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**Life Sentences:
Denying Welfare Benefits
To Women Convicted Of Drug Offenses**

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LIFE SENTENCES: DENYING WELFARE BENEFITS TO WOMEN CONVICTED OF DRUG OFFENSES

I. INTRODUCTION

In 1996, the federal government embarked on welfare reform,¹ dismantling a 60-year old social welfare system. Under the welfare reform act, Aid to Families with Dependent Children (AFDC) has been replaced with Temporary Assistance for Needy Families (TANF), a federal block grant program that imposes time limits and work requirements on welfare recipients. Section 115 of the welfare reform act, a provision of the act that has received little attention, stipulates that persons convicted of a state or federal felony offense involving the use or sale of drugs are subject to a lifetime ban on receiving cash assistance and food stamps.² This provision applies only to those convicted of drug offenses. Thus, offenders released from prison after serving a sentence for murder, for example, are eligible for welfare benefits and food stamps, but not those who have a conviction for possessing or selling a small quantity of drugs. Examining the impact of the lifetime ban is now of particular importance, as Congress will spend the coming year determining which provisions of the welfare reform act it should reauthorize.

The felony drug provision was introduced and ratified with bipartisan support after just two minutes of debate, with no discussion as to whether this provision would serve any significant purpose in furthering the objectives of welfare reform.³ Congressional records indicate that the stated objective of the drug provision in the welfare reform act was to further the goals of distinct government initiative, namely the “war on drugs.” Senator Phil Gramm (R-TX), sponsor of the felony drug provision, stated in no uncertain terms that the provision should be enacted as yet another demonstration of the U.S.’ resolve to fight the “war on drugs.” Gramm opined that “if we are serious about our drug laws, we ought not to give people welfare benefits who are violating the Nation’s drug laws.”⁴ Although drug felonies were the sole offenses written into the legislation as disqualifying offenses, there was no Congressional debate at all regarding whether violent or other crimes should be similarly categorized.⁵

This report is the first national analysis documenting the impact of the lifetime welfare ban on women and their children.⁶ Presently, 42 states are enforcing the ban in full or in part. We find that an estimated 92,000 women are affected by the ban in the 23 states for which we were able to obtain data. Since the application of the lifetime welfare ban only began in 1996, the number of women affected will increase substantially in the coming years.

¹ Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193 (welfare reform act).

² *Ibid.*, s 115(a). The lifetime ban applies to convictions for illegal conduct taking place after August 22, 1996, the date PRWORA was enacted.

³ 142 CONG. Rec. No 109, Sec. 8498 (daily ed. July 23, 1996).

⁴ *Ibid.*

⁵ *Ibid.*

⁶ Although far more men than women are convicted of drug offenses, this report examines the impact on women since they represent the overwhelming number of primary caregivers and welfare recipients.

The ban also currently places over 135,000 children in these states at risk of neglect and involvement with the criminal justice system due to the prospect of reduced family income support. Further, there are significant potential societal costs - in the areas of criminal justice, health, and child welfare - associated with the ban.

In recent years, there has been increasing documentation of the disparate impact of the “war on drugs” on African American and Hispanic communities. However, these analyses have generally focused on impacts related to the criminal justice system. As this report documents, legislative action in the areas of welfare reform and the war on drugs is revealing the intersections of the drug war, criminal justice system, welfare reform and other social policy arenas, which combine to create a disparate impact on African American women and Latinas.

The lifetime welfare ban has a disproportionate impact on mothers of color for two reasons. First, due to racially biased drug policies and enforcement of drug laws, drug offenses account, in large part, for the rapid growth in the number of African American women and Latinas under criminal justice supervision.⁷ Second, as a result of race and gender-based socioeconomic inequalities, African American and Latina mothers are highly susceptible to poverty and as such, are disproportionately represented in the welfare system.

II. IMPLEMENTATION OF THE LIFETIME WELFARE BAN

The drug provision of the welfare reform act applies to all states unless a state legislature elects to either modify or opt out of the provision. As of December 2001, 42 states enforce the ban in full or in part, and only eight states and the District of Columbia have opted out. As seen in Table 1, 22 states have adopted the drug provision in full, while 20 states have modified it.

Of the states that have modified the ban, several limit ineligibility for welfare benefits to persons convicted of particular drug offenses, such as manufacturing or distributing illegal substances. Louisiana and North Carolina have replaced the lifetime ban with a one-year or six-month ineligibility period, respectively. In several states a drug conviction will lead to the denial of either food stamps or TANF benefits but not both. In December 2001, Massachusetts modified the lifetime ban, such that persons convicted of drug offenses are now eligible for food stamps. However, those who serve a prison term for a felony drug offense will be denied cash assistance for the first 12 months following their release, unless they meet specific exemptions, including pregnancy, care of a disabled child or child under the age of 2, or qualify for a domestic violence waiver. In several partial opt-out states, mothers remain eligible for TANF and food stamps provided they either participate, enroll in, or successfully complete a drug treatment program, while in other states, such as Wisconsin, drug treatment is not required, but mothers are subject to random drug tests. Mothers who test positive for drugs lose their eligibility immediately.

⁷ Marc Mauer, Cathy Potler, and Richard Wolf, *Gender and Justice: Women, Drugs, and Sentencing Policy*, (Washington, D.C.: The Sentencing Project, November 1999).

Table 1
State Implementation of Lifetime Welfare Ban

STATE	DENIES BENEFITS ENTIRELY	PARTIAL DENIAL/ TERM-DENIAL	BENEFITS DEPENDENT ON DRUG TREATMENT	OPTED OUT OF WELFARE BAN
Alabama	X			
Alaska	X			
Arizona	X			
Arkansas ①		X		
California	X			
Colorado ①		X		
Connecticut				X
Delaware	X			
District of Columbia				X
Florida ①④		X		
Georgia	X			
Hawaii			X	
Idaho	X			
Illinois ②		X		
Indiana	X			
Iowa		X		
Kansas	X			
Kentucky			X	
Louisiana ③		X		
Maine	X			
Maryland			X	
Massachusetts ③ ④		X		
Michigan				X
Minnesota ⑥			X	
Mississippi	X			
Missouri	X			
Montana	X			
Nebraska	X			
Nevada			X	
New Hampshire				X
New Jersey			X	
New Mexico	X			
New York				X
North Carolina ③		X		
North Dakota	X			
Ohio				X
Oklahoma				X
Oregon				X
Pennsylvania	X			
Rhode Island ① ④		X		
South Carolina			X	
South Dakota	X			
Tennessee	X			
Texas ⑤		X		
Utah			X	
Vermont				X
Virginia	X			
Washington			X	
West Virginia	X			
Wisconsin ⑥			X	
Wyoming	X			
U.S. Total	22	10	10	9

① States denying benefits only for certain drug offenses. Arkansas, Florida, Rhode Island: the sale of drugs only. Colorado: purchasing drugs with food stamps benefits. Persons become ineligible for food stamps only.

② Illinois limits ineligibility to persons convicted of sale of drugs or possession of a large quantity of drugs. Person convicted remains eligible for food stamps.

③ In Louisiana, eligibility is subject to a one-year waiting period after release from custody or conviction date, while in North Carolina, the waiting period is six months. In addition, ex-offenders in North Carolina are required to either have successfully completed a drug treatment program or be participating in one to have their eligibility restored. In Massachusetts, only individuals incarcerated for a drug conviction are ineligible for cash assistance during the first 12 months after release, unless the individual qualifies for an exemption under section 110(e) of Chapter 5 of the Acts of 1995 (including, pregnancy, disability, caring for a disabled child or an eligible child under age 2) or qualification for a domestic violence waiver.

④ Persons with a drug conviction remain eligible for food stamps.

⑤ In Texas, persons convicted of possession or sale of drugs are ineligible for food stamps only.

⑥ In Wisconsin and Minnesota, persons convicted of drug offenses are not required to enter drug treatment programs to receive their benefits, but they must submit to regular drug tests.

III. IMPACT OF THE LIFETIME WELFARE BAN

National Impact

This analysis of the impact of the 1996 welfare reform act is drawn from state sentencing and correctional data compiled by various law enforcement, correctional and court agencies. The figures provided in this report should be considered estimates, in light of a variety of reporting problems in different states. Some state agencies, for example, were able to provide data for incarcerated women drug offenders, but not for those on probation. In other jurisdictions, state officials were not able to avoid 'double-counting' some felony drug offenses; e.g. a woman convicted of a drug offense in 1997, and therefore subject to the ban, may be counted twice if convicted of another drug offense in 1999. Even with these data limitations, the overall figures provided in this report are substantial and relevant for public policy consideration (A complete description of the methodology used can be found in the appendix.).

Although 42 states implement the ban, the 28 states imposing immediate and lifetime ineligibility for welfare benefits following a conviction were selected for review.⁸ In the remaining 14 states, eligibility is either denied for a specific period of time or dependent on a person's participation in a drug treatment program. Of the 28 states that met these criteria, we obtained data from 23. Breakdown by race and ethnicity is provided where possible. The data compiled covers the period from 1996 to 1999.

Table 2 presents our findings on the current impact of the lifetime welfare ban, providing totals for 23 states. Of the states covered by the report, 19 deny cash assistance and food stamps for possession or sale of drugs, three states restrict the lifetime ban to sale offenses, and three states deny either cash assistance or food stamps, but not both.⁹ Using state conviction and correctional data, we estimate that more than 92,000 women in 23 states that enforce the ban in full or in part have had a felony drug conviction since the adoption of the legislation and will be affected by the lifetime welfare ban. There are currently no national data on the number of women who have actually been denied benefits as a result of the ban. The figure of 92,000 represents the number of women who are now ineligible to receive benefits for the rest of their lives.

