

# CAMPAIGN FOR AN EFFECTIVE CRIME POLICY

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## **WHAT EVERY POLICYMAKER SHOULD KNOW ABOUT IMPRISONMENT AND THE CRIME RATE**

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## ABOUT THIS PAPER

**"WHAT EVERY POLICYMAKER SHOULD KNOW ABOUT IMPRISONMENT AND THE CRIME RATE"** was prepared by Walter J. Dickey, Special Counsel for Policy for the Campaign for an Effective Crime Policy, in consultation with the Steering Committee, National Advisory Committee and Staff of the Campaign, in order to advance discussion and debate about sentencing policies.

## ABOUT THE CAMPAIGN FOR AN EFFECTIVE CRIME POLICY

The non-partisan Campaign for an Effective Crime Policy was launched in 1992 by a group of criminal justice officials in order to encourage a less politicized, more informed debate about one of our nation's most difficult problems.

Toward this goal, the Campaign circulated a petition titled "A Call for a Rational Debate on Crime and Punishment" which has now been endorsed by more than 800 criminal justice professionals and elected officials in 50 states and the District of Columbia. Sponsors of the "Call" include governors, state legislators, judges, prosecutors, police and corrections officials.

Coordinated and staffed in Washington, D.C., the Campaign is guided by a Steering Committee and National Advisory Committee. Members of these committees are listed inside the back cover.

The Campaign's National Advisory Committee issued a set of federal policy recommendations entitled "A National Approach to the Prevention and Control of Violent and Other Serious Crime" in December 1992.

"What Every Policymaker Should Know About Imprisonment and the Crime Rate" is the fourth in a series of briefing papers on key policy issues affecting criminal justice systems nationwide.

"Evaluating Mandatory Minimum Sentences" was published in November 1993, "Evaluating Boot Camp Prisons" was published in March 1994, followed by "Low-Level Drug Offenders: Lessons from the Drug Courts" in November 1994.

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## WHAT EVERY POLICYMAKER SHOULD KNOW ABOUT IMPRISONMENT AND THE CRIME RATE

### INTRODUCTION

The number of Americans in prison has quadrupled during the past twenty years. The reasons for this are complex<sup>1</sup> and include: deep concern about crime; the erosion of the rehabilitative ideal; increased emphasis upon punishment as an overriding goal of the criminal justice system; changes in sentencing practices, including the increasing use of mandatory minimum sentences; and, the escalation of crime as a potent political issue.

While the actual interplay of these and other factors on the use of imprisonment may be debatable, three issues are not: 1) Prison plays an essential role in isolating dangerous offenders from the community; 2) The cost of prison to the taxpayers is very high;<sup>2</sup> and, 3) Taxpayers are promised that what they are buying for their money is less overall crime.

The cost of imprisonment is well documented and needs no further elaboration here. But what of the promise of less crime? Careful analysis of research in this area leads to the following conclusions:

- It is very difficult to measure the effect of incarceration on crime rates.
- Incarceration appears to have no significant effect upon violent crime rates.
- Incarceration appears to have a marginal effect on property crime rates.

The reasons that incarceration has a limited impact on crime include the following:

1. A wide variety of economic and social factors outside the control of the criminal justice system contribute to crime rates.
2. Demographics show that overall crime rates tend to rise and fall with the number of males in the crime-prone 15-24 year-old age group.
3. The criminal justice system deals with only a small fraction of crimes committed.
4. The criminal justice system is unable to accurately identify high risk offenders early in their criminal careers.
5. The threat of longer prison sentences does not deter violent crime, since most violent crime is committed impulsively, often under the influence of alcohol or drugs.
6. For some crimes, especially drug crimes, new recruits quickly take the place of those confined.

This paper will examine these matters in greater detail.

