



# Part I: Growth Trends and Recent Research

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## INTRODUCTION

The Institute on Women and Criminal Justice of the Women's Prison Association is releasing the first volume of *The Punitiveness Report*, a national study by Dr. Natasha Frost, assistant professor at Northeastern University College of Criminal Justice. Her report presents the first state-by-state compendium of data charting the dramatic increase in the incarceration of women over the past 27 years in the United States. A second volume will look more deeply at factors that increased the risk of imprisonment for women arrested for felony offenses and increased the amount of time spent behind bars.

While women comprise just a small segment of all the people serving prison terms in the U.S., their number is rising at a far faster rate than that of men. Incarceration of women has profound impacts on the families and communities left behind. Dr. Frost's findings should spark a national dialogue about how women are affected by incarceration. Her findings should also motivate policymakers to examine the trends and prospects for reform in their states.

*Growth Trends and Recent Research Findings* is presented as a companion to Dr. Frost's exhaustive study. It provides a brief overview of recent research that provides context for her findings regarding the increased incarceration of women, and discusses the multitude of problems incarceration presents for women and their children. This report also takes a closer look at growth patterns, regional trends, and how states rank on various measures of female imprisonment.

Over the final quarter of the 20th century, U.S. criminal justice policies underwent a period of intense politicization and harsh transformation. Draconian sentencing laws and get-tough correctional policies

led to an unprecedented increase in jail and prison populations, driving the United States' rate of incarceration head and shoulders above that of other developed nations.

The imprisonment boom that began in the late 1970s has swelled the state and federal prison system to more than 1.4 million prisoners. Adding those held in local jails and other lockups (juvenile facilities, immigrant detention, etc.) the total number of people behind bars rises to almost 2.3 million – of which seven percent are women.<sup>1</sup> At the end of 2004, 96,125 women were serving state or federal sentences – almost nine times the number in prison in 1977.<sup>2</sup>

## NATIONAL PRISON POPULATION GROWTH TRENDS

Female state prison population growth has far outpaced male growth in the past quarter-century. The number of women serving sentences of more than a year grew by 757 percent between 1977 and 2004 – nearly twice the 388 percent increase in the male prison population. Although the size of the gap varies, female prison populations have risen more quickly than male populations in all 50 states. The trend has also been persistent, with median annual growth rates for women exceeding growth rates for men in 22 of the last 27 years, including each of the past 11 years.<sup>3</sup>

In part, this is due to the small number of women who were incarcerated at the beginning of the boom relative to the number of men, so that increases show up as larger proportional growth against smaller base figures.

Women's higher growth rate is also due to an increase in the number of women arrested, but changes

<sup>1</sup> Harrison, Paige M. and Allen J. Beck. *Prisoners in 2004*. (Washington, DC: Bureau of Justice Statistics, October 2005)

<sup>2</sup> All prison population and imprisonment rates which are not separately footnoted come from data files compiled by the Bureau of Justice Statistics and available on the BJS website (<http://www.ojp.usdoj.gov/bjs/>). For purposes of this analysis, only prisoners serving sentences of more than a year are included in order to facilitate state comparisons. As a result, prison population figures reported here may differ slightly from figures reported elsewhere.

<sup>3</sup> In general, national and regional trends in state prison population growth rates and imprisonment rates are reported in terms of median rates rather than the overall rate for the group in question. The purpose of reporting median rates (and proportions where the female share of the prison population is at issue) is to give equal weight to developments in all 50 states rather than presenting results that primarily reflect trends in the most populous states. For example, a chart of overall growth rates for the female prison population of the Pacific states would be virtually identical to a chart of California growth rates, since the state accounts for 82 percent of the region's female prison population. Where rates and proportions are based on total regional populations rather than the median for states in the region, they are described as "overall" or "total" rates and proportions in order to avoid confusion.

Figure 1.

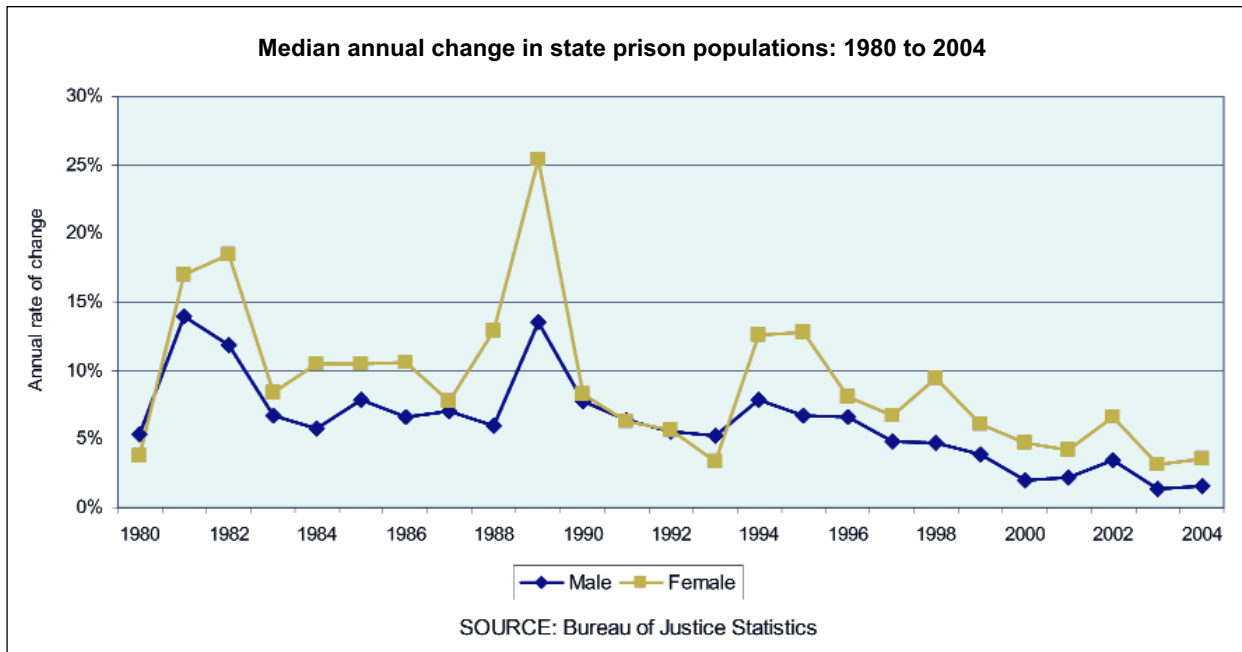
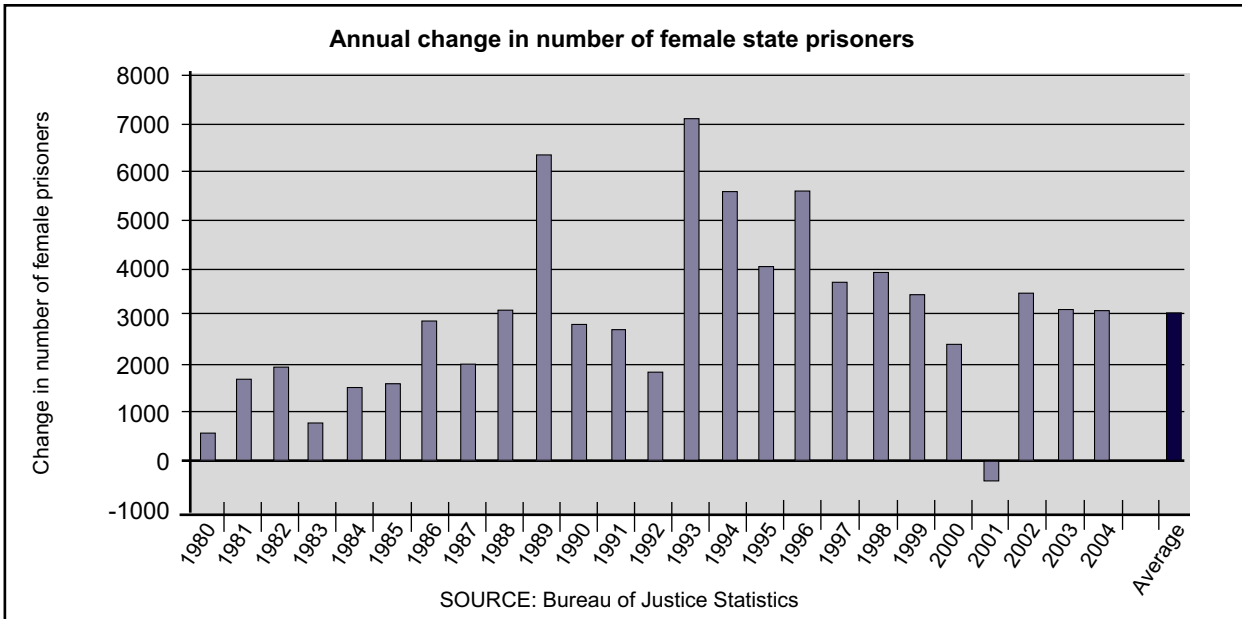


Figure 2.



in prosecutorial and judicial decision-making have also played a major role. For example, between 1995 and 2004, arrests of women were up 13 percent while the number of women behind prison bars rose by 53 percent. Female imprisonment rates jumped 36 percent over the same period, compared to an increase of 17 percent for men. Women’s share of the prison population rose from 6.3 percent to 7.2 percent.

While the number of women prisoners has soared,

the proportion of women convicted of violent offenses has declined since 1979, when they comprised 49 percent of the women in the state prison system.<sup>4</sup> One-third of the women serving state prison sentences in 2002 were incarcerated for violent offenses, compared to more than half of the men. Drug offenses now account for nearly one-third of women (up from one in 10 in 1979), compared with just one-fifth of men.

<sup>4</sup> Snell, Tracy L. and Danielle C. Morton. *Women in Prison*. Washington DC: Bureau of Justice Statistics. 1994

**Male prison populations catch cold while women get pneumonia**

The rise of the female state prison population has been constant but uneven over the past quarter-century, punctuated by growth spurts in the early and late 1980s and mid-1990s. Median annual growth rates fell after 1995 and have remained in the single digits since then. Nonetheless, many states continue to see significant population growth, including nine where numbers shot up by over 10 percent in 2004. (See Figure 1.)

The pattern of growth in female prison populations generally tracks changes in male prison populations, which also underwent periods of rapid expansion in the early and late 1980s. But women have been hit much harder, experiencing growth spikes that reached higher, lasted longer and often began earlier than those affecting men.

For example, while the growth rate for male prisoners shot up a little more than twofold between 1980 and 1981, from 5.4 percent to 14 percent, the growth rate for female prisoners increased four-fold, from 3.8 percent to 17 percent. The following year, the male growth rate fell below 12 percent while the female growth rate kept climbing to more than 18 percent.

An even more remarkable growth spurt took place between 1987 and 1990. Both the men’s and

women’s prison populations began and ended the four-year period with annual growth rates hovering around seven to eight percent. In between, however, annual growth in the women’s prison population hit record levels, topping 25 percent, compared to a peak rate of less than 14 percent for males. To paraphrase the old saying, when the male prison population caught cold, women came down with pneumonia.

The gap between male and female prison population growth rates has widened recently, producing an annual rate of increase for women that roughly doubled the rate for men in six of the last seven years. The number of women added to the state prison populations each year remains high despite lower growth rates. In fact, the expansion that has taken place since 1999 (11,689 new female prisoners) exceeds the total female state prison population in 1980 (11,113 women). (See Figure 2.)

**REGIONAL PRISON POPULATION GROWTH TRENDS**

National trends play a significant role in patterns of state prison population expansion, as evidenced by the simultaneous growth spurts that took place at the beginning and end of the 1980s. Three in five states saw female prison population growth rates reach a 25-year

Figure 3.

