

# Focus on Women & Justice

WOMEN'S PRISON ASSOCIATION

Trends in Arrests and Sentencing

May 2004

## DESPITE A DROP IN CRIME, WOMEN ARE 3 TIMES MORE LIKELY TO GO TO PRISON THAN IN 1986

Even though arrest levels dropped 23% for men and women between 1986 and 2000, annual admissions to state prison rose 96%. For women, this trend was even more dramatic: arrests dropped 3% and admission to state prison increased by 170%.<sup>1</sup>



## It's More Than a War on Drugs

The expanded use of incarceration started with sentencing policy changes and other factors associated with the War on Drugs. However, by 2000, a higher proportion of women in all offense categories were being sent to prison than ever before.

### *For every 1000 female arrests...*

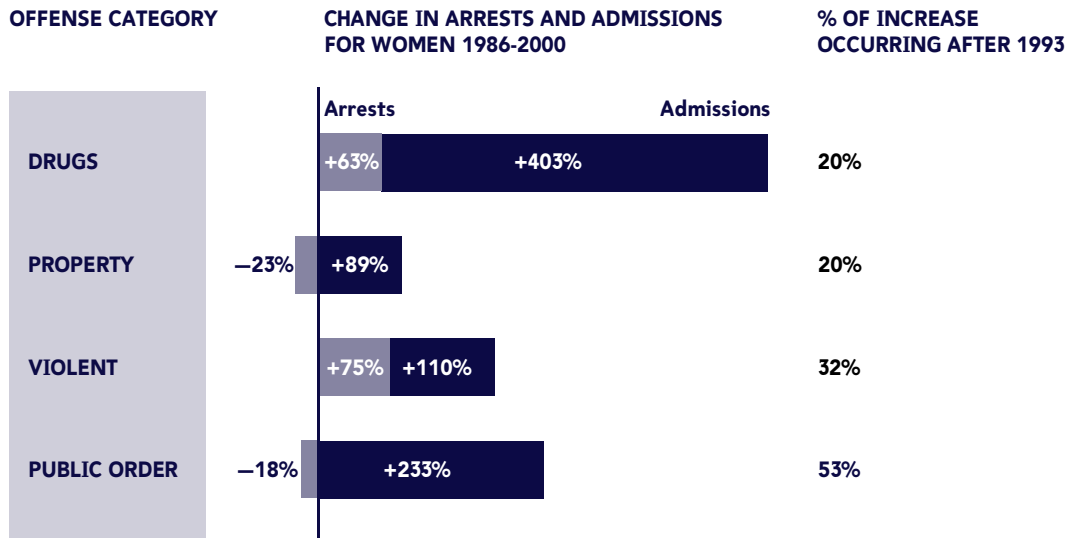
OFFENSE CATEGORY	1986	2000	PERCENT INCREASE
DRUGS	29 women are imprisoned.	91 women are imprisoned.	+214%
PROPERTY	13	33	+154%
VIOLENT	26	31	+19%
PUBLIC ORDER	2	7	+250%

## Punitiveness initiated for drug offenses extends to all crimes

### *Incarceration holds steady even as arrest rates for some crime categories decrease.*

Without a corresponding growth in arrests, the number of people sent to prison for drug offenses exploded between 1986 and 1993. During this period, admissions for drug offenses grew 6 times the rate of drug arrests. Changes in sentencing laws resulted in a higher proportion of arrests leading to prison terms for offenders who previously would have been sanctioned

in other ways. By 1993, punitiveness towards drug offenders reached its peak and the more stringent approach to offenders spread to other offense categories. For example, for public order offenses, prison admissions increased by 233% even as arrests for this category decreased by 18%.



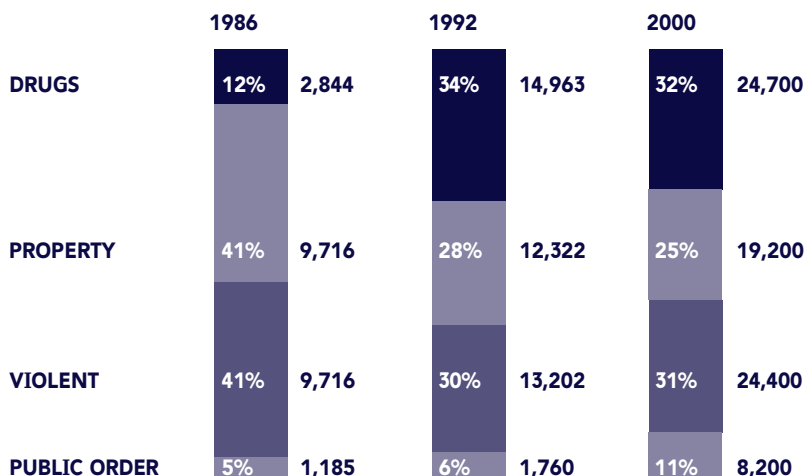
## Dramatic changes in the offense composition of the prison population

### *Drug-related and public order offenses are the fastest growing categories.*

Between 1986 and 2000, the percentage of the prison population made up of public order and drug offenders increased by

120% and 167% respectively. The proportion of inmates serving time for violent offenses decreased 39% in the same period.

