny (\$50 and \$55 respectively). Again, any overall positive gains in crime control are difficult to discern.

More sophisticated studies, such as those of Patrick A. Langan, have attempted to look at this issue as well, and have suggested that increased incarceration may have had some impact on crime rates. Yet in a comparative study of the use of incarceration in England and the United States he concludes that "Existing evidence does not suggest that crime can be dramatically reduced simply by putting more offenders behind bars," and that "modest reductions in crime may be possible, but major and lasting reductions probably will require social intervention techniques, such as parent training or preschool intellectual enrichment programs."

Two other issues bear on this relationship as well. First, as we have noted in previous reports, demographic issues play a significant role in crime rates, since young males produce disproportionately high rates of crime. As criminologists Darrell Steffensmeier and Miles Harer have noted, most of the change in crime rates in the period 1980-88 can be explained by changes in the proportion of the population in the age group 15-24.

Second, the impact of drug crimes and arrests adds another dimension to this analysis, since drug offenses are not covered as part of the FBI's Uniform Crime Reports, or what is generally described as the "crime rate." Since there are no data on the number of drug crimes that are committed, we can only look to statistics on drug arrests for general trends, where we find that drug arrests doubled during the 1980s. Some experts have speculated that the decline in some offenses such as burglary during this period may represent a shift in crime patterns from burglary to lowlevel drug dealing, and not necessarily an overall reduction in criminal activity.

Finally, some advocates of increased incarceration contend that had the large buildup of the prison population not taken place, crime rates would have been even higher than they already are. This type of speculation can be neither proved nor disproved, but if one believes that crime would have increased, then there must have been some specific factors causing this. They may have included poverty, drug abuse, poor education, and family breakdown, among others. Addressing these problems should have more of an impact on crime than continuing to expand the prison population.

**WHY HASN'T INCARCERATION HAD MORE IMPACT ON CRIME?**

Common sense would tell us that locking up offenders should have an impact on crime. Certainly, some offenders are incapacitated or deterred through incarceration. What

seems surprising at first, though, is the relatively limited nature of this impact, particularly given the massive use of incarceration in the United States. An examination of three key issues in demographics and criminal justice processing, though, reveals why the prison system has such a modest impact on crime:

#### 1. The "Criminal Justice Funnel"

First, the criminal justice system operates as a "funnel." At the top of the funnel are all the crimes that are committed, and at the bottom, the number of offenders sentenced to prison. The slope of the funnel is quite steep since for many offenses, the crime is never reported to the police, an arrest is not made, a conviction is not obtained, or an offender is not sentenced to prison. Generally, fewer than 3 percent of all serious crimes result in a prison sentence.

One unknown variable is the fact that some convicted offenders have committed additional crimes which have gone undetected. Incarcerating these offenders therefore responds to more than just the single crime of conviction. Yet even if we multiply the 3 percent figure by a factor of five or ten, it is clear that the system is still only able to use incarceration for a relative handful of serious offenses.

#### 2. The Impact of Demographics

The prison system is also limited by the impact of demographics; in particular the fact that a disproportionate number of crimes is committed by 1518 yearold males. For the crimes of burglary, robbery, and assault, for example, the peak age of crime commission is 18. Within six years, these rates are half their peak. This "aging out" of crime phenomenon has two implications for policy: 1) for each succeeding year that offenders are locked up in prison, fewer crimes are being prevented than the year before; and, 2) unless the factors leading to high crime rates in the 1518 year age range are addressed, incarceration will remain an "after the fact" response that fails to address the new annual cohort of potential offenders.

#### 3. The "Replacement" Effect

Finally, the "replacement" effect of crime commission limits the utility of incarceration as a means of crime control. As we have seen most clearly for drug offenses, the massive increase in the use of imprisonment for drug offenders in the 1980s had little discernible impact on drug abuse or drug crimes. As long as a market exists for drugs, new potential sellers will emerge to take the place of those who are locked up.

#### **WHY ARE AFRICANAMERICAN MALES INCARCERATED AT SUCH HIGH RATES?**

We and others have documented the dramatically high rate of incarceration and criminal justice supervision of AfricanAmerican males. As can be seen in the table below, the number of incarcerated black males exceeds the number of black males enrolled in higher education. This is clearly a sign of a longterm crisis in the making for both the black community and the nation.