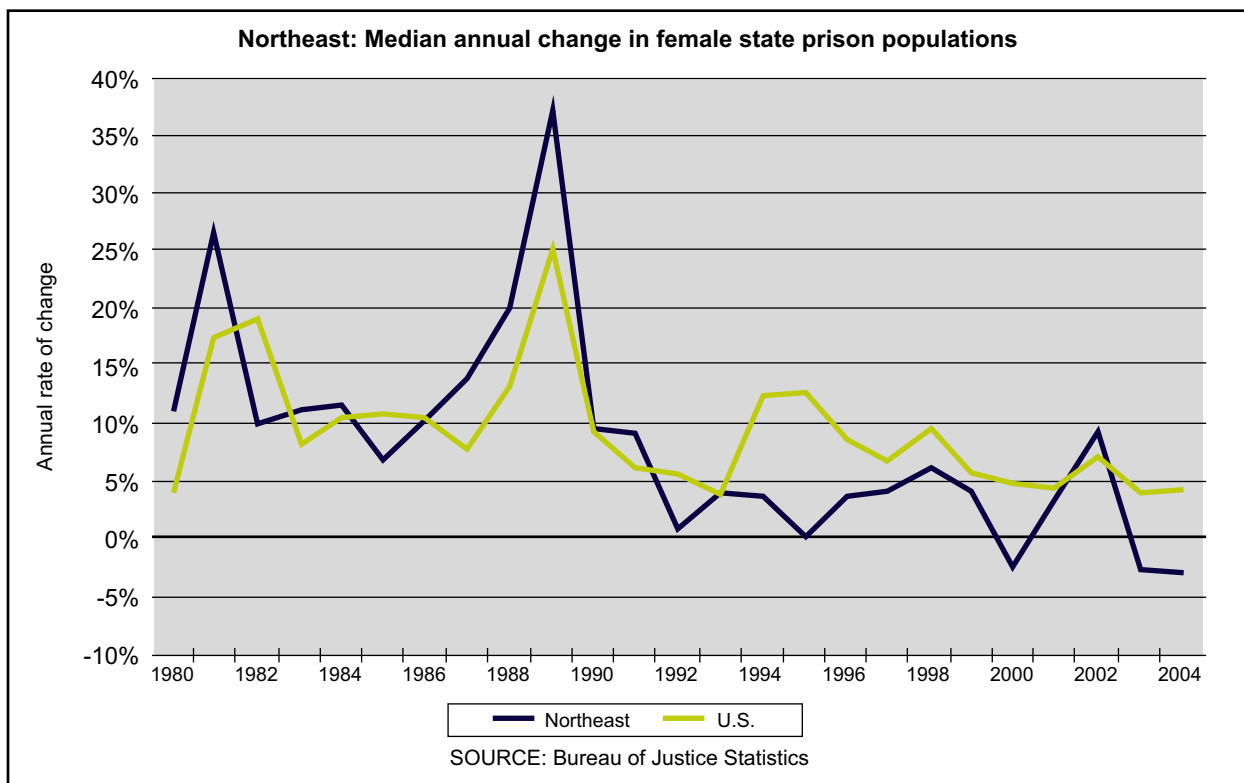
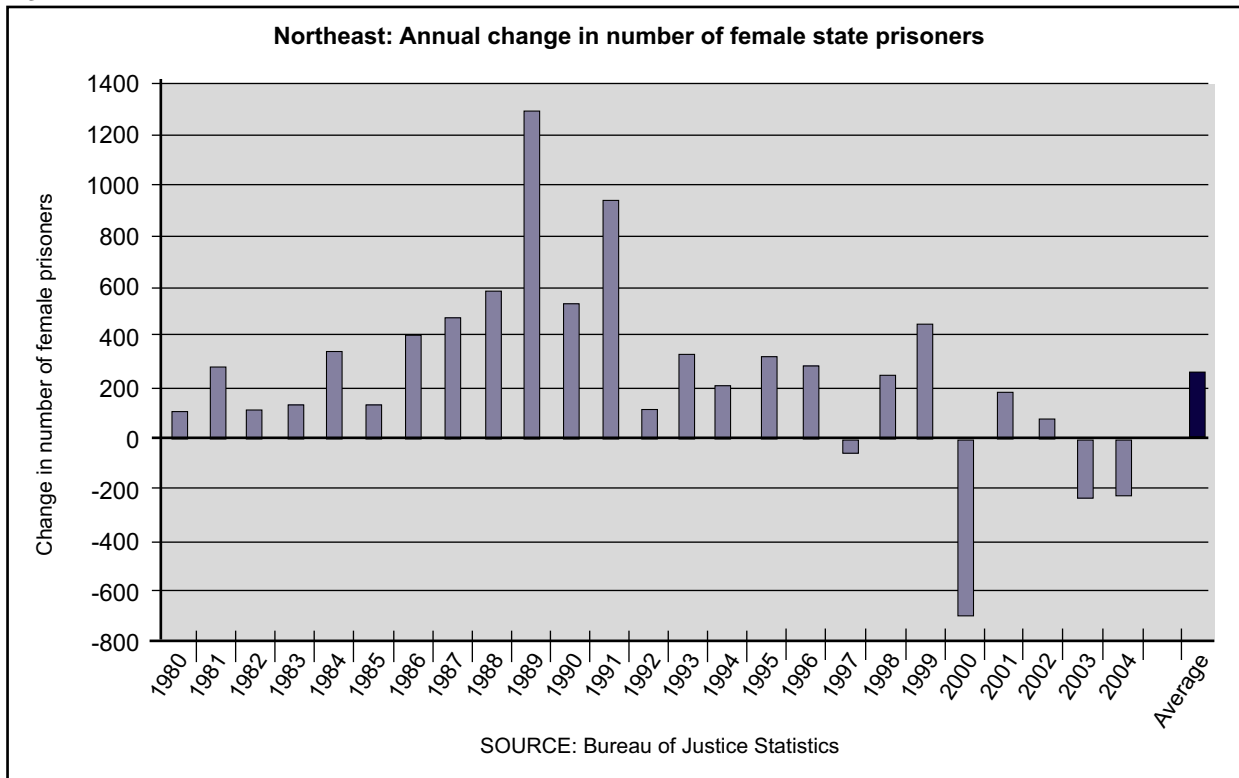


Figure 4.



high-water mark in 1981 (six states), 1982 (six states) or 1989 (14 states). The latter year was an extraordinarily punitive one for women: 43 states saw population increases in the double digits while half saw their numbers jump by more than 25 percent. But growth in women’s prison populations also varies by geographic region.<sup>5</sup>

**The Northeast: Turning the corner on female prison population growth?**

Northeastern states logged extraordinarily rapid growth during the 1980s followed by below-average growth during the 1990s.<sup>6</sup> The region saw record growth in 1989 when most states saw their female prison population jump by more than a third. Between 1999 and 2004, however, the total number of women housed in Northeastern state prisons fell by 11 percent (976 prisoners), driven by prison population declines in New York, New Jersey, Massachusetts and Connecticut. (See Figures 3 and 4.)

**The Pacific states: From boom to bust and back**

Pacific states also saw unusually high rates of growth during the 1980s, including nine years with median growth rates in the double-digits.<sup>7</sup> The pattern in the years that followed have been erratic. The region’s female prison population actually fell slightly in 1991 but resumed its climb the following year. The turn of the century ushered in a more substantial 1,347-person decrease in the region’s female prison population, reflected in every Pacific state but Oregon. But by the end of 2004, the decline had been erased by the addition of 2,003 women to prisons in Pacific states. (See Figures 5 and 6.)

**The Midwest and South: Setting the national growth trend**

Depending on how one looks at it, women’s prison populations in the Midwest and South either set the na-

<sup>5</sup> BJS reports group states in four geographic regions defined by the U.S. Census – Northeast, Midwest, South and West. The same regional breakdown is employed in this brief, with the exception of the west, which has been divided into its two components – Pacific and Mountain states. The purpose of distinguishing Mountain and Pacific states (both geographic divisions established by the Census Bureau) is to more closely examine sharply differing trends in the regions’ use of imprisonment for women.

<sup>6</sup> The Northeast region is comprised of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont.

<sup>7</sup> The Pacific states include Alaska, California, Hawaii, Oregon and Washington.

Figure 5.

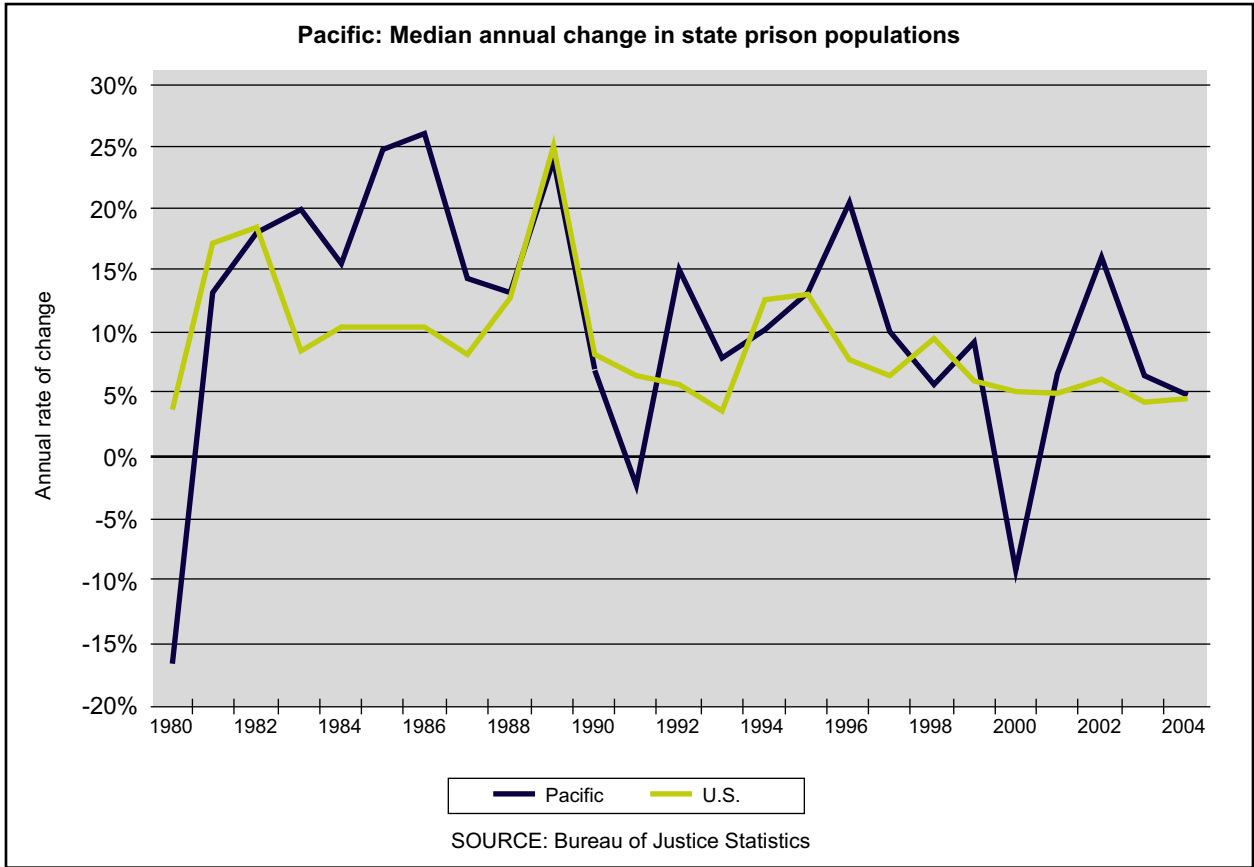


Figure 6.