#### PERCENTAGE AND NUMBER OF WOMEN INCARCERATED FOR EACH OFFENSE TYPE



#### DO PEOPLE REALLY GO TO PRISON FOR OFFENSES AGAINST THE PUBLIC ORDER?

**YES.** Most crimes against the public order are misdemeanors. However, some result in a felony conviction. For both men and women, **weapons offenses and driving under the influence (DUI)** are two of the largest single categories of public order offenses among new commitments to prison. Other common public order crimes include family related offenses such as desertion and abandonment, disorderly conduct such as public intoxication and begging, gambling, liquor law violations, prostitution, contempt of court, and parole/probation violations.

## Placing the increased incarceration of women in context

### ***Why is it that incarceration rates do not always follow crime trends?***

Although studies confirm that when crime rates rise, public anxieties and fears often lead politicians to promote imprisonment as a solution, scholars have also documented rising incarceration rates during periods of relatively low crime.<sup>2</sup> Indeed, evidence shows that the large crime waves of the 1960s and 1970s had leveled off *before* the dramatic expansion in the use of incarceration in the 1980s.<sup>3</sup> Various social and economic factors have been identified as playing a role in the expansion of incarceration. For instance, scholars have found that the public is more supportive of increased punitiveness during periods of high unemployment.<sup>2,4</sup> Other factors such as large-scale immigration and broad economic restructuring have also been shown to increase the demand for punishment.<sup>5,6</sup>

### ***How have changes in sentencing laws affected the incarceration rate?***

U.S. Department of Justice data reveal that from 1986 to 1996 new sentencing policies accounted for 88% of the increase in the prison population.<sup>7</sup> It is well documented that the War on Drugs was a major factor in producing this explosion in the number of people in prison.<sup>2</sup> However, studies further show that all categories of crime were affected by the new policies. The likelihood of going to prison after arrest increased by 257% for drug offenders, 149% for sexual assault, 57% for murder, 52% for assault, and 42% for burglary.<sup>7,8</sup> Three major groups of sentencing laws are:

#### ***Mandatory Minimums—***

Legislatures all across the country have adopted statutes that mandate a specified sentence length for an offense, regardless of offender characteristics or role in the crime committed.<sup>9</sup> The laws were instituted in response to both public concern over judges' use of discretion during sentencing and the public's perception that convicted felons were serving less time than they should. Drug offenders are especially targeted under these policies. For instance, many jurisdictions mandate longer sentences when drug sales occur within 1,000 feet of a school.<sup>10</sup> With mandatory minimums in place, judges must follow strict guidelines in handing out sentences to individuals convicted of certain crimes. This policy unintentionally has increased the amount of discretion available to prosecutors because they determine the charges for which individuals will be prosecuted.

#### ***Repeat Offender Laws—***

California's "Three Strikes and You're Out" legislation is perhaps the best-known example of the 'get tough on crime' policies that impose increasingly stringent sentences on repeat offenders.<sup>9</sup> It sends a person to prison for 25 years to life for a third offense, regardless of the severity of the crime.<sup>11</sup> Nearly half of the states have adopted some version of this statute.

#### ***Truth in Sentencing—***

Truth-in-sentencing laws were enacted to ensure that parole and other early release mechanisms (like credit for "good time") do not substantially reduce the length of time an offender spends in prison. The minimum time that must be served varies across states: 29 states require that inmates serve 85% of their time, 4 states require that inmates serve 50% of their time, and 3 states require that inmates serve 100% of their time.<sup>9</sup> One consequence of more inmates spending more time incarcerated is an increase in the size of the population under custody.

#### ***Are more prisons being built?***

**Yes.** More people are being sentenced to prison, and prison overcrowding has become so serious an issue that some jurisdictions have been mandated by judicial decree to resolve the problem. Also, the Violent Crime Control and Law Enforcement Act passed by Congress in 1994 provides incentives to states to build prisons. Heralded as the largest crime bill in U.S. history, it provides billions of dollars to states and communities for hiring police officers, developing community crime-control programs, and building prisons. It also requires that states had to adopt 'truth in sentencing' laws to qualify for prison construction money.