## I. THE THEORY THAT INCARCERATION REDUCES CRIME

The theory that increased incarceration reduces crime rates is based on two assumptions: that the *incapacitation* of offenders prevents those particular individuals from committing more crimes for the duration of their incarceration, and that the greater threat of imprisonment *deters* those released from prison and other potential criminals from acting on a criminal impulse.<sup>3</sup> It is thought that if more criminals face incarceration for their crimes, society will gain a corresponding decrease in crime rates.<sup>4</sup>

*Incapacitation* theory focuses on the fact that while an individual is in prison, he or she cannot commit more crimes. A related idea is that of *selective incapacitation*, the theory that society can predict who the most serious offenders will be in the future based on certain characteristics and past behavior. Some studies show that a small but active percentage of the criminal population commits a substantial portion of crime.<sup>5</sup> Thus, it is asserted not only that incapacitating more offenders reduces crime, but that if the criminal justice system can learn to identify and imprison the high-risk group of offenders early in their criminal careers, the overall crime rate will decrease even more dramatically.

*General deterrence* is concerned with the effect of incarceration on persons other than the imprisoned offender. Deterrence theorists argue that a person who otherwise would choose to commit a crime is prevented from doing so by the perception of certainty or severity of punishment which may await.

It is difficult to test theories about the impact of imprisonment on crime rates. Just because two facts exist does not necessarily mean there is a cause and effect relationship between them. For example, few people would agree that if crime rates rose when the imprisonment rate rose that the increase in imprisonment *caused* the increase in crime. One immediately asks what else was going on that might influence these trends.

The relationship between imprisonment and crime is very difficult to ascertain, in part because it is difficult to isolate these factors from other social and economic variables which probably influence the level of crime, such as demographic shifts, unemployment rates, divorce rates, and education levels. Recent research on the relationship between increased incarceration and crime rates has attempted to correct for such external factors, with mixed results.<sup>6</sup> Clearly, imprisonment has an incapacitative effect on the individual offender. The key issue, however, is whether increased imprisonment (for either incapacitative- or deterrence-based reasons) results in an overall decrease in crime, and at what cost.

The simplest way to begin examining the relationship of increased incarceration to crime is to look at actual crime and incarceration rates over time to see whether increased incarceration does lead to a decrease in the crime rate.

## II. RESEARCH FINDINGS ON IMPRISONMENT AND THE CRIME RATE

### A. How Crime Rates are Measured

National crime rates are measured by two basic methods: police reports and victimization surveys. Although each has different advantages to its methodology, neither is entirely satisfactory for the purpose of measuring changes in the crime rate. Weaknesses in both methods can lead to easy manipulation of crime statistics and misleading results.

The first method, the Uniform Crime Reports (UCR), is tabulated from police reports and thus is limited to crimes actually reported to the police. The advantage of the UCR is that it includes homicides in its calculation of the violent crime rate. The disadvantage to using the UCR is that much crime is never reported to the police and thus the UCR provides an incomplete representation of actual crime committed. In addition, trends in official statistics may be the result of changes in public reporting and police recording practices, not of actual changes in the amount of crime.<sup>7</sup>

The second method, the National Crime Victimization Survey (NCVS), is the product of an annual random sampling of households conducted by the U.S. Census Bureau. Many scholars believe that the NCVS is a more reliable indicator of actual crime rates because the statistics are not dependent on victims' having reported the crimes to the police. However, being a victimization survey, the NCVS omits two important crimes, homicides and drug crimes. The latter is a significant omission, since a shift in criminal activity from an included crime (e.g., burglary, robbery) to drug dealing would appear as a decrease in the overall crime rate when no actual decrease had occurred.<sup>8</sup>

National crime rates are divided into two general categories: violent crime and property (or non-violent) crime. Violent crime includes homicide, rape, robbery and assault. Property crime includes such offenses as burglary, larceny theft and auto theft. Distinguishing between the two, as this report does, provides a clearer picture of precisely which crimes are affected when "the crime rate" goes up or down, though these categories are themselves very broad and include very different behaviors within each.

### B. Use and Misuse of the Data

#### 1. Time Frames/Different Pictures

Data on crime and incarceration rates is often used misleadingly in an attempt to demonstrate a correlation between the two statistics. It is common to see graphs and charts juxtaposing a declining crime rate with a rising incarceration rate, thereby "proving" that one directly affects the other. In fact, such charts are easily manipulated by choosing certain base years. During the course of each decade over the last thirty years, crime rates have experienced periods of sharp increase, slight decrease, and steady plateaus. Depending upon which base years are chosen, it is simple to manipulate short-term statistics to show almost any desired result.