**TABLE 7**

#### **AFRICAN-AMERICAN MALE TRENDS IN INCARCERATION AND HIGHER EDUCATION**

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<b>Year</b>	<b># Incarcerated</b>	<b>Enrolled in Higher Education</b>
1990	499,000	484,000
1992	583,000*	537,000

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\* Figure represents jail inmates for 1992 and prison inmates for 1993.

In recent years, the plight of AfricanAmerican males has been the subject of much discussion. A 1990 report of The Sentencing Project documenting that one in four young black men was under some form of criminal justice control received widespread national attention. A variety of activities have been undertaken to both study these issues and to address them programmatically. These have included Congressional hearings, the formation of task forces, communitybased programs, and others. Despite this level of activity, though, the number of incarcerated AfricanAmerican males has increased from 499,000 in 1990 to 583,000 by 1992-93.

An analysis of the causes of this distressing situation is complex. An examination of recent trends, though, points to both social policy factors and criminal justice policies that relate directly to this problem.

One of the key issues facing the nation today is the problem of youth violence, an area in which AfricanAmerican males are overrepresented both as victims and perpetrators. Research in this area by criminologist Delbert Elliott indicates a number of directions in which social policy plays a significant role in producing differential outcomes by race. Elliott's review of comparative rates of youth violence finds that rates of violence are high overall and that they cut across racial and class lines. Youth selfreport studies show that for 1617 year old males, 2025 percent of the population report having engaged in "serious violent offending," defined as aggravated assault, forcible rape, robbery, and homicide. Racial differences are relatively modest by age 18, the rate of reported violent offending among blacks is only 18 percent higher than for whites.

After the teen years, two trends emerge. First, the vast majority of violent youth cease their involvement within a few years of its onset. Of those youth who were engaged in violent behavior as teens, nearly 80 percent report discontinuing such behavior by their twenties.

For black youth, though, nearly twice as many persist in their violent offending after age 21. The one significant exception to this pattern, though, is among those males who are employed. Within this group, there are no discernible differences by race.

Elliott concludes that the key to reducing adolescent violent behavior lies in enabling these individuals to make a successful transition to the adult roles of work, marriage, and parenting. He finds that:

...race and class differences in serious violent offending are small during adolescence, but become substantial during the early adult years. This difference does not appear to be the result of differences in predispositions to violence, but in the continuity of violence once initiated. Race, in particular, is related to finding and holding a job, and to marriage and stable cohabiting rates. In essence, race and poverty are related to successfully making the transition out of adolescence and into adult roles.

While incarceration may be necessary to respond to certain violent behaviors, its role in enabling young offenders to make the transition to work and family is virtually nonexistent. For middle class youth who have access to resources, this transition is far more likely to take place successfully with or without any intervention by the criminal justice system.

Compounding these problems in the larger community and economy are criminal justice policies of recent years which have further marginalized AfricanAmerican young males. As we have noted previously, the "war on drugs" in particular has played a substantial role in exacerbating the continuously increasing rates of incarceration. The other major outcome of this "war" has been to increase the already substantial disparity in incarceration suffered by AfricanAmericans.

#### **THE NEW "LAW AND ORDER" CLIMATE**

A visitor from another planet might be forgiven for being utterly confused about the direction of American criminal justice policy. The observer would first note that two decades of steadily increasing rates of incarceration had not resulted in any Americans feeling safer from crime. He or she might understandably then believe that a reconsideration of incarceration policies would be in order.

Looking at activities in Congress and state legislatures, though, it is clear that little of this is taking place. Congress and at least a dozen states have passed "Three Strikes and You're Out" laws mandating life without parole for certain threetime offenders. Despite rising costs of corrections, prison construction continues almost unabated in most parts of the country. And, public opinion polls show substantially heightened concern about crime along with support for various restrictive sentencing policies.