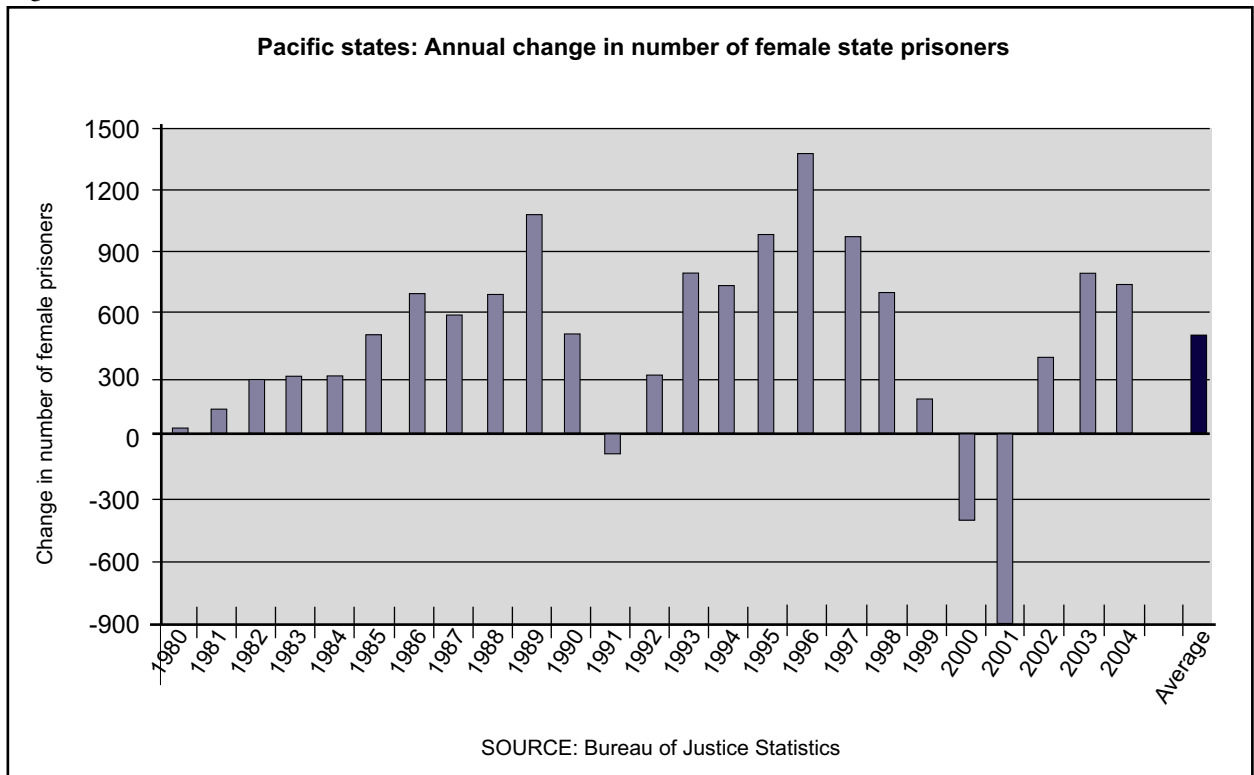


Figure 7.

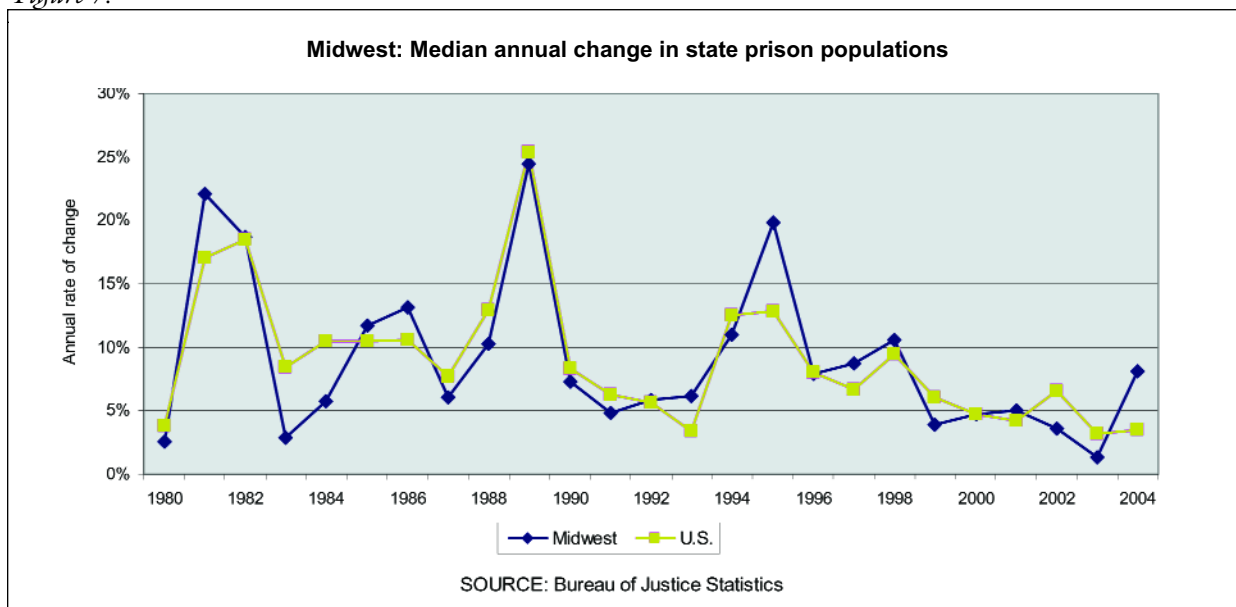
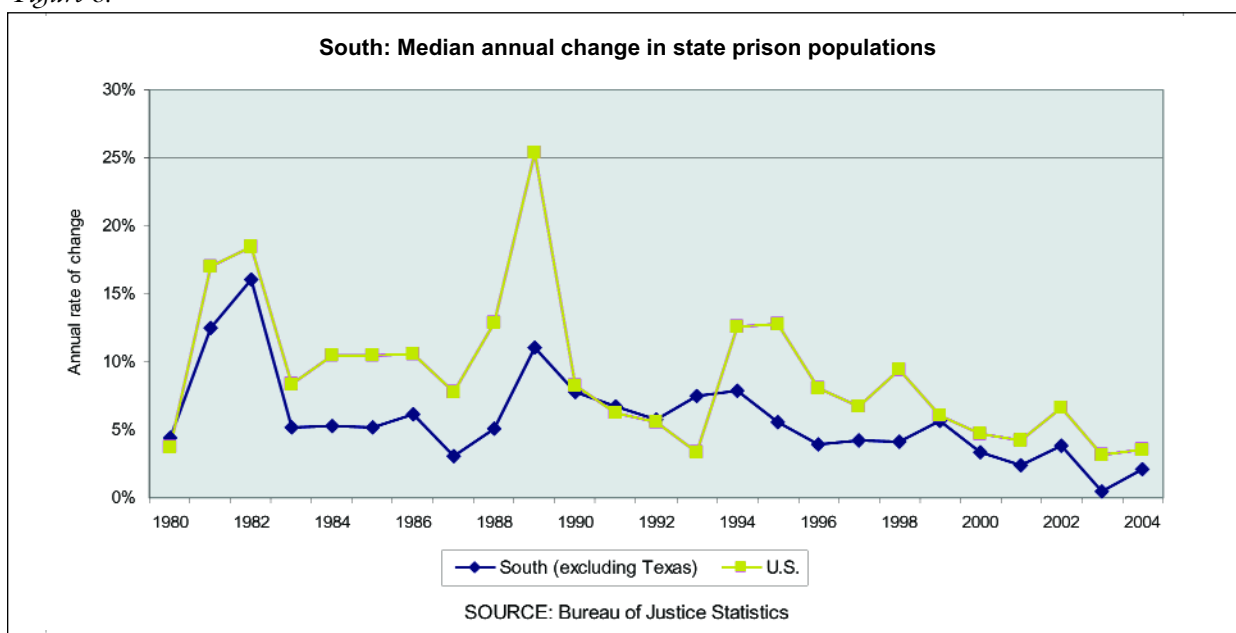


Figure 8.



tional trend or tracked it closely, rising rapidly in the early and late 1980s and mid-1990s.<sup>8</sup> Southern states (excluding Texas) were more likely to see below-average growth rates during the 1980s, but the region has nearly matched national median rates since then. (See Figure 8.) Midwestern states' median growth rates have hovered at or below those of the nation as a whole since 1999 with the exception of 2004, when the region's annual growth rate

shot to more than 8 percent. (See Figures 7 and 9.)

The number of women added to Southern prisons each year remains substantial. The region recorded its second-largest annual increase in 1999 (2,007 women), and its fourth-largest increase took place in 2002 (1,853 women). Almost a quarter (23 percent) of Southern female prison population growth since 1979 took place in the last five years. (See Figure 10.)

<sup>8</sup> The Southern region encompasses Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia. In this section, however, the median annual growth rates and net growth in Southern female prison populations are presented without data from Texas because anomalies in the state's prisoner count would distort the regional picture. BJS statistics show that Texas' female prison population grew by 188 percent a single year (1993), which represents close to half of all growth in the state's female prison population over a 25-year period. Rather than a tripling of the state's female prison population in the course of a single year, it is likely that the apparent jump is a result of years of undercounting – possibly of state prisoners housed in local jails due to a shortage of state prison beds.

Figure 9.

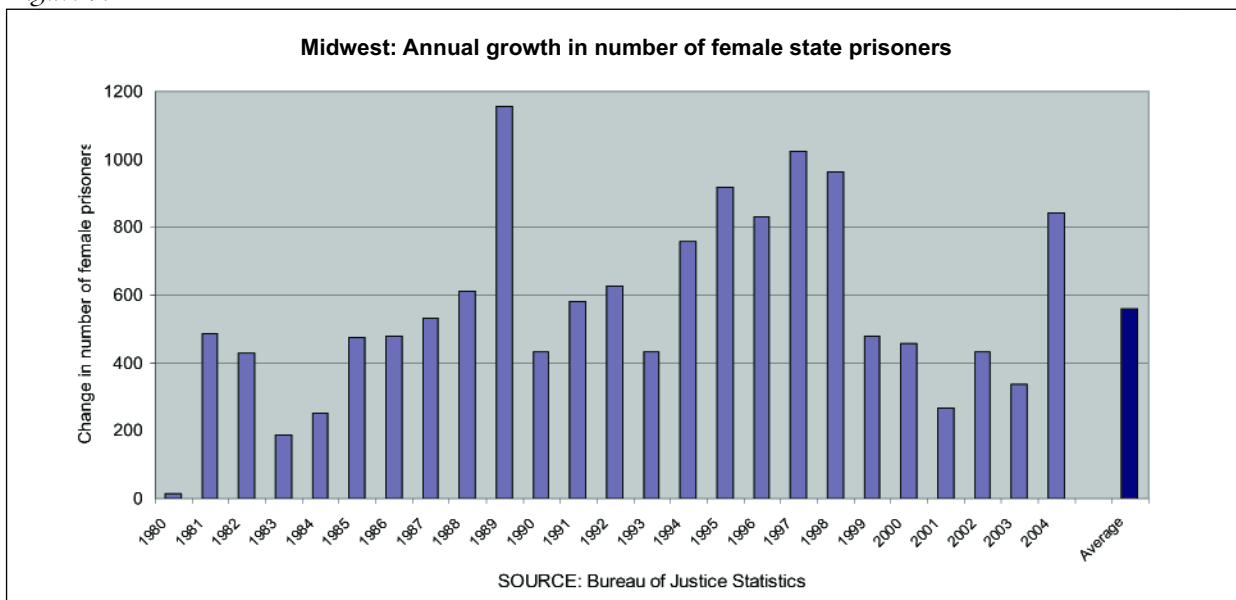
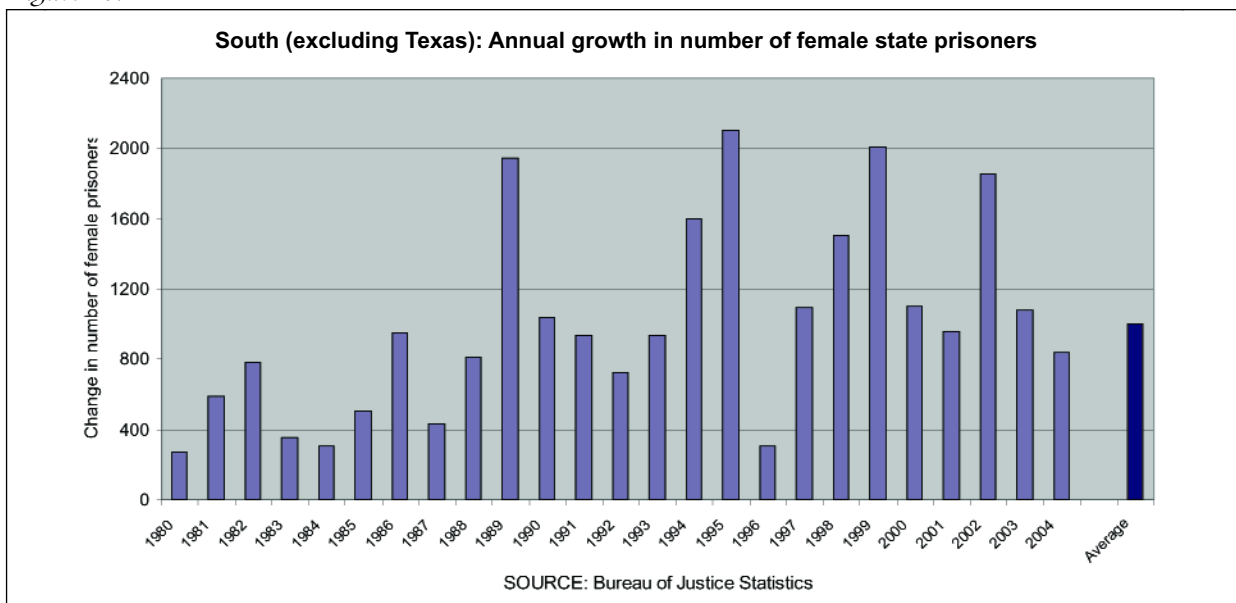