This can be seen in Tables 1 and 2 below, developed by Professor Michael Tonry.<sup>9</sup> Table 1 reproduces data reported by former Attorney General William Barr in "The Case for More Incarceration," which attempted to show a correlation between increased incarceration and decreased crime in ten-year intervals. Table 2, though, prepared by Tonry, shows that when five-year intervals are examined rather than ten-year periods, no long-term correlation can be found.

Table 1. Crime and Incarceration Rates, State and Federal Prisons, 1960-90 (per 100,000 population).

	% Change			% Change		% Change	
	1960	1970	1960-70	1980	1970-80	1990	1980-90
"All crimes"	1,887	3,985	+111	5,950	+49	5,820	-2
Violent crimes	161	364	+126	597	+64	732	+23
Incarceration	117	96	-18	138	+44	292	+112

Sources: William P. Barr, "The Case for More Incarceration" (Washington D.C.: U.S. Department of Justice, Office of Policy Development, 1992), Table 2.; Bureau of Justice Statistics, *Prisoners in America*, various years.

Table 2. Crime and Incarceration Rates, State and Federal Prisons, 1960-90 (per 100,000 population).

	% Change			% Change			% Change			% Change			
	1960	1965	1960-65	1970	1965-70	1975	1970-75	1980	1975-80	1985	1980-85	1990	1985-90
"All crimes"	1,887	2,449	+30	3,985	+63	5,282	+33	5,950	+13	5,206	-13	5,820	+13
Incarceration	161	200	+24	364	+82	482	+32	597	+24	556	-7	732	+32
Violent crimes	117	108	-8	96	-11	111	+16	138	+24	200	+45	292	+46

Note: Bold data not provided in "The Case for More Incarceration."

Sources: William P. Barr, "The Case for More Incarceration." (Washington, D.C.: U.S. Department of Justice, Office of Policy Development, 1992), Table 2; FBI, *Uniform Crime Reports*, various years; Bureau of Justice Statistics, *Prisoners in America*, various years.

A similar analysis by The Sentencing Project examined the claim that increased incarceration during the 1980s had slowed the rising UCR violent crime rate, and found the choice of time frame to be misleading.<sup>10</sup> First, 1980-81 was an historically peak year for crime rates, and a dramatic increase from the years immediately before. Thus, the decade began with an anomalous record crime high. Had the time frame been, for instance, 1975-85, the overall change in the crime rate would have been much less marked. Second, the analysis found two distinct trends in the crime rate during the 1980s and early 1990s. From 1980 to 1986, incarceration rose by 65% while violent crime declined by 16%. From 1986 to 1991, incarceration rose by 51%, but violent crime actually increased by 15%.<sup>11</sup> This increase in violent crime, occurring simultaneously with a large increase in incarceration, contradicts any claim of a direct relationship between violent crime and incarceration.

## 2. Shifts in Victimization

Another problem in looking at the relationship between crime and incarceration has to do with possible shifts in the types of victimization over time. The use of NCVS data, which showed a 13% decrease in overall crime in the 1980s, illustrates this issue. The rate of burglaries and thefts did decline in the 1980s, leading some criminologists to suggest the existence of a link between property crime and incarceration rates.<sup>12</sup> It is unclear, however, whether a causal relationship actually exists. The change may be due to other factors, such as a widespread shift from property crimes to other types of crime. For example, the amount of auto theft and drug trafficking - the latter a crime unreported by the NCVS - increased markedly during the same period despite higher incarceration rates for these offenses. As criminologist Joan Petersilia has noted, even the most cursory examination of today's inner cities would reveal a shift in street crime from the riskier crime of burglary to the more lucrative crime of drug dealing.<sup>13</sup> Thus, a decline in the NCVS burglary rate does not necessarily mean that less crime is being committed; rather, it may indicate that offenders are opting to commit different crimes. This raises a serious question about the accuracy of the "decrease" in crime.