The national figures in some respects represent a conservative estimate of the number of women affected by the ban. For instance, data was not compiled for the states (Louisiana, Massachusetts and North Carolina) which only impose a time limit rather than a lifetime ban. However, the impact of denying welfare assistance for even a year on the rehabilitative efforts of women reentering their communities should not be underestimated. In addition, some women who are eligible for welfare benefits have been improperly denied benefits by state welfare agencies for either misdemeanor convictions, or for conduct prior to August 22, 1996, the implementation date of the ban.¹⁰

⁸ These include the 22 states with a complete lifetime ban as well as the 6 states that either limit the ban to certain types of drug convictions, or deny food stamps or cash assistance but not both.

⁹ Illinois and Florida are counted in each of the latter two categories because they impose the ban only for sale of drugs and also deny cash assistance but not food stamps.

¹⁰ Amy E. Hirsch, "*Some Days are Harder Than Hard*": *Welfare Reform and Women with Drug Convictions in Pennsylvania*, (New York, N.Y.: The Center on Crime, Communities and Culture, October, 1999), p.52.

Table 2
Women Affected by Welfare Ban, 1996-1999

State	Number of Women
Alabama	1,339
Alaska	481
Arkansas	5,132
Arizona	1,394
California	37,825
Delaware	323
Florida	485
Georgia	8,608
Idaho	931
Illinois (Cook County)	10,298
Indiana	1,281
Kansas	1,231
Maine	71
Mississippi	2,480
Missouri	6,429
Montana	146
North Dakota	273
Pennsylvania	3,068
South Dakota	156
Tennessee	1,837
Texas	4,700
Virginia	3,686
West Virginia	123
Total	92,297

Those states in which welfare assistance depends on women's participation in drug treatment programs were also not included. However, the national shortage of drug treatment programs which service mothers and their children can be expected to result in a significant number of women in these states being denied TANF and food stamps. We also note that in seven states officials were not able to provide data that eliminates any double-counting of women who may have had a felony drug conviction in different years.¹¹ Our findings include:

- Over 92,000 women are currently affected by the lifetime welfare ban.
- The ban is already having a dramatic impact in a number of states – in California, 37,825 women are affected, in Illinois, 10,298, and in Georgia, 8,608.
- While there are no overall data on the children of these offenders, using Bureau of Justice Statistics, we estimate that 135,000 children will potentially be affected by the lifetime welfare ban.¹²

Racial and Ethnic Impact

Table 3 provides a racial and ethnic breakdown of the number of women affected by the ban in the 21 states for which we were able to obtain data. Maine and South Dakota are omitted, as state officials were unable to provide a racial or ethnic breakdown. It documents that:

- More than 44,000 white women, nearly 35,000 African American women, and almost 10,000 Latinas are affected by the ban.
- 48% of the women affected are African American or Latina.¹³
- In five states African American women represent the majority of women subject to the ban – Alabama (61%), Delaware (65%), Illinois (Cook County) (86%), Mississippi (54%), and Virginia (63%).
- In Pennsylvania and Texas, African American and Latina women represent more than 50% of the women affected by the ban.
- Of the states we examined, the number of Latinas affected by the ban is particularly high in some, including Arizona (26%) and California (21%).

¹¹ Possible double-count in Arkansas, California, Illinois, Indiana, Pennsylvania, South Dakota, and Texas.

¹² Lawrence A. Greenfeld and Tracy L. Snell, *Women Offenders*, (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, December 1999), p.7, shows that 70% of women under correctional sanction are mothers and average 2.11 children.

¹³ Percentage obtained from the total number of women affected by the ban, including women identified as other or unknown.

Table 3
Women Convicted of Felony Drug Offenses by Race and Ethnicity ①

State	White	Black	Hispanic
Alabama	526	813	–
Alaska	315	64	14
Arkansas	3,991	1,066	–
Arizona	774	199	364
California	19,168	8,471	7,772
Delaware	102	211	10
Florida	278	207	–
Georgia	4,320	4,182	68
Idaho	832	8	57
Illinois (Cook County)	1,029	8,820	432
Indiana	648	587	28
Kansas	903	245	61
Mississippi	1,054	1,339	12
Missouri	4,613	1,713	60
Montana	121	0	4
North Dakota	214	2	11
Pennsylvania	1,334	1,227	407
Tennessee	904	907	–
Texas	1,795	2,283	622
Virginia	1,313	2,304	53
West Virginia	91	29	2
Total	44,325	34,677	9,977

① The table does not include other racial or ethnic groups, or women identified as ‘unknown’.

IV. IMPACT OF THE BAN ON LIVES OF WOMEN AND CHILDREN

I don't want [cash assistance] for the rest of my life. I just want it until I can get back on my feet – so I can focus on my recovery, get myself together. I have no income whatsoever right now and I need something. Now it matters because I'm trying to do the right thing. They [drug treatment counselors] tell you not to go get a job the first six months to focus on your recovery. What are you supposed to do if you can't get welfare? The children are going to suffer. At least a year – to get yourself a job.

Pennsylvania Woman Affected by the Lifetime Ban¹⁴

Women who have sufficient resources and/or social networks will be able to make the transition from prison or probation to the community successfully and not require welfare assistance. But for women who would otherwise need assistance, the ban is likely to have a devastating impact. Nationally, Department of Justice data show that nearly 30% of women in prison had been on welfare in the month prior to their arrest, and as such we anticipate a significant number of women will require public assistance immediately upon their release from prison.¹⁵ The lifetime welfare ban will have a serious effect on women's ability to overcome addiction, to raise their children, find work, and access drug treatment services. The combined effect of the ban and other recent social policies - public housing and post-secondary financial aid restrictions - will also diminish women's ability to access education opportunities and housing. Women recovering from addiction require time and support as they rebuild their lives – to house and feed themselves and their children while they successfully recover from addiction, gain marketable skills, and find stable and sustainable employment.

Welfare assistance is a pivotal transitional mechanism for poor and low-income families who face economic insecurity. The effectiveness of this transitional mechanism is dependent on two essential components: (1) transitional income assistance for daily living; and (2) concrete anti-poverty resources, such as education, sustainable employment, living wages and drug treatment. The absence of either component makes the transition out of poverty very difficult for families and, in some cases improbable.

Lack of Transitional Income

Under welfare reform, women convicted of drug offenses are not offered any transitional benefits, and immediately lose access to TANF and food stamps for life. The loss of welfare benefits not only affects them, but also results in lower subsistence income for their families.

The drug provision of the welfare reform act reduces a family's allocation by the mother's share of total benefits. In other words, a single-mother of one will receive cash assistance and food stamps to cover the expenses of her child, but not her. As asserted by Senator Phil Gramm, the sponsor of the provision, "[w]hat an individual does does not affect the eligibility of that individual's children or other family members."¹⁶ While this is true, a mother's ineligibility and

¹⁴ Hirsch, p.87.

¹⁵ Greenfeld, p. 8.

¹⁶ 142 CONG. Rec. No. 109, Sec. 8498 (daily ed. July 23, 1996).

loss of benefits will nonetheless put a severe strain on household resources and on her ability to support and care for her children. For women released from prison, often with only one bus fare, the burden may be insurmountable.

Inability to Meet Life's Basic Necessities

I have to pay rent, buy my son clothes, necessities. I need to save for a place. I need to save at least \$200 to apply for [an apartment]. I don't know how they expect you to live until you can get a job.

Woman Affected by the Lifetime Ban¹⁷

Thus far, no substantive study has been undertaken documenting how women subject to the lifetime ban have fared since its implementation. However, women denied benefits because of a drug conviction are likely to face similar economic barriers to those encountered by low-income and poor families, as well as recent welfare leavers. Due to the limited income at their disposal, low-income and poor families often have to forego some of life's basic necessities – such as rent, medical and dental services, food, appliances, and utilities. For example, a 1992 study showed that the proportion of persons unable to pay in full either their rent or mortgage and their utility bills was significantly higher for AFDC (29% and 41% respectively) and poor families (26% and 32% respectively) than non-poor families (8% and 10% respectively).¹⁸ Poor families were four times more likely than non-poor families to have their gas or electricity services cut off, whereas AFDC families were five times more likely.¹⁹

Recent studies documenting the impact of welfare reform on the well-being of leavers have found “high levels of distress, including a larger number experiencing hunger and making use of service providers.”²⁰ In Georgia, one of the states fully implementing the ban, “13 percent of leavers report often or sometimes not having enough to eat; 38 percent are sometimes or often unable to afford a balanced meal.”²¹ The Georgia study also found that 59% of welfare leavers turned to friends and family members for help in order to make ends meet.²²

Mothers denied cash assistance and food stamps are likely to encounter and experience economic hardships at exponentially higher levels than welfare leavers, TANF or poor families. The economic hardships faced by mothers subject to a lifetime welfare ban will lead to overextended and stress ridden caregivers, which will significantly affect their physical and emotional well-being, and interfere with the healthy development of their children.

For many women subject to the lifetime welfare ban, and especially for African American and Latina women, reliance on social networks will not be an effective support alternative. Economic hardships are disproportionately visited upon African American and certain Latino communities,

¹⁷ Hirsch, p.88.

¹⁸ U.S. Department of Commerce, “Current Population Reports - Beyond Poverty, Extended Measures of Well-Being: 1992”, (Washington, D.C.: U.S. Department of Commerce, November 1995), Table 2.

¹⁹ Ibid., Table 3.

²⁰ National Campaign for Jobs and Income Support, *Leaving Welfare, Left Behind: Employment Status, Income, and Well-being of Former TANF Recipients*, (Washington, D.C.: National Campaign for Jobs and Income Support, October 2001), p. 11.

²¹ Ibid.