How does one explain this seeming inconsistency between reality and public policy? Many criminal justice observers have noted the fact that fear of crime appears to be increasing even as crime rates remain about the same as ten years ago. Several factors explain this:

1. Crime rates compared to what? While it is true that crime rates are about the same as ten years ago, they are significantly higher than thirty years ago. Therefore, most adults can remember a time in their early life when they felt, and were, significantly safer than they are today. So, whether crime is up a little or down a little from year to year, there is an understandably greater concern about its impact on daily life.

A second issue in this area regards the distinction between crime rates the proportion of crime for a given population and the actual number of crimes. When one reads news accounts of cities experiencing record numbers of murders, for example, it is often the case that the rate of murder is lower than in previous years. While the murder rate in the U.S. is clearly intolerably high, distortions such as this only contribute to misperceptions and a heightened climate of fear.

2. Media access and sensationalism. Public policy in the area of crime control has for a long time been overly influenced by a relative handful of sensational events. The Willie Horton issue of the 1988 Presidential campaign was one of the most prominent examples, along with more recent events such as the 1993 tragic murder of 12year old Polly Klaas in California and the killings on the Long Island RailRoad commuter train. Atypical as these events may be, they create a distorted perception of the actual risks of violent crime.

Another factor in this area is the broader variety of media outlets that now exist and the more sensational forms of reporting engaged in by many of them. The police highway tracking of O.J. Simpson and his subsequent court appearances illustrate ways in which violent crime comes into the American home in a much more direct way than in the past.

3. **Political grandstanding.** One of the more significant political developments on crime policy in recent years is that under the Clinton administration, the Democrats have tried to "take the crime issue away" from Republicans. Public opinion polls show this strategy to have been largely successful, with more respondents indicating confidence in the Democrats to control crime.

In large part, though, this has been little more than promoting the "get tough" approach that the Republican party has been perceived to offer for many years. The President's support for "Three Strikes and You're Out" in his State of the Union message, Congressional support for more prison construction, and the failure to make any significant inroads on the issue of mandatory sentencing indicate a willingness to pursue many of the major policy thrusts of the Reagan/Bush era.

The primary distinction made by the Democratic leadership in contrast with the past has been the call for a "mix of punishment and prevention" approach to crime. Few persons would argue with the need for such a mix in general terms. The flaw in this approach, though, is that it presupposes that an "equal" mix of punishment and prevention is what is called for today. As the history of the past twenty years has demonstrated, there has been absolutely no reluctance to engage in punishment, even to the point of becoming a world leader in the use of incarceration. At the same time, due to budgetary constraints and a changing political climate, resources devoted to prevention in a broad sense have declined in many respects.

Therefore, if a mix of punishment and prevention is what is actually needed, policymakers should begin to assess how to achieve that mix. Clearly, an emphasis on "frontend" preventive approaches and a decreased emphasis on "backend" reactive approaches should be pursued if the nation is to reach a balance between punishment and prevention.

4. **Intersection of race and crime.** One of the defining issues of American criminal justice policy for many years has been the equation of crime with AfricanAmerican males. The dynamics of this phenomenon are complex, but they center around the vicious cycle that has been created in the national consciousness.

For violent offenses in particular, AfricanAmerican male rates of offending are considerably higher than for other groups. This fact is then portrayed in frequent media depictions of young black men as criminals, which lends support to policies designed to incarcerate ever larger numbers of them. Rarely in this process is any attempt made to understand how a 15year old youth has become a school dropout who is selling drugs and carrying a gun, or what types of family and community responses might have prevented these developments. Few middle class families would willfully hand over their teenage children to the criminal justice system for punishment or rehabilitation, yet AfricanAmerican males are processed into the system in historic numbers with little questioning by the larger community.

Lost in the process as well is the fact that for some offenses, AfricanAmericans are disproportionately represented in the criminal justice system even though their rates of crime commission are not responsible for the disparities. The sentencing disparities between powder cocaine and crack cocaine have been well documented, showing that punishments for these two forms of the same drug are correlated with the race of the user in large part.

Finally, by looking only at prison populations for sources of disparity, we miss key aspects of the potential sources of disparity. For example, within the category of violent offenses, AfricanAmericans arrest rates are approximately the same as the proportion of AfricanAmericans in prison. If one were to look at white collar or corporate crimes, though, two issues would emerge. First, we would find that AfricanAmericans are underrepresented as offenders, and second, that the system has historically put fewer resources into prosecuting these types of crimes. Thus, decisions regarding criminal justice priorities play a role in determining the composition of prison populations regardless of particular crime rates.