## 3. Lack of a Substantial Correlation Between Crime and Incarceration

It is undeniable that, over certain base years, the incarceration rate increased at the same time that the relative crime rate decreased. It is wrong to assume, however, that a direct causal relationship exists without exploring the many other factors, such as changes in demographics, unemployment rates, illegitimate birth rates, etc., which affect the crime rate. The evidence does not show a reliable correlation between violent crime and incarceration rates. At best, a slight correlation may exist between the incarceration rate and the property crime rate.

This issue was examined as well by the National Research Council in its study, Understanding and Preventing Violence. To the question "What effect has increasing the prison population had on levels of violent crime," they responded, "Apparently, very little," concluding that "*preventive strategies may be as important as criminal justice responses to violence.*"<sup>14</sup>

### **C. The Texas-California Example**

Amidst the debate over the relationship of imprisonment to crime rates came the California-Texas comparison. These two states proved to be interesting and useful laboratories for the study of imprisonment's relation to crime rates. In response to public pressure for tougher anti-crime measures, in the early 1980s California embarked upon an unparalleled prison construction project, almost quadrupling its inmate population.<sup>15</sup> Texas began the decade by incarcerating more offenders, but this trend was brought to a forced halt in 1986 by a lack of prison space. These two populous states thus provide an ideal opportunity to compare the crime rate in a state which expended billions of dollars on new prisons to a state which chose not to build more cells.

During the 1980s, California's prison population increased by 192% while Texas' prison population increased by only 14%.<sup>16</sup> Yet throughout the decade, the violent crime rates for both states had followed essentially the same pattern, with an approximate 21% (UCR) increase in violent crime for both states by the end of the decade.<sup>17</sup> In other words, after spending nearly \$3 billion per year to build and operate its prisons and jails, *California's violent crime rate rose at essentially the same rate as Texas'*<sup>18</sup>

Property crimes appeared to be more responsive to incarceration rates in the comparison. During the 1980s, California's property crime rate declined by 17% while Texas' increased by 30% (UCR). An analysis of these rates by Sheldon Ekland-Olson and colleagues, though, cautioned that there are many other factors which may influence the property crime rate. For example, during the 1980s, California experienced a period of economic prosperity while Texas was in the midst of a recession.<sup>19</sup> Several studies have suggested that property crime rates are especially susceptible to changes in the unemployment rate, as individual motivation to commit property crime increases when there is a lack of other opportunities.<sup>20</sup>

If incarceration rates do indeed bear a direct relation to property crime rates, it is important to consider the costs of imprisoning ever-increasing numbers of offenders in order to reduce property crime. California incarcerated 192% more offenders by the end of the 1980s than it did at the beginning of the decade in return for a 17% decrease in property crime and no apparent effect on violent crime. Whether a 17% decrease in property crime is worth \$3 billion per year of taxpayer money is a serious question for policymakers and the public to consider. Indeed, it is impossible to debate the merits of increased incarceration without looking at the considerable costs involved, to which we now turn.

### **D. A Cost-Benefit Analysis of Incarceration**

The National Conference of State Legislatures reports that corrections expenditures are the fastest-growing category of state budgets. What do we know about the overall cost to society of imprisonment?

A 1987 study that attempted to measure these costs has received a great deal of attention in recent years. The study, by Justice Department economist Edwin Zedlewski,

was widely publicized, but has been criticized by many criminologists. Zedlewski calculated that the annual cost to society of not incapacitating criminals is 17 times greater than the cost of imprisonment.<sup>21</sup> Published at a time of strong public pressure to be "tough on crime," this report and subsequent opinion articles based on it received wide media publicity. Zedlewski's oft-cited conclusion was that, although incarcerating large numbers of offenders is expensive, it is 17 times less expensive in the long run to incarcerate than to allow criminals to go free and continue to commit crimes.