²² Ibid., p. 12.

including Puerto Rican, Mexican, and newly emerging communities from Central and South America.²³ Research shows that “Blacks have fewer resources than whites do, and the resources they do have are often less effective... [T]he social networks of African American women are often made up of others in similar structural positions.”²⁴ As African American women’s private safety net is generally less secure than white women’s, they must rely more heavily on their own ability to provide for themselves and their children. Without access to assistance the likelihood that women who have been convicted of drug offenses will go without the basic necessities of life is even greater.

Family Dissolution

If a mother is not able to support her child, we would take the child; and at the end of twelve months of placement, we have to terminate parental rights unless there are compelling circumstances. If you’ve made a mistake in your life, it’s very punitive. I imagine it would come into play as more and more women lose their benefits... Women will lose their kids, will lose everything in their lives - cash assistance, kids, jobs. Employers won’t hire them with a felony drug conviction.

Supervisor at the Philadelphia Department of Human Services²⁵

In the past ten years, there has been increasing documentation of the growing incarceration of mothers, as well as of the devastating impact this has had on family structures. Department of Justice research shows that 63% of white women and 67% of African American and Hispanic women incarcerated in state prisons have minor children.²⁶ Many of the children separated from their mothers due to incarceration will only interact with their mothers in correctional environments or through letters or telephone calls, while others will have no contact for many years. Such interference with the parent-child bond will have a serious impact on the psychological and emotional well-being of mothers and children, which will require significant attention during a mother’s reentry process. The lifetime ban significantly affects women’s ability to reestablish environments in which the parent-child relationship can flourish.

Although one of the stated purpose of the welfare reform act is to keep families intact, the lifetime ban is likely to lead to the opposite result - we can expect to see an increase in the number of family breakups. With fewer financial resources available, some mothers subject to the ban may be compelled to place their children in the care of others due to their financial inability to care for them. More fortunate mothers may be able to place their children in the care of friends or relatives. Some mothers may be forced to resort to foster care. A 1999 article

²³ Marta, Tienda and Lief, Jensen, “Poverty and Minorities: A Quarter-Century Profile of Color and Economic Disadvantage.” In *Divided Opportunities: Minorities, Poverty and Social Policy*, Edited by Gary D. Sandefur and Marta Tienda, (New York, N.Y.: Plenum Press, 1988).

²⁴ Katheryn Edin and Kathleen Mullan Harris, “Getting Off Welfare and Staying Off: Racial Differences in the Work Route Off Welfare,” In *Latinas and African American Women at Work*, Edited by Irene Browne, (New York: Russell Sage Foundation, 1999).

²⁵ Hirsch, p. 95.

²⁶ U.S. Department of Justice, and U.S. Department of Justice, Federal Bureau of Prisons, Survey of Inmates in State and Federal Correctional Facilities, 1997 [Computer file]. Compiled by U.S. Department of Commerce, Bureau of the Census. ICPSR ed., (Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 2000).

reporting the impact of welfare reform in Wisconsin supports this proposition, indicating that “five percent of mothers cut off from federal assistance had to ‘abandon’ their children.”²⁷

Other families are likely to be separated by child welfare services. The reduction of family income increases the likelihood that children will be characterized as neglected, which is likely to result in child welfare services intervention. Research shows that every year child welfare services remove almost 200,000 children from their homes, “with Black children being the most likely of any group in America to be taken.”²⁸ Contrary to the popular belief that most children removed from their homes suffer severe abuse or torture at the hands of their caregivers, studies have shown that “neglect is the most prevalent reason children are in foster care [and] in most cases the neglect is related to poverty.”²⁹

Mothers unable to secure housing for their families may turn to shelters as a last resort. Unfortunately, many family shelters do not allow men or adolescent boys to reside in their shelters.³⁰ Children may have to be separated from their fathers to secure housing, while young male teens may be forced to leave their families and fend for themselves at an early age or be placed in foster care until the age of 18. These various types of family dissolution likely to result from the lifetime welfare ban will have a traumatic impact on children, as well as on mothers in their rehabilitative phase, and will lead to an increased reliance on the child welfare system.

Safe and Suitable Living Environments

When I leave [the treatment program] I plan to go to transitional housing. I have no idea how to pay for that without benefits. I don't want to go back to the same neighborhood, because if I go back, I'll end up doing the same thing.

Woman Enrolled in a Drug Treatment Program³¹

Housing difficulties are likely to surface when reduction in family income limits the funds available for rent. For mothers living in large urban areas with higher rents, finding affordable and safe housing with reduced cash assistance may prove to be very difficult. This is particularly significant for African American and Latina women, the majority of whom live in urban areas. Obtaining public housing may not be a viable alternative for mothers with a drug conviction. In addition to the extremely long waiting lists for public housing units, a mother's drug conviction may be grounds for eviction from or denial of public housing.

In 1996, the federal government implemented the “One Strike Initiative,” authorizing local Public Housing Authorities (PHA) to obtain from law enforcement departments criminal conviction records of adult applicants or tenants, for screening and eviction purposes. Local PHAs also have broad discretionary power to deny housing to or evict a person they determine is

²⁷ Dorothy E. Roberts, “Access to Justice: Poverty, Race, and New Directions in Child Welfare Policy,” *1 Wash. U. J.L. & Policy* 63, p.73.

²⁸ *Ibid.*, p. 71 African American children are disproportionately over represented in foster care, accounting for 56% of the children waiting to be adopted. Roberts points out that the reason for the overrepresentation of African American children is in part due to the reality that African American parents are “the mostly likely to lose their [parental] rights” and their children, “the least likely to be adopted.”

²⁹ *Ibid.*, p. 68.

³⁰ Linda Burnham and Kaaryn Gustafson, *Working Hard, Staying Poor – Women and Children in the Wake of Welfare “Reform,”* (Berkeley, CA: Women of Color Resource Center, June 2000), p.17.

³¹ Hirsch, p. 59.

illegally using controlled substances.³² Therefore, they are empowered to deny housing to people who either have a drug conviction or are suspected of drug involvement, and whom they believe could pose a safety concern.

For mothers living in public housing at the time of their conviction, the “One Strike” initiative increases the possibility of eviction, while for those seeking public housing upon release, their chances of obtaining such housing may be diminished, depending on the manner in which PHAs enforce the policy. Many mothers released from prison turn to the relatives and friends who cared for their children during their prison term for help upon release. As most of the incarcerated mothers come from impoverished communities, it is likely that many of their friends and relatives live in public housing complexes. Under the “One Strike” initiative, a mother wanting to move in with a relative or friend and possibly with her children while she gets back on her feet may not be able to do so. Mothers who are evicted from or denied public housing will have difficulty ensuring the safety of their children. Without adequate housing the chances of women staying clean, finding work, and not recidivating are diminished.

The lifetime welfare ban is likely to create conditions forcing mothers to leave or expose their children to very precarious environments.³³ Grandparents and siblings caring for children may not have the necessary financial resources, as well as the emotional or physical capacity, to fulfill the needs of children in their care. Relatives or friends taking on the guardianship of the children may already have their own families, leading to overcrowded households with limited resources, where the needs of the children may not be met.³⁴

Mothers who do not have the support network to provide continued shelter for their children may be at risk of homelessness. Others, in desperate need of an additional source of income, may cohabit with an abusive partner or engage in illegal activity leading to toxic family environments where substance abuse, violence, and neglect are daily occurrences.³⁵ Some mothers will be forced to move in with friends or relatives and live in overcrowded households to avoid homelessness. Under such living conditions, mothers may not always be able to control the living environments as much as if they had their own household, which can lead to mothers and their children being exposed to anti-social behavior or victimized by others in the household.³⁶ Some mothers may be so overwhelmed by their economic circumstances that they may develop mental health problems, and become neglectful or abusive towards their children.

Overcrowded households and family dissolution can increase stress in the lives of children. Studies have shown that stressful family conditions, including overcrowded households, turbulence and family dissolution, adversely affect the well-being of children and adolescents, and can lead to poor engagement in school, emotional and behavioral problems, or delinquency.³⁷

³² Housing Opportunity Program Extension Act of 1996, Pub L. No. 104-120.

³³ “Substantial numbers of children in all types of kinship care face various socioeconomic risks to their healthy development.” Jennifer Ehrle, Rob Geen, and Rebecca Clark, “Children Cared for by Relatives: Who Are They and How Are They Faring?,” *New Federalism, National Survey of America’s Families*, (Washington, D.C.: The Urban Institute, February 2001), p. 2.

³⁴ Hirsch, p. 65.

³⁵ *Ibid.*, p. 106.

³⁶ *Ibid.*, p. 65.

³⁷ Kristin Anderson Moore and Sharon Vandivere (Child Trends), “Stressful Family Lives: Child and Parent Well-Being”, *New Federalism, National Survey of America’s Families*, (Washington, D.C.: The Urban Institute, June 2000), p. 1 and Kristin Anderson Moore and Sharon Vandivere (Child Trends), and Jennifer Ehrle (The Urban

Consequences of the Ban on the Well-Being of Children

I have two children that need attention, that have been without a mother's care for six months. Given a chance, it will be different.

A mother convicted of a drug offense³⁸

Children who are exposed to stressful family environments have been found to be more likely to perform poorly in school and experience emotional and behavioral problems. An Urban Institute study found that 31% of children living under stressful family conditions had low levels of educational engagement, compared to 17% of other children.³⁹ The researchers also found that 15% of children aged 6 to 11 who lived in stressful family environments had high levels of emotional and behavioral problems, whereas only 4% of other children experienced similar problems. Similar findings were found among adolescents as well. Children and adolescents who do not receive the necessary support to develop into healthy, positive, and productive social participants are likely to engage in anti-social behavior harmful to society.