Figure 10.



**The Mountain states: Speeding ahead**

Every region has seen women’s prison populations increase by leaps and bounds. But the pace and persistence of growth in the Mountain states set the region apart from the rest of the country. Over the past 27 years, the total female prison population of the Mountain states has risen by 1,600 percent – *twice* the national population growth rate of 757 percent.

The explosion of women’s prison populations in the Mountain states began in the 1980s and has continued in recent years. The region’s total female prison population has increased by 56 percent since 1999 – *four times* the 13 percent increase felt nationally. Fully 38 percent

of the growth in the Mountain states’ female prison population over the past quarter-century occurred during the last five years. (See Figures 11 and 12.)

**Tough, tougher, toughest: Mountain and Southern states lead the rise in female imprisonment rates**

Analysis of median incarceration rates for the various regions shows similar patterns with some critical differences. Southern states experienced the smallest proportional growth in female imprisonment rates. But because the South began the 27-year period with much higher rates than the rest of the country – a me-

Figure 11.

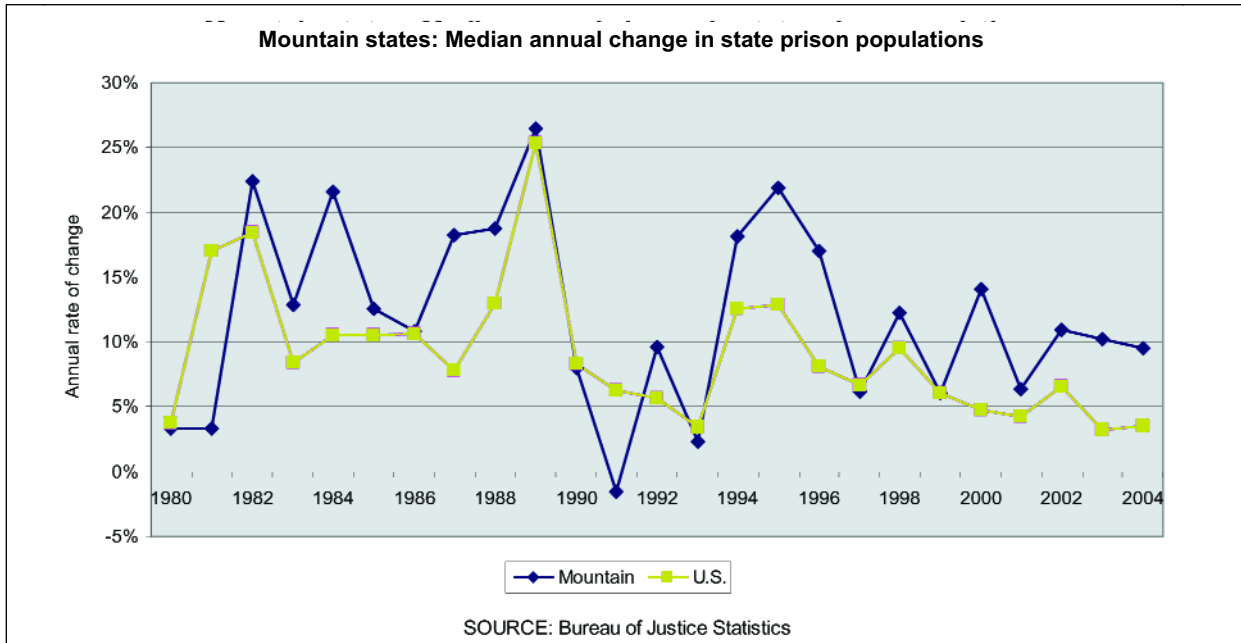


Figure 12.



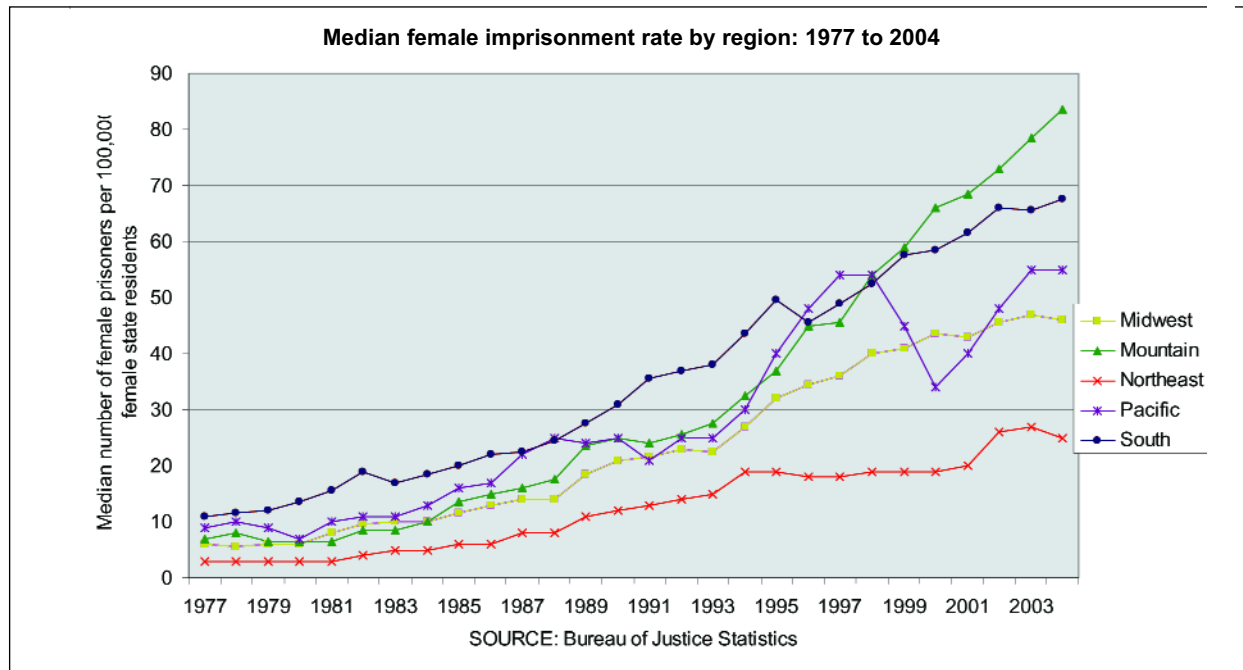
dian of 11 per 100,000 residents compared to a median of five per 100,000 residents elsewhere – increased use of incarceration had a greater impact there.

While the typical Midwest state added 40 female prisoners for every 100,000 residents between 1979 and 2004, and the typical Pacific state added 46 per 100,000, the median incarceration rate for Southern states grew by 57 per 100,000 – second only to a Mountain state increase of 77 per 100,000. As for the Northeastern states, it took a decade of breakneck growth to reach the place where Southern states started in 1977. (See Figure 13.)

### STATE VARIANCE IN THE USE OF IMPRISONMENT FOR WOMEN

The use of imprisonment for women varies enormously by state as well as by region. 129 of every 100,000 women in Oklahoma are serving a state prison sentence while Massachusetts imprisons 11 women for every 100,000 female state residents. Women make up over 12 percent of state prisoners in Montana – nearly four times their 3.2 percent share of Rhode Island’s prison population. A handful of states – including Colorado, Hawaii, Idaho, Mississippi, Montana, New Hampshire and North Dakota – have

Figure 13.



seen a greater than 20-fold increase in their female prison populations since 1977.<sup>9</sup> Michigan and North Carolina, by contrast, experienced comparatively “modest” four-fold growth over the same period.

The measures employed in the following comparative analysis of states – the *female imprisonment rate*, the *female proportion of the prison population*, and *female prison population growth* – help us identify patterns and trends that can guide future research exploring how and why the extent of female imprisonment varies so greatly among states. Each of these measures captures a different facet of the extent of female imprisonment and how it has changed over time. Used together, the measures pinpoint states where sentencing and correctional policies and trends appear to have fallen harder, or less hard, on women. Ultimately, they help to highlight both positive trends as well as unmet opportunities to reduce costs and improve outcomes.

### How states stack up

States stack up differently based on the measure used to compare them. Louisiana has the nation’s third-highest female imprisonment rate (103 per 100,000 residents) but women’s share of the state’s

prison population (6.5 percent) falls below the national median (7 percent). New Hampshire ranks third in female prison population growth (up 5,850 percent since 1977) yet the state’s female imprisonment rate (18 per 100,000) remains the fourth-lowest in the nation. The chart at the end of this section presents state statistics and ranks across all three measures (including measures of population growth over two different time periods).

A handful of states, however, stand among the nation’s “toughest” on multiple measures of female imprisonment. Trends in these states should be of particular interest to researchers, policymakers and advocates who are concerned about the damage that imprisonment can cause to women, their families and their communities.

Heading the list is **Montana**, which devotes by far the largest share of its prison beds to women. Montana’s female prison population has grown at the fastest rate in the nation since 1977 and its female imprisonment rate (102 per 100,000) ranks fourth nationwide.

Several other Mountain states also appear to be particularly tough on women. **Idaho** and **Colorado** rank

<sup>9</sup> In some cases, proportional growth in female prison populations is exaggerated by the fact that states started with just a handful of prisoners. For example, the three states with the highest growth rates – Montana, North Dakota and New Hampshire – each began the 27-year period with just two female prisoners. As a result, each new prisoner added 50 percent to the state’s proportional rate of population growth. In New Hampshire, where female imprisonment rates remain among the nation’s lowest, the proportional growth rate appears to be largely anomalous. On the other hand, Montana’s growth pushed the state from the bottom to one of the top female imprisonment rates, which suggests that the state’s 23,000 percent growth rate – while somewhat exaggerated – points to a very real and drastic growth trend.

Table 1.