#### **The Impact of the New "Law and Order" Movement**

It is still too early to project the full impact of the various sentencing policies that have been adopted or are under consideration at the national and state level. Much of the impact will depend on how broadly the various proposals are crafted, and how they are implemented in practice. It is already clear, though, that the new "get tough" movement has been successful in producing a variety of harsh sentencing proposals, most notably, the "Three Strikes and You're Out" proposals.

The impact of these proposals will be felt in both fiscal terms and potential disruptions to components of the criminal justice system. Much of this can be seen most clearly in the California legislation, which is by far the broadest to date. In addition to providing life without parole for "threetime losers," the California statutes also increase sentences for a broad range of offenses. The Department of Corrections has estimated that the legislation will lead to an increase of 275,000 in the prison population over the next thirty years, with an additional operating cost of \$5.7 billion annually. Further, the legislation will necessitate an additional \$21 billion in prison construction costs.

The impact of "3 Strikes" laws has already been observed at trials and sentencing in a number of states:

- One of the first offenders sentenced under the Washington state law was 35year old Larry Fisher, whose third strike involved robbing a sandwich shop of \$151 by pretending that the finger in his pocket was a gun. His previous two strikes involved pushing his grandfather down and taking \$390 from him, and a \$100 pizza parlor robbery that also did not involve a weapon.

- In the case of the first defendant to be tried in San Francisco under the state's new law, the 71year old victim whose car had been burglarized refused to testify in court because she viewed the penalty as far too severe.

- In the first case to be tried in Los Angeles, jurors deadlocked on a routine burglary charge, reportedly because three jurors believed life in prison was an overly harsh penalty for a nonviolent crime.

The new generation of harsh sentencing policies will also have several lasting impacts: 1) prison construction required as a result of their implementation will represent a commitment to use of these institutions for at least fifty years; 2) funds diverted to increased costs of corrections will not be available to address a variety of crime prevention measures; 3) the already tragic levels of incarceration for African-Americans males will be increased; and, 4) political debate on crime will be further stifled and more focused on a narrow range of sentencing policies.

The ultimate measure of these proposals, of course, is their impact on crime. In this area, too, there is no reason to believe that these proposals will be effective. The demographics of crime commission show us that incarcerating a 50- or 60year old offender is an extremely expensive means for preventing very few crimes. Rather than providing more resources to prevention and a more effective juvenile justice system, funding will be diverted to the creation of geriatric prisons that will hurt taxpayers financially but not provide them with any increased public safety.

#### **RECOMMENDATIONS FOR A MORE RATIONAL CRIME POLICY**

The analysis of crime and incarceration described in this report tells us that the high rate of incarceration in the United States is not solely a product of higher rates of crime than other nations, nor has it achieved a substantial impact on reducing crime. Despite a quadrupling of the inmate population since 1973, Americans do not feel safer from crime and are still victimized by high rates of crime and violence.

We have no illusions that the current tough climate on crime control policies will recede in the near future. Too many senseless crimes combined with too much media sensationalism and political grandstanding have created an emotional and politicized atmosphere that makes rational discussion of crime control policies exceedingly difficult. Nevertheless, there remain many professionals and others who care about the crime problem and are genuinely searching for constructive responses. In addition, numerous public opinion surveys have documented that the public is far more responsive to a broad range of solutions to crime than is commonly assumed. The problem is that the range of choices generally presented in public policy discussions is exceedingly narrow.

In previous reports, we have suggested policy changes that could have an impact on rates of incarceration while providing more appropriate sanctions and services to offenders. These include:

- Repealing mandatory sentencing laws in order to restore appropriate judicial discretion;

- Treating the drug problem primarily as a public health problem rather than as a criminal justice problem;

- Supporting the expansion of a broader range of alternatives to incarceration to provide judges and communities with viable community based sentencing options;

- Establishing a national commission to examine the high rate of incarceration in the U.S., and of African American males in particular.