A study conducted by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) shows a link between the maltreatment⁴⁰ of children, low academic achievement, mental health problems, drug use, teenage pregnancy, and delinquency.⁴¹ Although child neglect and abuse cuts cross socioeconomic, racial and ethnic lines, African American and Hispanic women who face greater socioeconomic disadvantages due to race, ethnicity and gender, and lack the necessary resources to combat such disadvantages, run a greater risk of exposing their children to neglect. OJJDP's research shows that children raised in low-income or poor families are more likely to be victims of maltreatment.⁴² Denying mothers welfare benefits at a time they may most need them may prove to be exceedingly punitive to the children for whom they care. Assessing the societal cost of the lifetime welfare ban may be difficult at this point in time but research points to the inevitable reality that such punitive policy may in fact lead to an increase in the number of neglected children at risk of becoming delinquents.

As mothers subject to the lifetime welfare ban struggle to make ends meet, they may be less able to provide the parental supervision and quality attention that is needed by children. An OJJDP study conducted in Rochester, New York found that "[e]conomic hardship and stressful life events led to a lack of parent-child involvement, attachment, and control over adolescents."⁴³ The study concluded that the lack of parent involvement in their children's lives increases the risk of delinquency. Due to limited financial resources, many children will not receive the basic

Institute), "Turbulence and Child Well-Being," *New Federalism, National Survey of America's Families*, (Washington, D.C.: The Urban Institute, June 2000), pp. 2-3; Office of Juvenile Justice and Delinquency, "Family Disruption and Delinquency," *Juvenile Justice Bulletin*, (Washington, D.C.: U.S. Department of Justice, September 1999), p. 4.

³⁸ Hirsch, p. 60.

³⁹ Anderson Moore, "Stressful Family Lives: Child and Parent Well-Being," p. 2.

⁴⁰ Maltreatment includes physical abuse, sexual abuse, physical neglect, lack of supervision, emotional maltreatment, educational maltreatment, and moral-legal maltreatment.

⁴¹ Barbara Tatem Kelly, Terence P. Thornberry, and Carolyn A. Smith, *In the Wake of Childhood Maltreatment*, (Washington, D.C.: U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, August 1997), Figure 1 and p. 7.

⁴² *Ibid.*

⁴² *Ibid.*, p. 3.

⁴³ Katharine Browning, Terence P. Thornberry, and Pamela K. Porter, *Highlights of Findings from the Rochester Youth Development Study (Fact Sheet)*, (Washington, D.C.: US Department of Justice, Office of Juvenile Justice and Delinquency Prevention, April 1999).

necessities of life. According to OJJDP, children who are neglected are almost as likely as victims of physical abuse to engage in violent crimes during adolescence and adulthood.

The research clearly shows that the well-being of children is intimately linked to the well-being of their parents. The impact of maltreatment and family dissolution on the well-being of children is a clear indication that the lifetime welfare ban, although ostensibly targeted only at adults, not only punishes mothers, who are entitled to well-being in their own right, but their children as well.

Access to Anti-Poverty Resources

The first thing companies do now is check on criminal history, then they won't hire you. Even after a longer time, your criminal record is still held against you. In my caseload, domestic violence is a problem but the major, major problem is drugs, lack of education, lack of jobs.

Philadelphia probation officer⁴⁴

Transitional financial assistance represents only one step toward providing women subject to the lifetime welfare ban with the necessary tools to overcome the barriers they will face upon returning to their communities. In order for cash assistance and food stamps to be a temporary source of support, women will need access to anti-poverty resources enabling them to eventually become self-sufficient and productive members of their communities. Most women subject to the lifetime welfare ban will need access to at least three critical services – vocational training, education, and drug treatment. To take full advantage of these programs, low-income women who lack adequate financial support will require cash assistance and food stamps during this transitional period.

Educational Prospects

I want to get my GED and get totally educated. I had a good job and they closed down with no notice. I need to get educated and qualified. I want some backbone, some papers that say I completed something and I'm capable. I want to get a college degree.

Woman convicted of a drug offense⁴⁵

Lack of Educational Skills

A significant number of women under criminal justice supervision have a history of low educational attainment, thus reducing their prospects of finding work with living wages following a conviction. Forty percent of women on probation, and 44% of women in state prison, have not graduated from high school or received a GED, and only 21% of women on probation and 17% of women in state prison have some college education.⁴⁶ The glaring racial and ethnic differences in educational opportunity explain, in part, the employment and wage disparity between women of color and white women. According to the Bureau of Justice Statistics, 59% of Hispanic mothers and 50% of African American mothers in state prison have

⁴⁴ Hirsch, p. 49.

⁴⁵ Hirsch, pp. 43-44.

⁴⁶ Greenfeld, Table 16.

not graduated from high school or received a GED, compared to 27% of white mothers.⁴⁷ Only 7% of Hispanic mothers have any schooling beyond high school, compared to 15% of African American mothers and 20% of white mothers.⁴⁸

Lack of formal education is a key factor contributing to the high levels of low-wage work, underemployment and unemployment experienced by a significant number of women entering the criminal justice system. The Census Bureau reports that “there is a strong association between poverty and education for persons 18 years and older.”⁴⁹ In an average month in 1990, 21% of persons who had not graduated from high school experienced poverty, while only 6% of those with one or more years of college were poor. Women with a high school education or less are more likely to experience low-wage employment (42%) than those who have some college education (17%).⁵⁰

Since incarcerated people have limited educational opportunities while in prison, few women will have the necessary qualifications to successfully compete in the labor market immediately upon their release from prison.⁵¹ Although correctional institutions have increased the number of general education programs (i.e. adult basic education, GED, high school) available to prisoners since the 1970s, as of 1996 only 52% of correctional facilities for women offered post-secondary education.⁵² Access to college education was further limited in 1994, when prisoners were declared ineligible for college Pell grants, leading to the inability of an increased number of incarcerated women, especially low-income women and women of color, to overcome their socioeconomic disadvantages prior to their release. Even women who received educational training report that the skills acquired have proven inadequate upon release from prison.⁵³ Women on probation for a felony offense are even less likely to be referred to general education programs. In 1995, only 7% of all felony probationers participated in such programs.⁵⁴

Low levels of educational attainment will affect the employment opportunities of women subject to the lifetime ban to varying degrees, depending on their racial or ethnic background, requiring greater emphasis on educational opportunities for women of color reentering their communities. Although between the 1970s and early 1990s, the unemployment rates for young African American and Latina women were higher than those of young white women at every educational level, research shows that the unemployment gap between African American and white women, and between Puerto Rican and white women, dramatically widens for those with low levels of education. For example, while the unemployment rates of young African American women who

⁴⁷ Survey of Inmates in State and Federal Correctional Facilities, 1997 [Computer file].

⁴⁸ Ibid.

⁴⁹ Martina Shea, “Dynamics of Economic Well-Being: Poverty 1990-1992,” *Current Population Reports* (P70-42), (Washington, D.C.: Census Bureau, January 1995), p. 6.

⁵⁰ Paul Ryscavage, “Dynamics of Economic Well-Being: Labor Force 1992-93 – A Perspective on Low-Wage Workers,” *Current Population Reports* (P70-57), (Washington, D.C.: Census Bureau, August 1996), Table B. “Average hourly earnings in the course of a month were considered low if they were below \$5.70 an hour.” Thirty percent of men with high school education or less experience low-wage employment, while those with college education are much less likely than their female counterparts to engage in low-wage work (9%).

⁵¹ Bruce Western and Katherine Beckett, “How Unregulated is the U.S. Labor Market? The Penal System as a Labor Market Institution,” 1999, *American Journal of Sociology*, V. 104, I 4, 1030-1060, p. 1045.

⁵² Karen F. Lahm, “Equal or Equitable: An Exploration of Education and Vocational Program Availability for Male and Female Offenders,” *Federal Probation*, December 2000, vol. 64 No. 2, p. 41.

⁵³ Koons, B., et al. 1997. “Expert and Offender Perception of Program Elements Linked to Successful Outcomes for Incarcerated Women.” *Crime and Delinquency*. Sage Publications. 512-532.

⁵⁴ Thomas P. Bonczar, *Characteristics of Adults on Probation, 1995*, (Washington, D.C.: U.S. Department of Justice, December 1997), Table 11.

did not complete high school ranged from 36% to 53% in the 1970, 1980s, and early 1990s, the rates for similarly situated young white women high school never reached the 30% mark.⁵⁵ Research documenting the unemployment rates of young Puerto Rican women who did not complete high school in the 1980s and 1990s “were between 1.4 and 2.2 times as large as those of young white women with comparable schooling.”⁵⁶

The pervasive low levels of educational attainment among women in the criminal justice system, and the impact this has on their employment prospects signals an urgent need for increased educational opportunity for women subject to the lifetime ban. Of particular concern are the higher levels of economic insecurity that African American and Latina women are likely to face following the imposition of a lifetime welfare ban compared to their white counterparts if they are not afforded the time and support necessary to pursue educational opportunities.

Facilitating Women’s Educational Opportunities

Many people lacking the employment skills to be competitive in the job market return to school to improve their skills, but for low-income women convicted of drug offenses, the lifetime welfare ban, job training programs, excluding former substance abusers, and federal legislative changes limit educational opportunities.

Although the ban on cash assistance and food stamps does not prohibit women from taking part in educational and vocational programs and services offered by Departments of Human Services, the likelihood of accessing such services once they have been taken off welfare rolls is minimal. Studies documenting the experiences of welfare leavers show that few families leaving welfare rolls are able to access vital welfare programs and services, for which they remain eligible.⁵⁷ The low participation of welfare leavers in such programs is largely due to a lack of public information - welfare leavers are under the impression that the denial of cash assistance results in their ineligibility for other programs and services; caseworkers fail to inform welfare leavers of their eligibility for other benefits and services; and people with limited English proficiency are not informed of available programs and services because information is not provided in their native tongue.