Measures of state use of imprisonment for women

State	Imprisonment rate:		Proportion of all prisoners:		Prison population growth:		Prison population growth:	
	2004		2004		1977 to 2004		1999 to 2004	
	Rate	Rank	% Female	Rank	Growth	Rank	Growth	Rank
Alabama	71	15	6.6%	32	645%	35	3%	39
Alaska	55	25	6.6%	30	729%	32	31%	24
Arizona	89	7	8.2%	16	1261%	13	62%	9
Arkansas	65	19	6.7%	28	900%	24	17%	29
California	61	22	6.6%	31	1522%	9	1%	41
Colorado	83	10	9.4%	8	2539%	6	57%	10
Connecticut	44	33	6.0%	39	1010%	18	-3%	45
Delaware	51	28	5.3%	43	424%	43	0%	42
Florida	64	20	6.6%	29	551%	39	48%	16
Georgia	77	11	6.7%	27	596%	38	32%	22
Hawaii	69	16	10.5%	3	3029%	4	-8%	47
Idaho	93	6	10.1%	5	2211%	7	62%	8
Illinois	43	34	6.2%	35	893%	25	-2%	44
Indiana	59	23	7.9%	19	1347%	12	54%	11
Iowa	50	29	8.9%	10	801%	27	40%	19
Kansas	45	32	6.9%	26	597%	37	9%	35
Kentucky	69	17	8.4%	14	949%	21	32%	23
Louisiana	103	3	6.5%	33	1000%	19	5%	37
Maine	18	48	6.1%	37	757%	31	114%	1
Maryland	39	41	5.0%	44	353%	48	13%	30
Massachusetts	11	49	4.3%	48	382%	45	-9%	48
Michigan	41	37	4.3%	49	293%	49	4%	38
Minnesota	21	46	6.2%	36	625%	36	54%	12
Mississippi	107	2	8.2%	15	2711%	5	25%	26
Missouri	85	8	8.1%	17	1484%	11	33%	21
Montana	102	4	12.2%	1	23550%	1	80%	6
Nebraska	39	40	8.6%	12	377%	46	44%	17
Nevada	77	12	7.8%	20	1251%	14	20%	27
New Hampshire	18	47	4.9%	45	5850%	3	2%	40
New Jersey	33	42	5.5%	42	717%	34	-21%	49
New Mexico	56	24	8.9%	9	930%	22	81%	5
New York	28	44	4.4%	47	445%	42	-23%	50
North Carolina	40	39	5.7%	40	282%	50	30%	25
North Dakota	41	38	10.4%	4	6350%	2	102%	2
Ohio	54	27	7.1%	25	452%	41	12%	32
Oklahoma	129	1	10.0%	6	1237%	15	-1%	43
Oregon	54	26	7.5%	22	776%	29	68%	7
Pennsylvania	28	43	4.4%	46	763%	30	12%	31
Rhode Island	11	50	3.2%	50	362%	47	5%	36
South Carolina	66	18	6.3%	34	417%	44	9%	34
South Dakota	75	13	9.4%	7	1511%	10	53%	14
Tennessee	63	21	7.4%	23	721%	33	39%	20
Texas	101	5	7.2%	24	1141%	17	11%	33
Utah	42	35	8.5%	13	1573%	8	54%	13
Vermont	25	45	5.5%	41	789%	28	95%	3
Virginia	71	14	7.6%	21	978%	20	42%	18
Washington	42	36	7.9%	18	477%	40	18%	28
West Virginia	48	30	8.8%	11	909%	23	86%	4
Wisconsin	47	31	6.1%	38	863%	26	-4%	46
Wyoming	84	9	10.6%	2	1213%	16	51%	15
Federal	7		6.4%		503%		27%	
U.S. Average	64		7.0%		757%		17%	

SOURCE: Bureau of Justice Statistics

among the top 10 on every scale of female imprisonment, including population growth over the last five years. **Wyoming** devotes the second-largest share of prison space to women and imprisons them at the ninth-highest rate in the nation. **Arizona** boasts the nation's seventh-leading female imprisonment rate and has seen its female prison population jump by more than 60 percent since 1999.

Among Southern states, **Oklahoma** and **Mississippi** merit special attention. Not only do they imprison women at the highest rates in the nation, but Oklahoma is also one of seven states where women make up at least 10 percent of the prison population, and Mississippi's population has grown 28 times larger since 1977.

Three Midwestern states and one Pacific state demand also deserve notice, each for a different set of reasons. Women are heavily overrepresented in **South Dakota** prisons compared to rest of the nation, and the state's incarceration and growth rates are well above-average. **Missouri** imprisons women at the eighth-highest rate in the nation and also ranks poorly on the other scales of female imprisonment.

**North Dakota** has a comparatively low female imprisonment rate but devotes over 10 percent of its prison beds to women – a population whose numbers have shot up 6,350 percent since 1977 and doubled over the past five years. Women also comprise over 10 percent of prisoners in **Hawaii** and, despite an 8 percent drop in its female prison population since 1999, the Pacific state ranks third in population growth over the past 27 years.

On the other end of the spectrum are several states that have made much less extensive use of prisons for women. **Rhode Island** lands at the bottom by nearly every measure. Women comprise just over three percent of Rhode Island's prison population and are imprisoned at a rate of 11 per 100,000 residents despite more than four-fold growth in the number of female prisoners since 1977. Neighboring **Massachusetts** is also remarkable for its equally low incarceration rate; the small share of prison beds the state devotes to women (4.3 percent); and a 9-percent reduction in the female prison population that has taken place in the last half-decade.

**New York** and **Michigan** follow Rhode Island and Massachusetts, devoting a slightly higher proportion of prison beds to women and imprisoning women at significantly higher but still below-average rates. The growth rate of Michigan's female prison population over the past 27 years was the second-lowest in the nation

(five percent per year on average) and not far above the growth rate for men. New York claimed the ninth-slowest growth rate as well as the most significant drop in its female prison population since the turn of the century.

Several other Northeastern states, including **New Hampshire**, **New Jersey** and **Pennsylvania**, fall near the bottom of most female imprisonment scales. The Garden State recorded the second-largest female prison population reduction over the last five years. New Hampshire, as previously mentioned, has maintained a low female imprisonment rate despite huge proportional growth in its women's prison population.

**Maryland** and **North Carolina** deserve mention for another reason. Both states have experienced unusually slow growth in their female prison populations since 1977, bringing imprisonment rates that were once among the nation's highest into the bottom ranks. (See Table 1.)

### ***New century finds women leading opposing incarceration trends***

Women's prison population growth outstripped growth in the men's population in every state during the past 27 years. A different trend has emerged since the end of 1999. Women continue to be disproportionately impacted in states where overall growth rates remain high. But among states that experienced little or no prison population growth, a large majority saw growth rates for female prisoners fall *below* rates for males.

Women led the growth trend in 29 of 30 states where the total prison population (male and female) rose by 10 percent or more over the last half-decade. The opposite was true of states that experienced slower growth or a net decline in their total prison population – 13 of 20 saw their male prison population rise more quickly, or decline more slowly, than their female population.

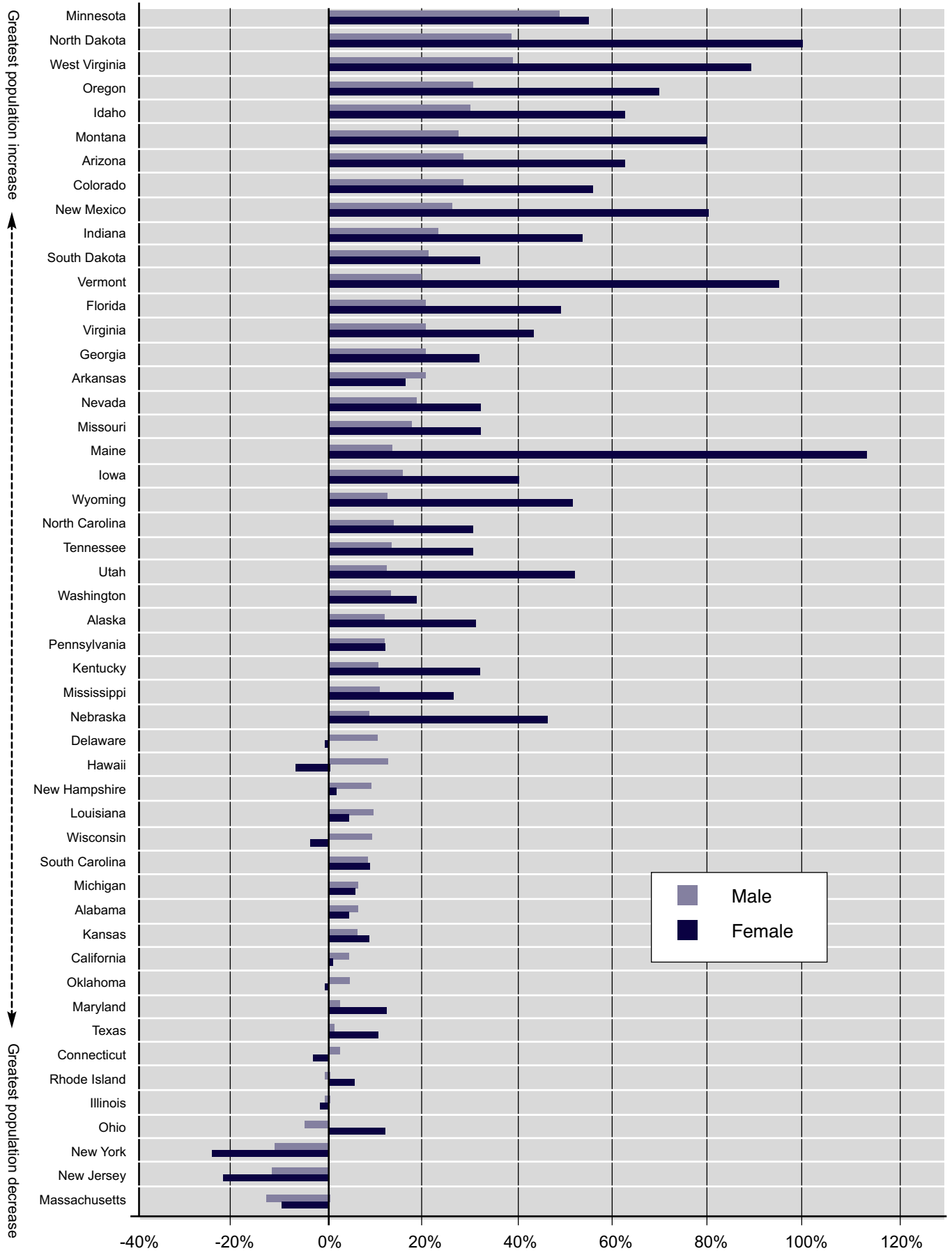
The differences could not be starker. In North Dakota, West Virginia and Oregon – states where the total prison population has jumped by more than a third since 1999 – the female prison population is growing at twice the rate of the male population. On the other hand, New York and New Jersey have watched prison populations fall by more than 10 percent, led by even sharper drops in the number of women behind prison bars (23 percent and 21 percent, respectively).<sup>10</sup>

Women's imprisonment is not driving growth

<sup>10</sup> The most striking exception to this trend is Ohio, where a 5.4 percent drop in the men's prison population has been partially offset by 12-percent growth in the women's population.

Figure 14.

Change in state prison populations: 1999 to 2004



SOURCE: Bureau of Justice Statistics

trends in most states, since their share of the total population, while growing, remains relatively small. Instead, the data suggest that women's prison populations may be especially sensitive to the factors that drive rapid growth in the overall prison population. (See Figure 14.)

## WHAT CAN RESEARCH TELL US ABOUT THE PROBLEM?

The question of whether the increased involvement of women in the criminal justice system reflects actual changes in their involvement in an expanding range of activities considered criminal or changes in law enforcement and sentencing policies and practices has received some attention. The 1970s saw a great deal of debate in the media over whether the women's movement for equal rights would produce an era of "liberated" women criminals who would venture into serious, violent criminal activities.