The report estimated that the average total cost of imprisoning one person for one year is \$25,000. It further estimated that the average cost to society per crime committed is \$2,300, which includes the cost of victim losses, criminal justice system processing, security measures taken by private citizens, and building and operating prisons and jails.<sup>22</sup> Relying on a RAND study which found that the "average" prison inmate committed 187 crimes per year,<sup>23</sup> the report concluded that the typical inmate is responsible for  $(187 \times \$2,300) = \$430,000$  per year in crime costs.<sup>24</sup> Using these calculations, the report then concluded that for each 1,000 additional criminals incarcerated, society would pay a cost of \$25 million but would save \$430 million, a net economic benefit to society of \$405 million per year.<sup>25</sup>

This report was met with sharp criticism from criminal justice experts. Critics charged that the calculation that the "average" criminal commits 187 crimes per year was misleading; while the *mean* of 187 reflected a very high number of crimes reported by a small number of inmates, the *median* number was 10-15 crimes per person.<sup>26</sup> Further, they claimed, the author wrongly assumed that the most serious offenders were just as likely to be out on the streets as lesser offenders.<sup>27</sup> Any incapacitative effect on crime rates is subject to the principle of diminishing marginal returns, thus rendering the imprisonment of each additional inmate less cost-effective.<sup>28</sup> Indeed, noted criminologists Franklin Zimring and Gordon Hawkins pointed out that according to the report's own calculations, crime should have ended entirely by the mid-1980s given recent increases in incarceration.<sup>29</sup>

In sum, critics concluded that increased incarceration may have some impact on crime costs, but nowhere near the high estimate calculated by this report. Those criminologists who accepted the basic proposition that incarceration and crime rates are related limited this correlation to the property crime rate and warned of the ever-present phenomenon of diminishing marginal returns.<sup>30</sup>

Lastly, a major flaw in the Zedlewski report was that it approached the issue of the cost of incarceration as if the only choices facing the public were imprisonment or letting criminals go free. In fact, the criminal justice system has a wide range of choices available for dealing with offenders, most of which are far less expensive than incarceration. These include such options as supervised probation, drug treatment, community service, electronic monitoring, etc. Indeed, alternatives to incarceration may not only be less costly but also more effective for particular offenders.

Subsequent cost-benefit studies of imprisonment have also proved controversial. In his 1992 report "The Case for More Incarceration" then-Attorney General Barr cited a 1990 unpublished analysis by Harvard professors Kleiman and Cavanagh as demonstrating the "benefits of incarcerating one inmate for a year at between \$172,000 and \$2,364,000." Kleiman and Cavanagh had used economist Mark Cohen's 1988 study calculating the economic value of victims' "pain and suffering," based on data from jury awards in accident cases. By this formula, Barr claimed, the total cost to crime victims in 1990 was \$140 billion. Criminologist Michael Tonry cites two fundamental problems with this approach. First, contested tort actions resolved by jury trials are a small portion of cases considered compelling enough to be pursued in years-long civil litigation. Second, civil damage awards are inflated by one-third to one-half to cover fees and expenses. Tonry notes that the Bureau of Justice Statistics estimated direct economic losses to victims in 1992 at a far lower figure of \$17.6 billion.<sup>31</sup>

Researchers continue to review and refine methods for estimating the cost-benefit ratio. Thomas Marvell's 1994 study asked the basic question "Is further prison expansion worth the costs?" His estimate of the annual cost of prison operations and construction per prisoner was \$29,000. Contrasted with this, he calculated that each additional prisoner is, on average, prevented from committing 21 crimes per year, at a savings of approximately \$37,000. This includes \$19,000 for monetary losses and \$18,000 for psychological injury (based on civil damage awards for pain and suffering). Marvell noted that, given the uncertainties involved, particularly for psychological costs, there is no indication that the costs and benefits differ appreciably. Based on these and other considerations (e.g., many lower-level offenders are quickly replaced on the street; a small minority of prisoners are high-rate offenders) he concluded that "Reducing crime by expanding prisons is unlikely to be very cost-effective unless accompanied by greater efforts to imprison the most active criminals. Lawmakers, therefore, should seek to improve police effectiveness as a way to make better use of prisons."<sup>32</sup>

### **III. WHY DOESN'T INCARCERATION MORE SIGNIFICANTLY REDUCE CRIME?**

**A. The criminal justice system only deals with a fraction of crimes committed and thus is limited in its ability to affect crime rates.**

Approximately 90% of all serious felonies are never reported to the police, or go unsolved. Thus, 90% of serious crime is never handled by the criminal justice system. The effect of changes in crime policy is necessarily limited by the actual impact that the criminal justice system has on crime.<sup>33</sup>

**B. We are not yet able to identify high-risk offenders early in their criminal careers.**

Selective incapacitation--the process of earmarking potentially serious and repeat offenders and incarcerating only that percentage of the criminal population--has been discredited by most criminal justice experts for three reasons.