Women subject to the welfare ban who are informed of educational and vocational programs may still not be able to take advantage of these programs because of a lack of transitional income to support them during the program period. Considering the low levels of educational attainment experienced by women under criminal justice sanction, ensuring participation in secondary and post-secondary educational programs is a priority. Of particular concern for Latina women is access to programs that will increase their English proficiency. To ensure that women receive the educational skills necessary to compete in the labor market while fulfilling their parental responsibilities, adequate transitional income is required.

⁵⁵ Mary Corcoran, “The Economic Progress of African American Women,” In *Latinas and African American Women at Work*, Editor Irene Browne, (New York, NY: Russell Sage Foundation, 1999).

⁵⁶ Mary Corcoran, Collen M. Heflin, and Belinda L. Reyes, “The Economic Progress of Mexican and Puerto Rican Women,” In *Latinas and African American Women at Work*, Editor Irene Browne, (New York, NY: Russell Sage Foundation, 1999), p. 123.

⁵⁷ Cynthia M. Fagnoni, Testimony Before the Subcommittee on Human Resources, Committee on Ways and Means, House of Representative, (Washington, D.C.: United States General Accounting Office, May 27, 1999), p. 9.

Some job training programs do not admit women with a recent history of drug addiction. Women are often required to wait at least two years after their recovery to be entitled to access these services, further limiting their educational and employment opportunities, and accentuating the need for transitional assistance during such waiting periods.⁵⁸

Women's reentry prospects are further limited by the 1998 amendment to the Higher Education Act.⁵⁹ Under the Act, anyone with a drug conviction cannot receive federal financial aid to enroll in a post-secondary institution. The amendment provides that federal financial aid (grant, loan or work assistance) will be delayed or denied to any person convicted of a drug offense. During the 2000-2001 school year, more than 43,000 college students were affected by the amendment.⁶⁰

Employment Prospects

Transitional assistance is essential for many women returning to their communities because their initial job prospects following a conviction are quite often grim. A significant number of women who come into contact with the criminal justice system have very limited employment skills and history to rely on when applying for jobs. In addition, having a criminal history represents an additional barrier to finding employment. The transitional assistance provided through TANF and food stamps offers the financial and subsistence support women require as they build employment skills and convince prospective employers of their commitment to join the workforce.

The Impediment of a Criminal History

Several studies have reported that a criminal record significantly impairs a person's ability to find stable and legal employment, as well as to develop earning potential.⁶¹ As employers are generally hesitant to hire someone with a criminal record, particularly former inmates, prior convictions limit employment opportunities for many ex-offenders to low-wage and low skill markets where employers cannot be as selective about a criminal record. In addition, some states facilitate an employer's ability to screen out ex-offenders by posting their criminal records on the World-Wide-Web.

Ex-offenders' employment opportunities are further curtailed by government policies. A woman's felony conviction subjects her to a lifetime public employment ban in several states, including at least six states which enforce the welfare ban in part or in full – Alabama, Delaware, Iowa, Mississippi, Rhode Island, and South Carolina.⁶² Although other states do not impose an automatic ban, state statutes provide for broad and discretionary powers increasing the likelihood that ex-offenders will be denied public employment in those states. Most states further prohibit ex-offenders with felony convictions from obtaining certain types of occupational or professional

⁵⁸ Hirsch, p. 48.

⁵⁹ 20 U.S.C. 1091(r)(1)

⁶⁰ Arlene Levinson, "Ban on College Aid to Drug Users Backfires," The Associated Press, December 30, 2001.

⁶¹ Shawn Bushway, "The Stigma of a Criminal History Record in the Labor Market," *Building Violence: How America's Rush to Incarcerate Creates More Violence*, edited by J.P. May, (Thousand Oaks: Sage, 2000). Roger Boshier and Derek Johnson, "Does Conviction Affect Employment Opportunities?" *British Journal of Criminology*, 1974, 14:264-68. Wouter Buikhuisen and Fokke P.H. Dijksterhuis, "Delinquency and Stigmatization," *British Journal of Criminology*, 1971, 11:185-88.

⁶² Margaret Colgate Love and Susan M. Kuzma, *Civil Disabilities of Convicted Felons: A State-by-State Survey*, (Washington, D.C.: US Department of Justice, Office of the Pardon Attorney, October 1996).

licenses in fields commonly pursued by women, including childcare, social work, nursing, dentistry (dental assistant), health, and accounting.⁶³

Incarceration creates additional barriers to marketability in the labor force. Mothers who have a felony conviction, but were sentenced to probation, fare better in the job market than those who served a prison sentence.⁶⁴ This is particularly significant for African American and Latina women who comprise a substantially greater proportion of the prison population than those who receive probation. In 1998, African American and Hispanic women accounted for 37% of adult women on probation, but represented 63% of the state female prison population and 67% of women in federal prison.⁶⁵

The stigma of a criminal record will only further compound the barriers already faced by African American and Latina women seeking employment. The criminalization of African American and Hispanic communities in the public domain, as well as the stereotypes associated with African American and Hispanic women, lead to substantial racial and gender discrimination in the hiring practices of employers.⁶⁶

Limited Employment Skills, History and Network

A significant number of women under criminal justice supervision experienced high levels of low-wage work, underemployment and unemployment prior to their arrest. Only half of the mothers in state prison reported employment in the month before their arrest (of these, 79% reported full-time employment, 18% part-time employment and 4% sporadic employment).⁶⁷ A racial and ethnic breakdown shows that mothers of color experience significantly higher rates of unemployment than white mothers. Latina women as a group experience the highest rates of unemployment, followed by African American and white women. Fifty-eight percent of all Hispanic mothers of minor children did not have a job or business prior to their arrest, compared to 52% of African American women and 44% of white women.⁶⁸ With respect to mothers who were employed prior to their arrest, white women were more likely to be employed full-time than were African American or Latina women. Eighty-four percent of white mothers incarcerated in state prison who reported employment before their arrest indicated that they were employed full-time, while 76% of black mothers and 71% Hispanic mothers were employed full-time.⁶⁹

Due to limited employment opportunities, women under correctional sanctions experienced high rates of poverty prior to their arrest. As African American and Latina mothers face greater

⁶³ Ibid.

⁶⁴ Bruce Western and Katherine Beckett, "How Unregulated is the U.S. Labor Market? The Penal System as a Labor Market Institution." *American Journal of Sociology*, January 1999, V. 104, I 4, 1030-1060.

⁶⁵ Greenfeld, Table 16.

⁶⁶ Mary Corcoran, "Rags to Rags: Poverty and Mobility in the United States," 1995, *Annual Review of Sociology*, Vol. 21, 237-267. David Jernigan and Lori Dorfman, "Visualizing America's drug problems: an ethnographic content analysis of illegal drug stories on the news, *Contemporary Drug Problems* 23/Summer, Federal Legal Publications, Inc., 1996.

⁶⁷ Christopher J. Mumola, *Incarcerated Parents and their Children*, (Washington, D.C.: US Department of Justice, Bureau of Justice Statistics, August 2000), Table 13.

⁶⁸ U.S. Department of Justice, and U.S. Department of Justice, Federal Bureau of Prisons, *Survey of Inmates in State and Federal Correctional Facilities, 1997* [Computer file]. Compiled by U.S. Department of Commerce, Bureau of the Census. ICPSR ed., (Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 2000).

⁶⁹ Ibid.

employment insecurity, they are more likely than white women to have lower pre-arrest incomes. Over 50% of Hispanic mothers and 49% of African American mothers had incomes under \$600, while 39% of their white counterparts had similar incomes prior to arrest. Almost 30% of mothers in state prison were receiving welfare assistance before their arrest.⁷⁰ Once again, a racial and ethnic breakdown shows that a disproportionate number of African American and Latina women relied on welfare as a source of income prior to their arrest. Thirty-six percent of black mothers and 31% of Hispanic mothers were welfare recipients, whereas 20% of white mothers were dependent on welfare benefits.⁷¹ Inability to find work that provides living wages creates economic pressures that often compel women to supplement family income through illegal means. Twenty-eight percent of mothers report having used illegal sources to supplement their income.⁷²

Like former welfare recipients, women subject to the lifetime welfare ban will encounter significant spells of unemployment resulting from labor market conditions, poor employment histories, or inability to meet work-related expenses, including affordable and safe child care and transportation. Studies documenting the employment status of former TANF recipients have found that approximately half the leavers in most states report no earnings in the calendar quarter in which they left the rolls, and that a significant portion of parents faced “unemployment rates... slightly higher in the fourth calendar quarter than in the first quarter after leaving welfare.”⁷³ In every state which conducted a study, it was discovered that one-quarter to one-third of welfare leavers return to welfare for assistance⁷⁴ - an option no longer available to women convicted of drug offenses.

The time women spend under correctional supervision is unlikely to result in improved and competitive labor skills enabling them to fare better than welfare leavers in the job market once they lose their benefits. Since the criminal justice system has adopted a “get tough” approach to offenders rather than a rehabilitative one, prisoners are offered limited opportunities to improve their marketable skills while incarcerated. In addition, prison officials often fall into traditional gender stereotyped pitfalls when offering vocational services to women, further limiting their future employment opportunities upon release. The vocational training offered in women’s prisons is similar to the type of low-wage work the vast majority of low-income African American and Hispanic women engage in outside the prison walls.