Some academics claimed that increased arrests of women were evidence that the feminist movement was driving new trends in women's involvement in crime.<sup>11</sup> Others countered that close analysis of arrest data indicated that increased arrests of women were largely occurring in categories conceived as traditionally female such as shoplifting, prostitution and passing bad checks.<sup>12</sup>

Debate about women's involvement in violent crime was freshened in the early 1990s with the charge that women in New York City were becoming more involved in violent street crime.<sup>13</sup> It was argued that the high incidence of homicides and imprisonment among young men in these neighborhoods had increased opportunities for young women to enter the "informal drug economy" as dealers. Women were described as responding to the same social and economic dynamics that drove increased levels of violence among men, making gender a "less salient factor." Controversy over the role of women in New York's epidemic of violent street crime faded as reports of violent crime in the City plummeted over the next decade.

Meda Chesney-Lind, a prominent scholar and outspoken advocate for the needs of girls and women in the criminal justice system, contends that pro-arrest policies for police handling of domestic violence incidents have contributed to an unwarranted rise in arrests of women for violent offenses.<sup>14</sup> She cites large increases in domestic violence arrests of women during the 1990s in Maryland and California, and points out that increases in arrests of women for assault during this period did not track arrests of women for murder – an arrest category that could be presumed to increase if women were becoming more assaultive. In fact, arrests of women for murder have steadily declined.

In the federal criminal justice system, draconian mandatory minimum sentencing laws and rigid sentencing guidelines have increased the proportion of women who receive prison sentences and the length of time women spend behind bars. The federal sentencing reforms of the mid-1980s have resulted in higher rates of incarceration of women for economic offenses, and have drastically increased the length of incarceration for drug offenses.

Myrna Raeder charges that these reforms have "subverted the earlier non-incarcerative model of female sentencing," where women tended to receive probation or shorter prison terms.<sup>15</sup> She argues that a defendant's primary responsibilities for care of children should be taken into account by judges at sentencing out of concern that imprisonment rests enormous hardships on them. Raeder contends that while such a policy might benefit more women than men (because women more often fill this familial role) no true affront to gender equity would stem from this accommodation.

Most recent research literature devoted to analysis of women in the criminal justice system presents four distinct themes to describe the etiology of women's criminal behaviors and their personal and social problems. First, most women in the criminal justice system come from neighborhoods that are entrenched in poverty and largely lacking in viable systems of social support. Second, alarmingly large numbers of these

<sup>11</sup> Adler, Frieda. *Sisters in Crime* (New York, McGraw-Hill, 1975)

<sup>12</sup> Steffensmeier, Darrell J. "Sex differences in patterns of adult crime, 1965-1977: A review and Assessment." *Social Forces*, Vol. 58, No. 4 (1980)

<sup>13</sup> Baskin, Deborah, Ira Sommers and Jeffrey Fagan. "The political economy of female violent street crime." *Fordham Urban Law Journal*. Vol. 20 (1993)

<sup>14</sup> Chesney-Lind, Meda. "Criminalizing victimization: the unintended consequences of pro-arrest policies for girls and women." *Criminology and Public Policy*, Vol. 2, No. 1 (November, 2002)

<sup>15</sup> Raeder, Myrna S. "The forgotten offenders: the effect of sentencing guidelines and mandatory minimums on women and their children." *Federal Sentencing Reporter*: Vol. 8, No. 3 (December, 1995)

Table 2.

Estimated number of sentenced prisoners under state jurisdiction in 2003				
Offense charges	Men		Women	
Violent offenses	598,600	51.7%	26,300	33.0%
Murder and nonnegligent manslaughter	140,200	12.1%	8,100	10.2%
Manslaughter	15,300	1.3%	1,600	2.0%
Rape	60,400	5.2%	500	0.6%
Other sexual assault	80,100	6.9%	1,000	1.3%
Robbery	164,600	14.2%	6,400	8.0%
Assault	110,300	9.5%	6,600	8.3%
Other violent	27,800	2.4%	2,100	2.6%
Property offenses	230,100	19.9%	22,900	28.7%
Burglary	126,400	10.9%	4,800	6.0%
Larceny	40,900	3.5%	7,200	9.0%
Motor vehicle theft	17,800	1.5%	800	1.0%
Fraud	22,300	1.9%	8,400	10.5%
Other property	22,600	2.0%	1,800	2.3%
Drug offenses	239,900	20.7%	25,100	31.5%
Public-order offenses	82,600	7.1%	4,900	6.1%
Other/unspecified	6,400	0.6%	600	0.8%
All offenses	1,157,700	100.0%	79,800	100.0%

SOURCE: Bureau of Justice Statistics. "Prisoners in 2004." Washington, DC: Department of Justice

women have experienced very serious physical and/or sexual abuse, often commencing when they were young children. Third, as adults, most of these women are plagued with high levels of physical and mental health problems as well as substance abuse issues. Often these problems are combined and compounded. Fourth, the great majority of the women who have suffered from these deprivations, histories of trauma and abuse, and health deficits are mothers – and they are far more likely than men in the criminal justice system to be the sole support and caregivers for their children.

The relationship between violent physical and sexual abuse and women's incarceration has been traced by Angela Browne in her research on the high rates of women in prison with histories of abuse.<sup>16</sup> She reports strong associations between histories of childhood sexual abuse and violence and subsequent problems such as alcohol and drug abuse; involvement in prostitution; involvement with violent intimates who are involved in other criminal activities; and arrests for criminal offenses.

Beth Richie has drawn from the life histories of women in jail to illustrate a link between “culturally-constructed gender-identity development, violence against women in intimate relationships, and women's participation in illegal activities.”<sup>17</sup> She argues that “gender entrapment” of African American women – violence from intimate partners resulting in “acute injuries, chronic pain, sexual degradation, and emotional trauma” – can lead them to commit crimes.

Most women of color entering the criminal justice system come from economically distressed communities lacking in social supports. Much of the drug abuse that characterizes these women's involvement in criminal behavior is understood as “self medication” used to ease the pain and suffering brought about by the circumstances of their life histories. The flood of crack cocaine that hit urban areas such as New York City in the late 1980s served to increase women's involvement in street-level prostitution, a mainstay survival strategy for women addicts along with low-level drug dealing and petty property crimes.<sup>18</sup>

<sup>16</sup> Browne, Angela, Brenda Miller and Eugene Maguin. “Prevalence and Severity of Lifetime Physical and Sexual Victimization Amongst Incarcerated Women.” *International Journal of Law and Psychiatry*. Vol. 22, Nos. 3-4 (1999)

<sup>17</sup> Richie, Beth. *Compelled to Crime: the gender entrapment of battered black women*. (London: Routledge, 1996)

<sup>18</sup> Chesney-Lind, Meda. *The Female Offender: Girls, Women and Crime*. 2nd edition. (Thousand Oaks, CA: Sage Publications. 2004)

Table 3.

Offense charges	Men			Women		
	1995	2004		1995	2004	
<i>Index offenses</i>						
Murder and nonnegligent manslaughter	9,326	6,840	-26.7%	1,023	901	-11.9%
Forcible rape	16,418	13,550	-17.5%	175	182	4.0%
Robbery	55,997	46,681	-16.6%	5,786	6,069	4.9%
Aggravated assault	231,184	193,638	-16.2%	45,584	48,703	6.8%
Burglary	128,610	111,822	-13.1%	18,246	20,685	13.4%
Larceny-theft	423,744	340,255	-19.7%	310,450	199,371	-35.8%
Motor vehicle theft	61,561	56,983	-7.4%	9,011	11,919	32.3%
Arson	4,789	3,689	-23.0%	1,110	875	-21.2%
Violent crime	312,925	260,709	-16.7%	52,568	55,855	6.3%
Property crime	618,703	512,749	-17.1%	245,217	232,850	-5.0%
<b>Total Index Offenses</b>	<b>931,628</b>	<b>773,458</b>	<b>-17.0%</b>	<b>297,785</b>	<b>288,705</b>	<b>-3.0%</b>
<i>Other Offenses:</i>						
Other assaults	557,206	486,179	-12.7%	122,385	130,802	6.9%
Forgery and counterfeiting	41,867	41,754	-0.3%	25,642	27,814	8.5%
Fraud	125,511	96,004	-23.5%	102,934	83,636	-18.7%
Embezzlement	4,666	4,890	4.8%	3,742	5,190	38.7%
Stolen property; buying, receiving, possessing	61,583	51,314	-16.7%	11,094	12,464	12.3%
Vandalism	97,358	86,828	-10.8%	18,499	19,645	6.2%
Weapons; carrying, possessing, etc.	107,938	79,442	-26.4%	9,052	6,210	-31.4%
Prostitution and commercialized vice	24,636	17,401	-29.4%	40,268	38,998	-3.2%
Sex offenses (except forcible rape and prostitution)	45,717	42,444	-7.2%	3,798	3,936	3.6%
Drug abuse violations	625,692	771,609	23.3%	132,997	182,824	37.5%
Gambling	6,577	4,901	-25.5%	793	551	-30.5%
Offenses against family and children	70,160	53,609	-23.6%	17,225	16,218	-5.8%
Driving under the influence	747,918	677,730	-9.4%	125,546	153,539	22.3%
Liquor laws	203,835	218,856	7.4%	44,080	65,913	49.5%
Drunkenness	424,612	295,749	-30.3%	55,619	49,702	-10.6%
Disorderly conduct	295,955	223,539	-24.5%	75,502	64,686	-14.3%
Vagrancy	11,388	16,465	44.6%	3,133	3,501	11.7%
All other offenses (except traffic)	1,513,629	1,666,971	10.1%	350,990	478,891	36.4%
Suspicion	3,388	1,434	-57.7%	593	431	-27.3%
<b>Total for other offenses</b>	<b>4,969,636</b>	<b>4,837,119</b>	<b>-2.7%</b>	<b>1,143,892</b>	<b>1,344,951</b>	<b>17.6%</b>
<b>Total for all offenses</b>	<b>5,901,264</b>	<b>5,610,577</b>	<b>-4.9%</b>	<b>1,441,677</b>	<b>1,633,656</b>	<b>13.3%</b>

SOURCE: FBI. "Crime in the United States – 2004." Washington, DC: Department of Justice

### ***The war on drugs and other drivers of female prison population growth***

Other efforts to explain the sharp increase in women's imprisonment have focused on the "war on drugs," with its emphasis on street-level sweeps of those engaged in the drug trade and harsh manda-

tory sentencing. The crackdown on drug crime was sold to the American public as the answer to an escalating epidemic of male violence. Yet despite their roles as relatively minor players in the drug trade, women – disproportionate numbers of them African American and Latina – have been "caught in the net" of increasingly punitive policing, prosecutorial, and

Table 4.

Percent of single offender victimizations by women (perceived gender of offender)										
		1995	1996	1997	1998	1999	2000	2001	2002	2003
Crimes of violence	%	16.7	16.7	16.1	17.8	19.1	17.7	19.2	19.9	17.5
Completed violence		14.9	14.9	15.9	17.5	17.9	17.8	16.8	21.1	14.4
Attempted/threatened violence		17.4	17.4	16.2	18.0	19.5	17.6	20.3	19.4	18.8
Rape/Sexual assault	*	2.5	2.5	4.6	2.7	5.4	0.0	6.1	3.7	3.5
Robbery		10.4	10.4	10.4	10.4	12.0	6.3	6.1	10.7	11.4
Completed/property taken	*	11.1	11.1	12.9	10.4	10.9	8.4	8.3	11.4	13.6
With injury	*	20.9	20.9	17.7	10.8	10.6	18.5	9.0	7.3	4.2
Without injury	*	6.8	6.8	9.7	10.3	11.0	5.3	7.9	14.1	20.5
Attempted to take property	*	9.4	9.4	6.6	10.3	14.3	1.8	2.3	9.3	8.7
With injury	*	17.0	17.0	5.2	19.2	20.8	0.0	5.8	15.6	21.9
Without injury	*	7.8	7.8	7.0	7.6	12.3	2.7	0.0	5.2	5.2
Assault		18.0	18.0	17.2	19.3	20.7	19.7	21.1	21.5	18.7
Aggravated		15.2	15.2	12.5	14.9	18.5	15.1	16.2	13.2	14.2
Simple		18.8	18.8	18.6	20.6	21.3	21.0	22.6	23.6	19.9

\*Estimate for 2003 is based on about 10 or fewer sample cases.