First, it is extremely difficult to identify high-risk offenders early in their criminal careers. Most studies which have attempted to do so result in an unacceptably high number of "false positives" - that is, they identify far more offenders as dangerous than is actually the case.<sup>34</sup>

Second, incarcerating high-risk offenders in anticipation of future criminal behavior raises serious legal and ethical concerns.<sup>35</sup> Serious offenders are disproportionately young males from identifiable racial and ethnic groups. However, the use of such factors in determining sentence length clearly would raise fundamental ethical and constitutional issues.<sup>36</sup>

Third, choosing which offenders to earmark as "high-risk" can be an extremely politicized process. High-profile crimes, such as carjacking or stalking, often are the subject of disproportionate political attention. This attention easily results in pressure to classify the perpetrators of such crimes as "high-risk," when in fact they may not be, particularly in comparison to other crimes. In such a highly charged atmosphere, any attempts at selective incapacitation are easily sabotaged.

**C. We imprison criminals just as they are least likely to commit more crime.**

Much violent crime is committed by the young. These offenders are either too young to go to prison, or are given lighter sentences for first-time felony convictions.<sup>37</sup> Most jurisdictions concentrate on incapacitating habitual convicted offenders, who are identified only late in their careers when the amount of crime they commit is on the decline. Thus, states imprison many offenders at a time when they would commit relatively few crimes.<sup>38</sup>

For example, arrest rates for robbery show that these offenders are at the peak of their criminal careers at the age of 18-19, and that rates of robbery by the age of 24 are half the peak rate. However, an offender convicted of robbery is twice as likely to go to prison at the age of 23 than at the age of 19.<sup>39</sup>

**D. Increased incarceration fails to have a deterrent effect on violent crime.**

Deterrence theory is premised on the assumption that each of us is a rational actor who will weigh all options and possible consequences before deciding whether to perform a particular act. If the risk of an undesired consequence outweighs the potential benefits, then we will choose not to act. Thus, proponents of increased incarceration argue that if society sufficiently increases the severity of an undesirable consequence (i.e. a prison sentence), potential criminals will choose not to break the law. This argument is unsupported by existing deterrence research.

Much crime, especially violent crime, is impulsive and often committed under the influence of drugs or alcohol. Indeed, much crime is the product of a hasty, ill-considered act. Few offenders pause to perform a complex cost-benefit analysis before committing a crime. The typical offender is not a "rational actor."<sup>40</sup>

Gottfredson and Hirshi recently reported on consistent research findings that offenders are relatively disadvantaged with respect to intellectual or cognitive skills, and relatively unable to sustain a course of action directed at some distant goal. "In fact, the defining characteristic of offenders appears to be low self-control, the inability to consider the long-term consequences of one's acts."<sup>41</sup>

Furthermore, it is important to look closely at what deterrence studies reveal about the effect of harsher sentences on potential criminals. The imprisonment risk for committing a crime actually has two very separate components: the risk of apprehension (or certainty of punishment) and the risk of imprisonment once apprehended (or severity of punishment).<sup>42</sup> While several exhaustive deterrence studies have cautiously concluded that there may be a slight deterrent effect if the risk of apprehension is increased,<sup>43</sup> most deterrence researchers "doubt that increased penalties pay similar dividends."<sup>44</sup> Thus, it appears that a potential criminal may be deterred if he believes that there is an increased risk of being caught by the police; however, where the risk of apprehension is constant, his behavior is not affected by a greater risk of being sent to prison for a longer period of time if caught.