A national review of both men’s and women’s correctional facilities found that most institutions continue to provide very gender-specific vocational training. The primary sectors for which vocational programs are offered to women in prison include technical/sales (i.e. health and clerical work, and telemarketing), service (primarily cleaning and kitchen work), and operator/fabricator/labor (primarily sewing).⁷⁵ The review also revealed that, unlike correctional institutions for men, “women’s institutions are 604 percent more likely to offer technical/sales training, 208 percent more likely to offer training in service occupations, and 100 percent more likely to offer training in the operator/fabricator/labor sector.”⁷⁶ Men’s correctional facilities are more likely to offer training in production (i.e. masonry, automotive, electronics, construction,

⁷⁰ Greenfeld, p. 8.

⁷¹ Survey of Inmates in State and Federal Correctional Facilities, 1997 [Computer file].

⁷² Mumola, Table 13.

⁷³ National Campaign for Jobs and Income Support, p. 6.

⁷⁴ Ibid.

⁷⁵ Lahm, p. 43.

⁷⁶ Lahm, p. 43.

graphic art, and plumbing) and farm/forestry/fishing careers, skilled trades with higher earning potential.⁷⁷ Vocational training in low wage work is unlikely to provide the necessary income to lead women to self-sufficiency and lift themselves and their children out of poverty.

Recent studies documenting the occupations of parents leaving welfare show that most found employment in similar fields to those for which incarcerated women are being trained, and continue to experience significant poverty. The wages earned by welfare leavers ranged from the minimum wage at the low end to eight dollars per hour at the high end. Although many parents engage in long work weeks (30 hours to more than 50 hours per week) “[a]ll of the studies consistently find that parents leaving welfare with earnings are still poor.”⁷⁸

The economic insecurity of the cohort of African American and Latina women who are incarcerated is comparable to that of women of color generally, suggesting that the employment and wage prospects of African American and Latina mothers and white mothers subject to the lifetime welfare ban will differ significantly. Although the employment rates of Puerto Rican and Mexican women increased between the 1970s and 1990s, while those of African American women remained relatively stable during this period, the employment gap between women of color and white women widened significantly during this same period.⁷⁹ The unemployment rates for women of color continue to greatly exceed those of white women. For example, in 1990 the unemployment rates for young Mexican and Puerto Rican women were twice those for young white women.⁸⁰ In addition, research shows that the unemployment rates of African American women increase much faster than those for white women during recession years, further widening the racial unemployment gap.⁸¹

African American and Latina women denied cash assistance and food stamps will not only have greater difficulty finding work, but they can also expect to receive lower wages, notwithstanding similar educational levels and work experience, as their white counterparts. Research shows that young African American women’s work commitment has “remained steady since 1974, and the proportion of women who worked full time, full year increased steadily after 1973.”⁸² The wages of African American women in the 1970s, although below those of white women, remained relatively close throughout the period. Notwithstanding this progress, in part due to the Civil Rights Act of 1964 and the enforcement of equal opportunity legislation, by 1979 the race-based wage gap started to widen significantly, and by 1991, the wages of young African American women were 14 percentage points lower than their white counterparts’.⁸³ Conversely, Puerto Rican women’s hourly wages were slightly higher than those of white women in 1980, while “the average Mexican women earned 89 percent as much per hour as did the average white women.”⁸⁴ By 1990, Puerto Rican and Mexican women earned 98% and 78% as much as white woman.⁸⁵

Research has shown that the increasing economic disparity between women of color and white women is attributable in part to “the globalization of markets, the shift from a manufacturing to a

⁷⁷ Lahm, p. 42.

⁷⁸ National Campaign for Jobs and Income Support, p. 8.

⁷⁹ Corcoran, “The Economic Progress of African American Women,” and Corcoran and Heflin.

⁸⁰ Corcoran and Heflin.

⁸¹ Corcoran, “The Economic Progress of African American Women.”

⁸² *Ibid.*, p. 55.

⁸³ *Ibid.*, p. 39.

⁸⁴ Corcoran and Heflin, p. 124.

⁸⁵ *Ibid.*

service economy, and technological upgrading (for example, computerization) hav[ing] reduced the demand for low-skilled labor.”⁸⁶ Further, as manufacturing jobs move out of inner cities, the employment opportunities of women of color are dwindling, forcing them to find the resources to either follow the jobs, or upgrade their skills to move into new industries. Some sociologists advance the proposition that “about one-sixth of the trend in higher racial wage differentials among young women is due to increases in the level of white women’s schooling vis-à-vis that of African American women.”⁸⁷ An additional factor contributing to the increasing employment and wage disparity is the sudden and rapid influx of white women into the labor market in the ‘70s and ‘80s. Sociologists argue that the increased pool of women workers “available for employers to choose from expands and so reduces the cost of favoring white women over equally qualified African American women.”⁸⁸

Given the varying barriers women face as a result of poor employment skills, criminal histories, and the racialized and gendered labor market, women should be afforded the time and assistance needed following a criminal conviction to build marketable skills. This will require vocational training in areas where women with a criminal record are not automatically excluded and challenges to such exclusions, as well as training for the types of jobs that provide living wages along with employment benefits. The availability of transitional assistance while women engage in substantive vocational training ensures that they are able to house and feed themselves and their children as they devote themselves full-time to gaining employment skills which will enable them to eventually become self-sufficient. For many women, vocational training may be insufficient to reach self-sufficiency, and increased access to educational opportunities for women, especially African American and Latina women, who are returning to their communities may be necessary.

Drug Treatment Prospects

*I would be in serious pain and couldn’t stop screaming...but he would beat me to keep me quiet. But sometimes I’d have broken bones, so I couldn’t just be quiet. He would go out and come home with “medicine”... He’d shoot me up with it. He started buying morphine on the street. It really helped the physical pain and the emotional pain...Now I try to get it on my own even when he isn’t beating me because I am addicted.*⁸⁹

The majority of women under correctional supervision struggle with substance abuse, and most do not receive the assistance necessary to overcome their addiction. Research has shown that drug treatment plays a critical role in the successful reintegration of ex-offenders into their communities. The loss of welfare benefits experienced by women convicted of drug offenses not only impedes their access to treatment, but also undermines successful recovery, and as such, reduces their chances of returning to more productive lives in their communities.

Substance Abuse Among Women

⁸⁶ Corcoran, “The Economic Progress of African American Women,” p. 56.

⁸⁷ Ibid.

⁸⁸ Ibid., p. 57.

⁸⁹ Beth E. Richie, “Six Paths to Crime,” *Compelled to Crime: The Gender Entrapment of Battered Women*, (New York: Routledge , 1996), p. 125.

Seventy-four percent of women entering the criminal justice system reported using drugs regularly prior to their arrest.⁹⁰ As documented by sociologist Beth Richie in *Compelled to Crime: The Gender Entrapment of Battered Black Women*, women are introduced to drugs because of various social circumstances. While some women are initiated into the world of drugs by their peers, others turn to drug use as a response to the emotional, physical, or sexual abuse they suffer during their childhood and/or as adults at the hands of their intimate partners. Some survivors of abuse start using drugs believing that drug use will lead to greater intimacy between them and their addicted batterers. One African American woman interviewed by Richie shared her efforts to reduce the violence in her household and get closer to her abusive partner, which eventually resulted in her involvement in the sale of drugs,

I remember when I shifted from being angry at him or manipulated by him to feeling really scared of him...First I thought drugging would make us close, like a real couple...so I started with heroin. At first it worked. I wasn't so scared; he was very hot for sex with me, and then he'd sleep a lot. When we didn't have money for drugs, I was in real trouble because his abuse got really out of control. So I started selling as a way to keep us supplied.⁹¹

As pointed out by several of Richie's interviewees, drug use can also serve to relieve the pain of the abuse. One woman explained that the usefulness of drugs was her ability to self-medicate: "even if he did beat me, it didn't seem to hurt as much when I was high, so I thought of it as 'medicating' and caring for myself."⁹²

Unlike middle-class women who experience addiction, most low-income women and women of color do not have the financial resources to address their personal hardships or abuse with costly prescription drugs and/or therapy, and as such many will use drugs to self-medicate, which places them at risk of coming in contact with the criminal justice system. Half the women incarcerated in state prisons described themselves as daily drug users, and 60% reported using drugs in the month before their arrest.⁹³ For many women drug addiction is intimately linked to involvement in criminal activity – prostitution, theft, sale of drugs – which is often engaged in to support their addiction. Thirty-three percent of women in state prison reported that they committed the offense for which they were incarcerated to support their addiction, and 40% reported using drugs at the time of their offense.⁹⁴ Women on probation have slightly lower rates of addiction, but 38% of women reported being daily drug users, and 12% said they were under the influence at the time of the offense.⁹⁵

Although substance-abusing women may seek outpatient treatment to turn their lives around, many will not be able to afford assistance until they enter the criminal justice system. Even women under criminal justice jurisdiction may not gain access to the limited drug treatment programs offered in correctional facilities or through community corrections programs. While 74% of women prisoners have a history of drug use, only 25% of state and federal prisoners participate in either drug treatment or other drug abuse programs.⁹⁶ Racial and ethnic disparities

⁹⁰Christopher J. Mumola, *Substance Abuse and Treatment, State and Federal Prisoners, 1997*, (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, January, 1999), Table 6.

⁹¹Richie, p. 124

⁹²Ibid.

⁹³Greenfeld, p. 9.

⁹⁴Ibid.

⁹⁵Christopher J. Mumola, *Substance Abuse and Treatment of Adults on Probation, 1995*, (Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, March 1998), Table 6.