SOURCE: NCVS. "Criminal Victimization in the United States - Statistical tables" Washington, DC: Bureau of Justice Statistics'

sentencing policies.<sup>19</sup> Once in the system, women often have little choice but to accept plea bargains and then face mandatory minimum sentencing laws that restrict judges from mitigating the impact of their sentencing decisions in consideration of their family situations or their obvious need for substance abuse treatment.

Analysis of national and state corrections data provide support for this explanation. The proportion of female state prisoners convicted of drug offenses has risen from just 11 percent in 1979 to 32 percent at the end of 2002.<sup>20</sup> By contrast, 21 percent of male prisoners were serving time for drug offenses in 2002. (See Table 2.)

The burden of increased incarceration for drug sales has fallen more heavily on women of color than on white women. An overall increase of 433 percent in the female drug prisoner population between 1986 and 1991 was comprised of a 241 percent increase for white women, a 328 percent increase for Latina women, and a staggering 828 percent increase for African American women.<sup>21</sup>

Barbara Bloom maintains that the intersection of race, class and gender puts low-income women of

color, especially African American women, in “triple jeopardy” and contributes to their disproportionate incarceration. Cultural stereotypes limit their access to programs and services that could help them improve their economic circumstances, strengthen their family units, and avoid criminal involvement.<sup>22</sup>

Natalie Sokoloff contends that since African American women – who comprise 12 percent of the female population in the U.S. – now comprise more than 50 percent of women in prison, the “war on drugs” has become a “war on poor black women.”<sup>23</sup>

The impact of drug enforcement on women’s incarceration appears to vary among different state sentencing regimes. In New York, a state characterized by Marc Mauer as operating a “drug-driven criminal justice system,” drug offenses accounted for 91 percent of the increase in the number of women sentenced to prison from 1986 to 1995. In Minnesota, where a structured sentencing guidelines system affords judges more discretion than is provided New York’s judges under the inflexible Rockefeller Drug Laws, drug offenses accounted for just 26 percent of the increase in women’s imprisonment.<sup>24</sup>

<sup>20</sup> Bureau of Justice Statistics. *Profile of state prison inmates — 1986*. Washington, DC: US Department of Justice. 1988; Harrison, *Prisoners in 2004*

<sup>21</sup> Mauer, Marc and Tracy Huling. *Young Black Americans and the Criminal Justice System: Five Years Later*. (Washington, DC: The Sentencing Project. 1995)

<sup>22</sup> Bloom, Barbara, Barbara Owen and Stephanie Covington. *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*. (Washington, DC: National Institute of Corrections, June 2003)

<sup>23</sup> Sokoloff, Natalie. “Women Prisoners at the Dawn of the 20<sup>th</sup> Century.” *Women in Criminal Justice*. Vol. 16, No. 1/2 (2005)

<sup>24</sup> Mauer, Marc, Cathy Potler and Richard Wolf. *Gender and Justice: Women, Drugs, and Sentencing Policy*. (Washington DC: The Sentencing Project. November, 1999)

Women arrested for involvement in the drug trade tend to play peripheral or minimal roles, selling small amounts to support a habit, or simply living with intimates who engage in drug sales.<sup>25</sup> Once arrested under mandatory minimum drug laws, women face intense pressure to plea bargain but are likely to have little or no information about larger drug market operations to use as bargaining chips. Mandatory minimum drug laws remove the discretion that judges might otherwise use to take account of mitigating factors such as a woman's role giving primary support and care to children or to elder relatives.

The escalating "war on drugs" has often been stoked with inflamed portrayals of drug-involved women in the popular media. In the mid-1980s, pregnant addicts giving birth to ailing "crack babies" became drug-enforcement icons. Twenty years later there is scant evidence to substantiate the dire predictions of permanent and severe damage to their children due to their drug use. Neither hysteria about "crack babies" nor increased resources for drug court programs has produced a significant effort to increase access to effective drug treatment for pregnant women. Yet current media depictions of women addicted to methamphetamine are fueling the same hysteria with respect to pregnant women's drug use.<sup>26</sup> (See Table 3.)

The drug war has been a major driver of female prison population growth but not the only one. Between 1995 and 2004, arrests of adult women for drug offenses rose by 48 percent compared to 23 percent growth for men.<sup>27</sup> But arrests of women for violent offenses were also up by 6.3 percent in contrast to a nearly 17 percent decline for men.

While arrests of adult women between 1995 and 2004 have increased by 13 percent overall, their arrests for the more serious "index" offenses (murder, rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft and arson) have declined by 3 percent. The main share of increase in arrests of women for violent index crime was in the category of aggravated assaults. Arrests of women for murder during the period actually declined by 12 percent.

In terms of women's share of overall arrests, the pattern appears relatively stable over the decade, increasing from 20 percent to 23 percent. For more serious index crime, women's share rose from 24 percent

to 27 percent. The vast majority of women's arrests are for lower-level offenses, with 82 percent of women's arrests falling into the less serious "non-index" category. This includes a large number of arrests for drug violations, as well as minor offenses typically thought to be "women's crimes," such as shoplifting and welfare fraud.

While the FBI arrest data displayed above show a 6 percent increase in arrests of women for violent index offenses between 1995 and 2004, data available from the National Crime Victimization Survey show no significant increase in actual violent victimizations by women for the period.<sup>28</sup> (See Table 4.)

### ***The social costs of women's incarceration***

This profile of women in the criminal justice system clearly illustrates their multiple needs. Joanne Belknap reports that as prisoners, women are disadvantaged in terms of access to educational, vocational, and recre-

*Figure 15.*

#### **National Profile of Women Offenders**

A profile based on national data for women offenders reveals the following characteristics:

- Disproportionately women of color.
- In their early to mid-30s.
- Most likely to have been convicted of a drug-related offense.
- From fragmented families that include other family members who also have been involved with the criminal justice system.
- Survivors of physical and/or sexual abuse as children and adults.
- Individuals with significant substance abuse problems.
- Individuals with multiple physical and mental health problems.
- Unmarried mothers of minor children.
- Individuals with a high school or general equivalency diploma (GED) but limited vocational training and sporadic work histories.

SOURCE: NIC: "Gender-Responsive Strategies"

<sup>25</sup> Lapidus et. al. "Caught in the Net: the Impact of Drug Policies on Women and Families."

<sup>26</sup> Ibid.

<sup>27</sup> Federal Bureau of Investigation. *Crime in the United States – 2004*. (Washington, DC: Department of Justice)

<sup>28</sup> NVCS data are not yet available for 2004.

ational programs, as well as to healthcare.<sup>29</sup> A paucity of services and programs for women in prison has been justified by the high cost, given women's small numbers relative to men behind bars. Her research documents inadequate access to healthcare and program services. She found differences among women's programming needs according to their level of substance abuse, their race, and the length of their prison term. African American women had much higher rates of participation in education and drug programs, and were far more likely to request access to vocational training. Belknap also identified a need for more programs to help women deal with histories of sexual and physical abuse.

Added to the many issues, problems and barriers women share with men at reentry from prison, women must struggle with reunification of their families. More than 70 percent of women in prison have children. Even before a mother's arrest and separation from the family unit, many children will have experienced emotional hardship associated with parental substance abuse and economic instability. While she is incarcerated they suffer additional trauma, anxiety, guilt, shame and fear.<sup>30</sup>

More than half of mothers in prison have no visits with their children for the duration of their time behind bars.<sup>31</sup> Children are generally subject to instability and uncertainty while their mothers are imprisoned. On average, the children of incarcerated mothers will live with at least two different caregivers during the period of their incarceration. More than half will experience separation from their siblings.<sup>32</sup>

More than 80 percent of mothers in prison plan to reunify their families upon release, but accomplishing this goal is often very difficult. Prior to a mother's arrest and incarceration, the typical family unit survived on an income of less than \$500 per month.<sup>33</sup> Generally lacking adequate job skills and an acceptable record of past employment, most women are ill-prepared to support a family upon their release from prison. Moreover, the communities to which they return are ill-prepared to receive them.

Dina Rose and Todd Clear's groundbreaking research has documented that the removal of women from their neighborhoods through incarceration has a disproportionate affect on the community because of the multiple roles they play. Rose and Clear's research also documents the disproportionate concentration of people returning from prison to a relatively small number of urban neighborhoods within large cities.<sup>34</sup> These neighborhoods are stressed by a lack of economic and social capital. Most residents are beleaguered with the challenges of daily survival and are not prepared to stretch their meager resources to accommodate the needs of their returning friends and relatives.

Natalie Sokoloff has examined the broad impact of mass incarceration on African American women – women in prison; those left behind in communities when their loved-ones and friends are sent to prisons; and women who leave prison to reenter the communities they left behind.<sup>35</sup> Incarceration of both women and men from poor communities removes the contributions they were making – income, childcare, elder care and emotional support – from the families they leave behind.

The Legal Action Center has cataloged the many ways that a women's criminal record may restrict access to vital resources when she returns from prison: denial of public housing; denial of welfare benefits and food stamps; denial of financial assistance for education; and barriers to employment.<sup>36</sup> These post-conviction penalties constitute an additional layer of punishment that endures far beyond the prison sentence handed down by a judge. (See Figure 15.)

## POLICIES THAT MAKE A DIFFERENCE

Many advocates for rational criminal justice policies worried that the "prison boom" and its attendant spiral into harsh punitiveness would never abate. Six years into the new century, we see that crime rates have plummeted, and public attitudes about criminal justice issues have experienced a remarkable shift. Over the past few years most states in the U.S. have struggled with a se-

<sup>29</sup> Belknap, Joanne. "Access to programs and healthcare for incarcerated women." *Federal Probation*. Vol 60, Issue 4 (December 1996)

<sup>30</sup> Jacobs, Ann. "Give 'em a Fighting Chance: The Challenges for Women Offenders Trying to Succeed in the Community." *Topics in Community Corrections*. (Washington DC: National Institute of Corrections 2000)

<sup>31</sup> Chesney-Lind, *The Female Offender: Girls, Women and Crime*.

<sup>32</sup> Women's Prison Association. *Breaking the Cycle of Despair: Children of incarcerated mothers* (New York: WPA 1995)

<sup>33</sup> Ibid.

<sup>34</sup> Rose, Dina R, Todd Clear and Judith A. Ryder, *Drugs, Incarcerations and Neighborhood Life: The Impact of Reintegrating Offenders in the Community*. (Washington, DC: National Institute of Justice 2000)

<sup>35</sup> Sokoloff, Natalie. "The Impact of the Prison Industrial Complex on African American Women." *Souls* Vol. 5, no. 2 (Spring 2003)

<sup>36</sup> Samuels, Paul and Debbie Mukamal. *After Prison: Roadblocks to Reentry*. (New York: Legal Action Center 2004)

Table 5.

**Thinking about reentry needs and discharge planning  
A model for successful community reintegration**

Reentry Phase	Basic Life Areas*				
	Subsistence/ Livelihood**	Residence	Family	Health & Sobriety	Criminal Justice Compliance
<b>Survival</b>	Gate money Public assistance Soup kitchens, pantries Maintain basic hygiene	Family or friend Shelter Street	Find children Make contact	Continue with previous medication regimens Avoid relapse Emergency room care	Report to parole regularly
<b>Stabilization</b>	Public assistance, workfare Training/education Low wage or subsidized job	Transitional Residence Family or friend	Supervised visitation Get refamiliarized	Drug treatment; treatment of urgent physical and mental health issues Counseling	Comply with requirements
<b>Self- Sufficiency</b>	Job that pays a living wage and provides benefits Education to improve employability	Permanent housing (with public subsidy, if necessary)	Reunify with family; receive family counseling Caring for others	Regular health visits paid by health insurance Ongoing support struc- ture—12 step, therapy, community activities	Earn reduced supervision or complete parole

\* The other basic need is for encouragement, support, and orientation to new things.