Research shows that, with more available funding, even fiscally restrained states that were once hesitant to rely too heavily on imprisonment as a response to crime can and have more easily expanded their use of incarceration.<sup>2,12</sup> The result is that spending on prison expansion in some states has increased dramatically. A Department of Justice study shows that two years after the passage of this Act, capital outlay for the construction of state prisons was 1.2 billion dollars, an 89% increase over 1990 expenditures.<sup>13</sup> This fact is more striking in light of the 92% decrease in expenditures for state prison construction between 1984 and 1990.<sup>13</sup>

## The social costs of expanded incarceration

### ***What are the economic costs of incarceration?***

According to the most recent estimates by the Bureau of Justice Statistics, correctional costs rose by 225% between 1985 and 1996 and states spent an average of \$20,100 per inmate annually in 1996.<sup>13</sup> This money is then not available for healthcare, education, transportation, parks and recreation, or any of the services that might produce more benefit for society. The imbalance in funding priorities is further illustrated by data compiled from the National Center for Educational Statistics that reveal that, during the academic year 1999-2000, a family with a child in college could expect to receive an average of \$1,797 in state money to help with educational expenses.<sup>14</sup>

## Who goes to prison?

African-Americans are disproportionately represented in the prison system. While comprising about 12% of the US population, blacks made up 45% of the population of state and federal prisoners in 2002.<sup>15</sup> There is ample academic evidence to suggest that the disproportionate share that blacks have in US prisons cannot be solely attributed to a higher involvement in crime. Several studies have found that criminal justice decisions based on racial stereotypes are not uncommon.<sup>16,17,18</sup> Additional research shows that, in conservative political environments, black offenders have been found to be sentenced to an average of 96 days more prison time than their white counterparts.<sup>19</sup> Other evidence shows that the fear of crime is greater in cities with larger percentages of black residents, no matter how much crime actually takes place.<sup>20</sup> At least one study has found that states having higher percentages of black citizens have higher imprisonment rates, irrespective of the crime rate.<sup>2</sup>

## How does an over-reliance on incarceration affect women and families?

Although women commit fewer crimes and are incarcerated less frequently than men, scholars show that the national movement towards increased punitiveness profoundly affects women. It also has broad implications for their children, families, and their communities. For instance, at least one study documents how funds for social services were partially diverted to prison expansion.<sup>21</sup> This takes services away from poor mothers who need assistance to make ends meet. Additional research further describes how inadequate social and economic support for women and children influences crime trends among women.<sup>5</sup> Evidence repeatedly shows that the majority of women caught committing crimes are unemployed, lack education and have a history of substance abuse. These women already live on the periphery of social and economic opportunity. Imprisonment increases their marginalization and perpetuates a cycle of disadvantage for their children.<sup>22</sup>

### REFERENCES

1. All arrest data for this document were compiled from Uniform Crime Reporting statistics. All prison admission data were collected from the U.S. Department of Justice, Bureau of Justice Statistics. Arrests include the number of arrests for offenses that can lead to a felony conviction. Admissions include the number of persons entering prison on a new charge (parole and probation violators are excluded from the count). 2. Greenberg, David F. and Valerie West. 2001. "State prison populations and their growth, 1971-1991." *Criminology*. 39(3):615-653. 3. Caplow, Theodore and Jonathan Simon. 1999. "Understanding prison policy and population trends." In *Crime and Justice: A Review of Research*, ed. by M.H. Tonry and J. Petersilia. Chicago: University of Chicago Press. 4. Myers, S. and William Sabol. 1987. "Unemployment and racial differences in imprisonment." *Review of Black Political Economy*. 16:189-209. 5. Currie, Elliot. 1985. *Confronting Crime: An American Challenge*. New York: Pantheon. 6. Tyler, Tom R. and Robert J. Boeckmann. 1997. "Three strikes and you are out, but why? The psychology of public support for punishing rule breakers." *Law and Society Review*. 31:237-64. 7. Blumstein, Alfred and Allen J. Beck. 1999. "Population growth in U.S. prison populations, 1980-1996." In *Crime and Justice: A Review of Research*, ed. by M.H. Tonry and J. Petersilia. Chicago: University of Chicago Press. 8. Snell, Tracy L. 1995. "Correctional Populations in the United States, 1993." Washington D.C.: Bureau of Justice Statistics. 9. Ditton, Paula M. and Doris James Wilson. 1999. "Truth in Sentencing in State Prison." Washington DC: Bureau of Justice Statistics. 10. National Crime Prevention Council. "Strategy: Drug Free School Zones." Available electronically <http://www.ncpc.org/ncpc/ncpc/?pg=2088-10792>. 11. Austin, James et. al. 1999.

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