⁹⁶Mumola, *Substance Abuse and Treatment, State and Federal Prisoners, 1997*, p. 10.

persist in access to treatment programs, with Hispanics and African Americans less likely than their white counterparts to receive substance abuse treatment or to access substance abuse programs.⁹⁷ Women on probation are even less likely than prisoners to receive any form of drug treatment. In 1995, 50% of probationers had to submit to drug testing, but only 17% received drug treatment during their probation sentence, further demonstrating the government's over emphasis on punitive rather than rehabilitative measures in addressing drug addiction.⁹⁸

The Impact of the Ban on Drug Treatment for Women

Given the limited availability of drug treatment programs for low-income people, many women who are subject to the lifetime welfare ban will encounter even greater obstacles in overcoming their addiction. The ban forces women overcoming addiction into the workforce, which, according to substance abuse counselors, undermines women's recovery efforts. In addition, the ban will impact the availability of drug treatment programs for low-income women.

Drug treatment staff report that cash assistance and food stamps are critical for the successful recovery of low-income women because women who try to maintain employment in the early phases of recovery are likely to relapse and quit or lose their job. According to one drug treatment counselor, "the combination of the stress and frustration of low-wage employment with the demands of childrearing and the fragility of early recovery is extremely difficult, particularly for women whose coping skills are limited."⁹⁹ Work obligations may also prevent women from participating in certain intensive drug treatment programs.¹⁰⁰

In addition to undermining women's recovery processes, the ban will also affect the availability of drug treatment programs. The Conference of Mayors and the National League of Cities strongly oppose the ban because of its effect on drug treatment prospects for those most in need of substance abuse treatment. In their opposition to the ban, the two groups assert that the drug provision makes "drug addicts ineligible for any of the effective drug treatment programs that are being developed by the States and federal Government."¹⁰¹ They argue that the ban will undermine treatment programs developed by community health centers across the nation that help mothers reenter the job force and reunite with their families. Such programs "will be off limits to the people who need them most."¹⁰² Furthermore, since many residential drug treatment programs rely heavily on mothers' welfare benefits to cover their operating expenses,¹⁰³ low-income and poor women's access to treatment may be further diminished.

In New York State, one of the eight states that opted out of the lifetime welfare ban, representatives of parole and probation agencies strongly urged state legislators to not adopt the ban because it would jeopardize probation and parole services. These agencies view treatment

⁹⁷ Only 13% of African American prisoners and 12% of Hispanic prisoners report receiving treatment for substance during their incarceration in state prison, compared to 17% of white prisoners. The disparity is more significant when comparing the participation of prisoners in other substance abuse programs. Thirty-six percent of white prisoners participated in other substance abuse programs, compared to 24% of Hispanics and 32% of African Americans. Mumola, *Substance Abuse and Treatment, State and Federal Prisoners, 1997*, p. 13.

⁹⁸ Mumola, *Substance Abuse and Treatment of Adults on Probation, 1995*, Table 8.

⁹⁹ Hirsch, p. 48.

¹⁰⁰ Hirsch, p. 54.

¹⁰¹ 142 CONG. Rec. No. 109, Sec. 8498 (daily ed. July 23, 1996).

¹⁰² Ibid.

¹⁰³ Legal Action Center, *Steps to Success: Helping Women with Alcohol and Drug Problems Move from Welfare to Work*, (New York, NY: Legal Action Center, 1999), p. 18.

programs as a key element for the successful completion of probation and parole. However, in states where the ban has been implemented, the loss of transitional assistance may adversely affect the number of low-income women either granted parole or probation, or successfully completing it. The Conference of Mayors and the National League of Cities also indicate that the ban “undermine[s] the whole notion of providing drug treatment as an alternative sentence to a first-time drug offender if the individual requires Federal assistance to obtain the treatment.”¹⁰⁴

For many women released from prison, residential treatment programs constitute a critical step in their recovery process, and toward successful reintegration into society. Women who are unable to find affordable and safe housing may find that residential drug treatment programs provide a viable temporary alternative for them and their children. Many residential treatment programs also provide a panoply of life skills building programs – employment, education, medical care, parenting skills, and therapy – as well as a structured living environment.

At present, there are limited numbers of residential drug treatment programs accommodating women and their children. Since the client base of family-centered residential programs is primarily composed of low-income and poor women, these programs are likely to be the hardest hit by the lifetime welfare ban. For women whose release from prison or probation status is contingent on their participation in a residential drug treatment program, a reduction in family-centered residential programs may force women to be separated from their children in order to enter an adult-only treatment program.

In states where mothers’ TANF and food stamp eligibility is dependent on their participation or successful completion of a drug treatment program, women may lose their benefits due to a shortage of available treatment slots. Some women will be forced to choose between treatment and their children. There continues to an insufficient number of residential drug treatment programs across the country, forcing women to leave their children to enter programs restricted to adults. Needless to say, women who are no longer primary caregivers for their children lose access to welfare benefits. Therefore, even in states that do not automatically deny cash assistance and food stamps, we can expect that a number of women will lose eligibility due to an inability through no fault of their own, to comply with a state’s strict requirements.

¹⁰⁴ 142 CONG. Rec. No. 109, Sec. 8498 (daily ed. July 23, 1996).

V. THE IMPACT OF DRUG POLICIES

The detrimental impacts of the lifetime welfare ban are also the result of current drug policies. Since its inception, the “war on drugs” has had a particularly devastating impact on women. Between 1990 and 1999, drug offenses have accounted for the largest proportion of growth in the number of women state prisoners (35% compared to 28% for violent offenses and 21% for property offenses). During the same period, drug offenses accounted for just 19% of the growth in the men’s prison population.¹⁰⁵ Women are more likely than men to be incarcerated for drug offenses. Thirty-four percent of women are incarcerated in state prisons for drug charges, compared to 20% of men.¹⁰⁶

Many low-income women could overcome their addiction and avoid contact with the criminal justice system if they were provided with the necessary support. Although funding for drug treatment has increased in recent years, the Federal government continues to focus its attention primarily on criminal justice sanctions to address drug abuse. As demonstrated by federal drug budget priorities – one-third for prevention and treatment and two-thirds for law enforcement and incarceration – drug policy relies heavily on punitive measures rather than treatment. This policy is reflected by the significant gap between the number of people who need treatment and the number who receive the services necessary to overcome drug addiction. In 1998, approximately five million people were in need of drug treatment, but only two million actually received it.¹⁰⁷ Access to drug treatment for those most in need who lack the financial resources to obtain private treatment also presents a stark picture. Government agencies mandated to assist families in crisis have difficulty aiding families struggling with addiction in their households, in part because of the lack of resources allocated to address substance abuse. In 1997, only 10% of child welfare agencies were able to place people needing treatment within a month,¹⁰⁸ and only 37% of substance-abusing mothers of minor children received treatment,¹⁰⁹ while only 48% of women on welfare received treatment services.¹¹⁰

For most low-income women and women of color who are either working in low wage jobs without health insurance, or unemployed or on public assistance, state-sponsored drug treatment programs are the only viable option to overcome addiction. The emphasis on punishment at the expense of treatment essentially means that those who can afford treatment are more likely to receive the help they need, while low-income people who cannot afford treatment are more likely to be subjected to the criminal justice system.¹¹¹

The lifetime welfare ban will have a disparate impact on low-income African American women and Latinas because of discriminatory law enforcement policies and practices, which result in a

¹⁰⁵ Allen J. Beck and Paige M. Harrison, *Prisoners in 2000*, (Washington, D.C.: US Department of Justice, Bureau of Justice Statistics, August 2001), Table 17.

¹⁰⁶ *Ibid.*, Table 16.

¹⁰⁷ Office of National Drug Control Policy, *National Drug Control Strategy: 2000*, (Washington, D.C.: Department of Justice, Office of National Drug Control Policy, 2001), p. 54.

¹⁰⁸ Child Welfare League of America, *Alcohol and Other Drug Survey of State Child Welfare Agencies* (Washington, DC: Child Welfare League of America, 1998).

¹⁰⁹ Substance Abuse and Mental Health Services Administration, *Substance Use Among Women in the United States*, (Washington, DC: US Department of Health and Human Services, 1997).

¹¹⁰ Legal Action Center, *Steps to Success: Helping Women with Alcohol and Drug Problems Move from Welfare to Work*.

¹¹¹ The Sentencing Project, *Drug Policy and the Criminal Justice System*, (Washington, D.C.: The Sentencing Project, May 2001).

greater number of African Americans and Latinos coming in contact with the criminal justice system through the “war on drugs.” This is a result of drug law enforcement efforts that have been concentrated in inner-city areas where, unlike white middle-class neighborhoods, drug use and sales are more regularly conducted in public areas, facilitating arrest.¹¹² As a result, women of color are more likely to come in contact with law enforcement officials.

Although African Americans represent only 13% of monthly drug users,¹¹³ a number consistent with their proportion of the population, they account for “35% of those arrested for drug possession, 55% of drug possession convictions, and 74% of those sentenced to prison for drug possession.”¹¹⁴ Latinas and African American women are disproportionately incarcerated for drug offenses compared to their white, and male, counterparts. In 1997, 44% of Hispanic women and 39% of African American women incarcerated in state prisons were convicted of drug offenses, compared to 23% of white women, and 24% and 26% of African American and Hispanic men, respectively.¹¹⁵

¹¹² The Sentencing Project, *Drug Policy and The Criminal Justice System*, p. 5.

¹¹³ Substance Abuse and Mental Health Services Administration (SAMHSA), *Summary Findings from the 1999 National Household Survey on Drug Abuse*, (Washington, D.C.: SAMHSA, November 2000), p. 17.

¹¹⁴ The Sentencing Project, *Drug Policy and The Criminal Justice System*, pp. 4-5.

¹¹⁵ Bureau of Justice Statistics, “Correctional Populations in the United States, 1997,” Table 4.6.