\*\* Subsistence includes transportation, food, clothing and all out of pocket expenses.

SOURCE: Improving the Odds: Women in Community Corrections; WPA

vere fiscal crisis. In the face of declining revenues, policymakers – both Republicans and Democrats – have been re-thinking many of the costly correctional policies they had embraced when revenues were booming.

A clear majority of states have embraced one or more constructive measures to roll back harsh laws and policies. Most are experiencing a far more moderate rate of prison population growth. In 31 states policymakers have introduced major reforms in their effort to cut costs while improving the effectiveness of their sentencing and correctional systems. At least 20 states have rolled back mandatory minimum sentences or restructured other harsh penalties enacted in preceding years to get tough on low-level drug offenders or non-violent lawbreakers. Legislators in at least 24 states have eased prison population pressures with mechanisms to shorten time served in prison, speed the release of prisoners who pose little risk to public safety, and penalize those who violate release conditions without returning them to prison.<sup>37</sup>

State revenue performance improved somewhat in 2004 but many state officials are continuing on a trajectory of reform.<sup>38</sup> While some states, as well as the federal criminal justice system, still remain on the same

old “get tough” course, a handful of states have turned the corner and begun to significantly downsize their prison systems.

Given that the majority of women in the prison system are sentenced for nonviolent crimes that stem from drug abuse and economic marginalization, women should be a key focus for policymakers as they craft more humane and cost effective alternatives to incarceration. The prevalence of nonviolent conviction offenses and the lower recidivism rates experienced by women after release from prison indicate that decarceration efforts targeting women would present few risks to public safety. And the status of many women as primary caregivers to their children should weigh heavily in favor of diverting them to community-based programs designed to enhance their ability to lead self-sufficient, successful lives in the community.

Indeed, efforts in a few states to reduce reliance on incarceration suggests that just as the get-tough excesses of the 1980s and 1990s have had greater impact on women, strategies that reverse their effects should bring greater relief for women. For example, enactment of Proposition 36 in 2000 by voters in California has diverted tens of thousands of people arrested for pos-

<sup>37</sup> Greene, Judith A. *Positive Trends in State-Level Sentencing and Corrections Policy*. Available online at <http://www.justicestrategies.net/Publications.htm> (Updates from the author)

<sup>38</sup> Lyons, Donna. *State Crime Legislation in 2004*. (Denver, CO: National Conference of State Legislatures.)

session of drugs. By 2001 the number of women sentenced to prison had dropped by 10 percent, and correctional managers attributed Proposition 36 as the largest factor driving the decline.<sup>39</sup> Early in 2003 the Department of Corrections was able to close the Northern California Women's Facility at Stockton, with savings expected to total \$31.6 million by July 2006.<sup>40</sup>

In New York, reduced levels of crime and arrests – combined with a series of measures such as increased “merit time”<sup>41</sup> for drug prisoners and “presumptive release”<sup>42</sup> for many prisoners serving time in prison for nonviolent crimes – have contributed to six straight years of downsizing in the state prison system. The prison population dropped from almost 73,000 in 1999 to about 63,000 today. New York's downsizing appears to be impacting women – whose numbers fell by 23 percent between 1999 and 2004 – at higher rates than men, who saw a 12 percent decline.<sup>43</sup>

Supervision conditions set by probation and parole authorities can scuttle a woman's best efforts to comply with an overload of rigid rules and requirements. Policy changes designed to reduce technical violation rates, such as the use of intermediate sanctions, should have favorable results for women, since many are revoked to prison for violations of community supervision requirements related to substance abuse or conflicts between reporting requirements and family responsibilities.

Efforts to break the cycle of crime and incarceration for women should be focused on helping them to learn more effective ways to cope with the stresses they face, strengthening their social and familial support networks, and enhancing their access to education and employment opportunities. Substance abuse treatment and other program interventions for women must be gender-responsive. Confrontational therapeutic techniques designed to break down the denial and defenses of men are likely to be counterproductive for women with histories of extreme psychological, physical and

sexual trauma.

Alternative programs for women must take account of the family responsibilities women bear. Women are typically required to separate from their children when they enter residential treatment. Intervention programs designed for women should be designed with the understanding that they and their families are often burdened with pressures from conflicting and inflexible requirements of multiple agencies. Criminal justice, welfare and child welfare agencies may set competing or conflicting goals and conditions for women, while limiting or denying access to essential services needed to stabilize and maintain the family unit.<sup>44</sup>

The problems have become particularly acute since the mid-1990s federal legislative “reforms” imposed a thicket of barriers to family preservation and women's recovery. These include the Adoption and Safe Families Act, which accelerates termination of parental rights to children in foster care; and the Personal Responsibility and Work Opportunity Reconciliation Act, which permanently bars anyone with a drug-related felony conviction from receiving federal cash assistance and food stamps.<sup>45</sup> Federal law further restricts Temporary Aid to Needy Families and Supplemental Social Security Income to people who violate conditions of probation or parole.<sup>46</sup>

When women are released from prison they face the same barriers to reentry as men – social stigmatization; lack of adequate housing; few or no employment opportunities; and denial of public benefits and services. Social reintegration is difficult enough when people return from prison to the high-poverty neighborhoods they left behind when they entered prison. Caught in a “catch-22,” many women cannot obtain government aid to secure adequate housing because they do not have custody of their children – and they cannot secure custody of their children because they do not have adequate housing.

<sup>39</sup> Martin, Mark. “Changing population behind bars: Major drop in women in state prisons. *San Francisco Chronicle*, April 21, 2001

<sup>40</sup> Ziedenberg, Jason and Scott Ahlers. *Prop. 36: Five years later*. (Washington DC: Justice Policy Institute. April 2006)

<sup>41</sup> Prisoners serving a mandatory sentence under the Rockefeller Drug Laws can receive a “merit time” reduction of their sentence in the amount of one-third of the minimum imposed by the court, provided they have a good behavior record and participate in work or treatment programs to prepare themselves for release.

<sup>42</sup> New York's “earned eligibility” program allows certain prisoners that complete work and/or treatment program assignments to earn a “certificate” that sets a presumption that they will be released at their first parole hearing unless the parole board decides otherwise.

<sup>43</sup> These data were obtained from the online “Criminal Justice Data Sheet” of the New York State Division of Criminal Justice Services.

<sup>44</sup> Women's Advocacy Project, *Making Family Reunification a Reality for Criminal Justice Involved Women*, available online at: [http://www.wpaonline.org/pdf/Recommendations\\_2005.pdf](http://www.wpaonline.org/pdf/Recommendations_2005.pdf)

<sup>45</sup> Allard, Patricia. *Life Sentences: Denying Welfare Benefits To Women Convicted Of Drug Offenses*. (Washington, DC: The Sentencing Project. February 2002) States may choose to “opt out” of these restrictions but many have not done so.

<sup>46</sup> Jacobs, Ann. “Give ‘em a Fighting Chance: The Challenges for Women Offenders Trying to Succeed in the Community. *Topics in Community Corrections*. (Washington DC: National Institute of Corrections 2000)

<sup>47</sup> Jacobs, Ann. *Improving the Odds: Women in Community Corrections*. Online at [http://www.wpaonline.org/pdf/Improving\\_the\\_Odds.pdf](http://www.wpaonline.org/pdf/Improving_the_Odds.pdf)

Ann Jacobs maintains reentry services should be coordinated to address the multiple challenges that women face.<sup>47</sup> Reentry planning must not prioritize one or two dimensions (e.g., substance abuse treatment and/or employment) over other dimensions (e.g., housing needs, family reunification and/or problems of past sexual abuse) that, if left unaddressed, can lead to relapse and recidivism. WPA has devised a reentry “matrix” to illustrate how planning for successful reentry must incorporate strategies that simultaneously address at least five domains, or basic life areas, keyed to moving a women forward through three phases of reintegration. (See Table 5.)

The matrix makes it clear that no single agency in government or the community service sector can fill all of a woman’s reentry needs; a coordinated effort is needed. Further, to the extent that we create these coordinated community supports, we will also be preventing women from coming into contact with the criminal justice and child welfare systems in the first place.

## CONCLUSION

During the past quarter-century, we have witnessed a truly extraordinary rise in the number of women behind bars – at a rate of growth that far exceeds an already staggering increase in the male prison population. The burden of the expanding female prison population has not been borne equally. Women in Oklahoma are over ten times more likely to be serving a state prison sentence than counterparts in Massachusetts or Rhode Island. While the number of women imprisoned in other parts of the country shot up 800 percent, the number in Mountain states’ prisons leapt 1,600 percent.

The majority of women in the U.S. prison system are serving sentences for nonviolent drug and property offenses. Many are incarcerated as a result of the overly harsh laws and policies adopted at the height of the “war on drugs.” Yet recent national research on public preferences about crime and corrections indicates strong support – by a two to one margin – for measures that address the causes of crime over strict sentencing. Most Americans favor mandatory drug treatment and community service rather than prison – even for those who *sell* small amounts of drugs.<sup>48</sup> From both an economic and public safety standpoint, the advantages of employing substance-abuse treatment and gender-responsive services instead of prison for such

women are clear.

Incarcerating women does not solve the problems that underlie their involvement in the criminal justice system. Their imprisonment creates enormous turmoil and suffering for their children. What makes far more sense is sensible sentencing reforms and public investment in effective drug treatment and gender-responsive services to aid women who seek to live law-abiding lives and provide a healthy and stable home for their children.

WPA’s “matrix” approach to reentry can serve just as well as a model for assisting women who might otherwise face incarceration to stabilize themselves and their families, and to attain self-sufficiency and successful lives in their communities. Supporting such a process requires understanding how poverty, trauma and victimization (past and present) and bad choices can combine to propel women into substance abuse and criminal involvement. Assisting them effectively means providing access to coordinated services that address these multiple issues simultaneously.

The experience of the last five years demonstrates that continued female prison population growth is not inevitable, and also that measures to reign in prison population growth may be especially beneficial to women. Policymakers and practitioners are in dire need of better information on the causes and consequences of, and alternatives to, this rapid growth in the number of women behind bars.

More research is needed to tell us how prisons are being used for women: what kinds of offenses are driving increases in the number of women in prison, and how the mix of female prisoners serving short and long sentences is affecting population levels. Further study is needed to determine to what extent variations in incarceration rates are driven by differences in criminal behavior, and to what extent they are driven by differences in law enforcement, sentencing, correctional practice.

Despite efforts by a handful of excellent researchers, the unique issues facing women in the criminal justice system remain poorly understood, in part because they comprise a small – if growing – share of the nation’s prison population. A better understanding of this population is critical for several reasons.

First, while the impact of incarcerating women is not necessarily greater than the impact of incarcerating men, it is certainly different. Women prisoners were more likely to have been primary caretakers of children prior

<sup>48</sup> Peter D. Hart Research Associates, Inc. *Changing Public Attitudes toward the Criminal Justice System*.

to incarceration, and their absence can place unique strains on families. Women also respond differently to incarceration. It is often observed that correctional facilities fail to provide prisoners with the tools needed to succeed on the outside. This may be especially true for women with a history of trauma or past abuse.

Second, existing research also suggests that women's pathways to prison may differ from those of men. As a consequence, strategies for improving criminal justice outcomes and reducing use of imprisonment are unlikely to succeed if these differences are not addressed.

Third, examination of trends in the incarceration of women can shed light on the larger issue of steadily rising incarceration rates. Analysis of recent prison population trends presented in this brief suggests that female prison populations are particularly sensitive to the factors that drive overall levels of imprisonment. Not only could further research help generate strategies that produce better outcomes for women, but some of the same strategies could be deployed to improve outcomes for men.

But more research on these issues is just the starting point. Action is needed to address the multitude of policies and practices that ensnare women in systems that cannot recognize and accommodate their needs as individuals and as parents. More and more incarceration should not be our response to the ways in which poverty, trauma, and addiction surface in women. Women should be supported – at the individual, family, and community level – in their efforts to create self-sufficient, successful lives for themselves and their families.