These and other policy changes would begin to control the spiralling rate of incarceration and associated costs. Implementing these policies, though, is a political problem, one in which there has been relatively little constructive leadership. It is far from certain that the political climate on crime can be altered significantly in the short run. If it is to change in the long run, though, a framework such as the following needs to be presented:

1. No "anticrime" proposals enacted today whether prison construction or prevention programs will have much impact on crime in the next several years. It is far more important to look toward the generation of youth being born today and to develop policies that will reduce their chances of becoming offenders as they reach their teen years.

2. The criminal justice system, as a reactive system, can only have a limited impact on crime. While a system of justice and sanctions is necessary, we should not look to the courts and prisons as the primary means of controlling or preventing crime.

3. Crime is a product of many factors, including individual, family, and community issues. Only an understanding of the complexity of these factors will enable us to develop a comprehensive strategy for responding to the problem.

For too long, public debate on crime has been polarized and stifling. As a result, we are faced with the problems of continuing high rates of crime, increasing rates of incarceration, and continuing public dissatisfaction. After twenty years of "getting tough," it is hard to imagine how new "tough" proposals will succeed any better than their

predecessors. It is time to publicly acknowledge this crisis and to initiate a more honest and open debate about the pressing problem of crime.

#### **METHODOLOGY FOR PRISONER DATA**

United States Data are for the years 1992-93 (the most recent available), and were derived from Bureau of Justice Statistics (BJS) reports detailing the number of prison inmates on December 31, 1993 and the number of jail inmates on June 30, 1992. From the total inmate figure, we excluded 2,804 juveniles being held in local jails as well as 50,966 inmates under federal or state jurisdiction who were being held in local jails, so as to avoid duplication with the jail count.

To calculate the racial composition of the state and federal inmate population, we used the figures of 47.9 percent black and 46.8 percent white from Correctional Populations in the United States, 1991 (BJS). The racial composition of jail inmates was derived in two steps. We first used the figures of 44.1 percent black and 40.1 percent white nonHispanic from the 1992 jail report. We then estimated the portion of the Hispanic population (14.5 percent of jail inmates) by race, using Census Bureau estimates that the Hispanic population nationally is 95 percent white, 2 percent black, and 2 percent other. Male inmate populations were calculated by race by using the 1991 proportions for state and federal inmates and the 1992 overall data for jails. All racial data represent a small undercount, since data on race are not available for approximately 4 percent of state and federal inmates. Overall population data were taken from Census Bureau estimates for 1993.

A small margin of error is inevitable in these calculations. It is possible, for example, that the racial composition of the Hispanic inmate population is different than for the population as a whole. There is no reason to believe, though, that the overall inmate population estimates are off by a substantial margin.

Other Nations Sources for prisoner data include Human Rights Watch, Penal Reform International, Australian Institute of Criminology, Corrections Compendium, and Professor Nils Christie. Data for Asian countries are all for 1993; for Europe and other continents, data are for either 1992 or 1993.

Data for Russia are taken from three sources. The most current is from a report of a lecture given by the General Director of the Russian Prison System, as described by Nils Christie of the University of Oslo in the 1994 edition of Crime Control as Industry, documenting a total of 848,000 inmates. An April 1993 article by Gary Hill appearing in Corrections Compendium cites almost identical figures (845,000), and the State Department's County Reports on Human Rights Practices for 1993 lists the prison population as 827,000. We have used Christie's figure as the most current, and from it have deducted the 19,000 juveniles reported by Hill, so as to be comparable to the U.S. calculations. The South African figures are taken from the 1993 report of the South African Prisons Service. The South African categories of "black" and "colored" are combined to produce the black male rate of incarceration. In previous reports, we have attempted to estimate the incarceration rate for the four "independent" homelands that were not recognized by any nation outside South Africa. This estimate was then incorporated into the overall figures for South Africa to derive a rate of incarceration. Since there are no current reliable figures for these homelands for 1993, we have not included them in either the prison data or the overall population data for South Africa. Therefore, the incarceration rates reported here are not entirely comparable to those of past reports. Since the homelands are now officially part of South Africa, we hope that in future reports data will be available for the entire population.

Although previous reports included data for China, there are no current data that are considered reliable by most observers.

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