VI. RECOMMENDATIONS

The lifetime welfare ban has already had dramatic consequences for the well-being of women, children and communities. These adverse effects will only worsen over time. During this welfare reform reauthorization year, Congress is presented with the opportunity to revisit the effectiveness of its decision to deny welfare benefits to people convicted of drug offenses. As Congress prepares to assess the welfare reform act, policymakers should consider the following recommendations to prevent future harms to some of the most vulnerable members of society:

✓ Repeal Federal Lifetime Welfare Ban.

- In light of the detrimental impacts the lifetime welfare ban has on women and children, as well as family integrity, and the potentially significant child welfare, social and criminal justice costs associated with the ban, Congress should repeal Section 115(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (lifetime welfare ban).
- Congressional hearings should be held to hear from various actors directly and indirectly affected by the ban. Through this process, policymakers and legislators will be provided with a critical assessment of the impact of the ban on women and their children, as well on local, state and federal economies.

✓ State Modification to Include Services for Women.

- State governments should opt out of the ban or at least modify it, as provided for under Section 115(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. While some states have modified the ban by limiting ineligibility to women with drug sale convictions, other states maintain welfare eligibility provided that a person is enrolled in or participating in a state approved drug treatment program.
- In addition to the drug treatment modification, states should consider programs other than drug treatment that would allow women to maintain eligibility. Since not every woman convicted of a drug offense has a substance abuse problem, states should provide alternative programs for these women, such as job training or GED programs, following an assessment of their needs and the reasons they became involved with drugs. Women's enrollment in these alternate programs should allow them to maintain welfare benefits.

✓ Repeal Post-incarceration Sentences.

To improve reentry prospects of ex-offenders, and as such to ensure greater public safety and reduced costs associated with crime, policymakers should repeal legislation that delays or denies access to vital social benefits, including education, housing and employment to ex-offenders. In many states, women's inability to access various social entitlements critical to successful reentry undermines women's commitment and efforts to turn their lives around, and to provide for their families and become more effective contributing members of their communities. These include:

Restrictions on Post-Secondary Financial Aid

- During the 2000-2001 school year, Section 483(f) of the 1998 Amendments to Higher Education Act of 1965 which delays or denies any form of federal financial aid for post-secondary education to persons convicted of a drug offense, affected over 43,000 students. The amendment undermines the rehabilitative potential of education for ex-offenders. A substantial number of studies have shown that providing prisoners or ex-offenders with educational opportunities significantly reduces recidivism, and thus increases public safety and reduces costs associated with criminal behavior.

Public Housing Restrictions

- The federal government's "One Strike Initiative" provided for under Section 9 of the Housing Opportunity Program Extension Act of 1996, has the potential of leaving many women subject to the lifetime welfare ban, along with their children homeless, exposing them to an inordinate number of precarious situations, including those likely to involve criminal activity. The inability to access public housing constitutes an enormous barrier to finding work and receiving social benefits, further exacerbating the efforts of low-income women and women of color subject to the ban to become active social participants, as well as subverting efforts to create safe communities.

Employment Bans

- Policymakers should reconsider the effectiveness of state and federal statutes that call for the imposition of mandatory or permissive lifetime bans on government jobs, or professional and occupational licenses for drug offenders. A lifetime ban policy fails to recognize that people can overcome addiction and make important social contributions. The policy not only diminishes job opportunities for ex-offenders, but also results in loss of access to jobs that are more likely to provide better incomes and, in some cases, employment benefits.

✓ *Increase Access to and Quality of Education and Employment Opportunities.*

- State welfare agencies should develop strategies aimed at informing women who are denied cash assistance and food stamps of the other benefits and services for which they are eligible, particularly Medicare, job training and educational programs. Such communications strategies should take into consideration literacy concerns and language barriers.
- Access to educational opportunities for women should be a priority. Emphasis should be placed on increasing access to non-traditional fields where higher earning potential and better working conditions are likely to improve the reentry possibilities of mothers, and reduce the need for social assistance.
- Presently, TANF recipients can receive cash assistance while they are participating in education or training programs for a maximum of 12 months. Educational opportunities should be provided without restrictions. Many women in the criminal justice system have very limited educational attainment, and are likely to require more than a year to acquire sufficient education to enable them to fare better in the labor market and become self-sufficient. This is particularly significant for low-income women of color who continue to experience lower levels of educational attainment than their white counterparts. Many Latinas

who are not native English speakers will also need more than 12 months to acquire the necessary language skills to become competitive in the job market.

✓ *Increase Availability and Quality of Drug Treatment.*

Several studies have documented that drug treatment not only saves lives, but also reduces a variety of social problems associated with substance abuse, and as such, saves tax dollars. A RAND study found that for every dollar allocated to drug treatment, taxpayers save \$7.46 in social costs.

- Federal anti-drug funding policies, which allocates two-thirds of its budget to law enforcement and incarceration, should increase the proportion of funds for treatment programs.
- Although there has been some progress in increasing the availability of drug treatment programs for women with children, there continue to be insufficient treatment slots for the number of mothers requiring treatment. This shortage is of particular concern in states where eligibility for welfare benefits depends on a mother's participation in drug treatment.

VII. CONCLUSION

As we have demonstrated, a disproportionate number of women under criminal justice supervision face serious socioeconomic barriers prior to their contact with the criminal justice system. Many lack the resources to overcome poverty and abuse, and often turn to illegal means to survive. Overwhelmingly, women who come in contact with the criminal justice seek to turn their lives around for themselves and their children. Yet, the lifetime welfare ban, along with other punitive social policies, makes the possibility of women returning to their communities as productive members more difficult than before their conviction, and in some cases improbable.

The lifetime welfare ban clearly has an impact that goes well beyond the effects on or barriers created for individual women. Since the inception of the "war on drugs," children have been some of the most affected innocent casualties of misguided drug policies, and the welfare ban is yet another example of such misguided policies. Children are increasingly at risk of neglect and of irreparable damage to their family environment. Societal costs associated with the lifetime welfare ban will extend to the criminal justice and health care systems, as well as child welfare services, among others.

Racial disparities in criminal justice system, education, and employment exacerbate the effects of the lifetime welfare ban on African American women and Latinas. Only a multi-pronged approach to these issues, which recognizes and addresses the intricate links between socioeconomic barriers, drug policy and the criminal justice system at their full potential will successfully reduce the disproportionate number of women of color sentenced to a lifetime of poverty.

APPENDIX

Methodology

In determining state implementation of the lifetime welfare ban we relied primarily on the May 2000 Legal Action Center's fact sheet, "State Implementation of the Ban on TANF and Food Stamps for Individuals Convicted of Drug Offenses." For the 20 states that have modified the ban, we obtained detailed information through their legislative web sites. Table 1, "State Implementation of Lifetime Welfare Ban," does not represent an exhaustive examination of state laws addressing Section 115 of PRWORA.

Of the 28 states that impose a lifetime ban on public assistance following a conviction, we were able to obtain data from 23. Our analysis relies on data compiled by various state agencies - departments of corrections, administrative offices of the court, sentencing commissions, departments of justice, and Attorney General offices. With the exception of two states (Massachusetts and Texas), all data received was broken down by calendar year. Data was compiled for the years 1996-1999, with the ban applying to illegal conduct taking place after August 22, 1996. Only two states (Mississippi and Texas) were able to provide 1996 data specifically for offenses occurring between August 22, 1996 and December 31, 1996. For all other states, we used one third of the total for 1996 to develop an estimate of the number of convictions for the months September to December. The data presented in this report should be considered as estimates since in many cases, state agencies were not able to provide a complete level of detail.

Our estimates may result in an undercount in some states and an overcount in other states for several reasons. In several of the states (Alabama, Arizona, Indiana, Montana, South Dakota, Texas and Virginia) where Departments of Corrections provided data, the agencies were only able to provide data on women in prison. Therefore, women sentenced to probation are not included in these states; the only exception is Indiana, where we obtained probation data for Marion County, the state's largest county. Government agencies in several states (California, Indiana, Kansas, Pennsylvania and Tennessee) only provided data for primary offenses. Therefore, someone convicted of burglary and drug possession is not included in our estimates but is, nevertheless, ineligible for welfare benefits. In California and Florida, state agencies reported that they were only able to provide approximately 70% of their conviction records. Three states (Maine, Texas, and West Virginia) were unable to provide data for some of the years covered by the report.

In addition, the data collection sources in Maine and West Virginia are also likely to lead to an undercount in these states. The data collected for Maine was obtained from the Attorney General's office, which does not include the various District Attorney's offices across the state.

¹¹⁶ As a result, the data from the State of Maine only represents a fraction of the women affected by the ban. The Division of Criminal Justice Services of West Virginia (DCJS) conducted annual narcotics arrest surveys from which they provided us with information. The data is limited in that only those arrests reported to DCJS through the surveys are included in their final tally. As such, the completeness of the DCJS's result depends on participation of police departments in many counties.

¹¹⁶ Both the Administrative Offices of the Court and the Department of Corrections informed us that their databases could not produce the information requested.

One important factor may result in an overcount in some states. Sixteen of the 23 states covered by the study were able to ensure that women were counted only once during the specified period, leaving seven states (Arkansas, California, Illinois, Indiana, Pennsylvania, South Dakota and Texas) in which women may have been counted more than once; for example, if a woman had a felony conviction in 1997 and was subsequently convicted for a new offense in 1999.

Race and ethnic data was obtained for most states, with the exception of Maine and South Dakota, which provided no racial or ethnic breakdown. In addition, four states (Alabama, Arkansas, Florida, and Tennessee) did not report data for Hispanics. In all states that did provide an ethnic breakdown, Hispanics were counted independently of racial categories, and therefore counted only once.

Our estimate of 135,000 children affected by the ban is based on Bureau of Justice Statistics reports that show that 70% of women under correctional sanction are mothers, with an average of 2.11 children. We therefore applied these proportions to the 92,000 women affected by the ban.