The inconclusiveness of deterrence research cannot be overemphasized. After conducting an exhaustive study of deterrence, the prestigious National Academy of Sciences Panel on Research on Deterrent and Incapacitative Effects concluded that "Policy makers in the criminal justice system are done a disservice if they are left with the impression that the empirical evidence, which they themselves are frequently unable to evaluate, strongly supports the deterrence hypothesis."<sup>45</sup> With respect to increased incarceration in particular, existing research fails to demonstrate any deterrent effect of increased severity of punishment on crime rates. The act of committing a crime rarely is performed with sufficient forethought for the risk of a longer prison sentence to affect an offender's choice.

#### **E. Street-level criminals are easily replaced.**

For some group crimes, new recruits will take the place of incarcerated members with little break in the flow of illegal activity. This is especially true for drug trafficking and traditional group crimes such as robbery or fraud rings. Incarcerating a single member of a criminal group is unlikely to have an effect on the number of crimes committed by the group.<sup>46</sup> Further, drug-addicted sellers and customers who are caught and incarcerated often return to participate in the drug market upon their release, especially when no drug treatment has been provided.

The unprecedented rate of incarceration for drug offenders in recent years has not brought the hoped-for reduction in reported drug crime. Drug offenders now comprise 60 percent of the federal prison population and more than 20% of state inmates. Imprisoning low-level drug dealers has had no effect on the number of dealers or availability of drugs, as there is no shortage of people to replace each imprisoned drug offender.<sup>47</sup>

#### IV. WHAT FACTORS DO AFFECT THE CRIME RATE?

Crime is affected by a broad variety of factors, of which incarceration is but one. A key factor is demographics. Criminologists have long known that a disproportionate share of crime is committed by males in the age group of 15-24. During the 1960s, when crime rates rose, the nation was experiencing the effects of the "baby boom" generation entering into the "crime-prone" age years. In the early 1980s, crime rates declined as there was a significant drop in the proportion of males in this age group. Criminologists Darrell Steffensmeier and Miles Harer have calculated that these demographic changes explain the entire decline in the FBI crime rate for the period 1980-88 and 55 percent of the change in the Justice Department's victimization rates during that time.<sup>48</sup>

One recent study seeking to explain the variation in crime rates across the country developed a "social stress scale" linking the presence of certain factors in a state to a high crime rate. These included business failures, welfare claims, workers on strike, divorces, abortions, illegitimate births, infant deaths, disaster assistance, and high school dropouts.<sup>49</sup> Unemployment rates appear to have some connection with the property crime rate; however, unemployment does not appear to be correlated with the violent crime rate.<sup>50</sup>

Community characteristics, such as social cohesion, residential mobility, and informal social control of public space have been related to levels of violence and fear of victimization. Research has linked concentrated urban poverty and social disorganization to increased child abuse and neglect, low birth weight, cognitive impairment and other risk factors for later crime and violence.<sup>51</sup> The initial causes of violence may be found in early learning experiences in the family.<sup>52</sup>

#### V. CONCLUSION

Much political rhetoric has suggested a correlation between increased incarceration and reduced crime, when none or little actually exists. Prisons play the essential role of incapacitating dangerous felons, but have not had a significant effect on reducing overall crime. The factors which determine crime rates are more numerous, much more complex, and most are not within the control of the criminal justice system, through incarceration or other means.

Our federal, state and local criminal justice systems are operating under tremendous fiscal and political pressures. Reasonable people may disagree about optimal crime control policies but recognize the need to utilize research findings and data on the effectiveness of particular programs and strategies.

In setting spending priorities, policymakers need to take into account the use of correctional resources and invest in a variety of strategies, including effective intermediate

sanctions, drug treatment, community policing and other programs and policies. While more research and program evaluation are urgently needed, a substantial body of information is available to assist policymakers.

Unfortunately, there is no "quick fix" for crime. To reduce and prevent the tragic consequences of violent crime, we need to lock up violent offenders for as long as they present a danger to the community. We must also face the responsibility to better understand and address a range of factors that contribute to crime in our communities. Political rhetoric and media sensationalism have contributed to public fear and anger, but not to solving these problems.

## ENDNOTES

1. See, e.g., Joan Petersilia, *Crime and Punishment in California: Full Cells, Empty Pockets, and Questionable Benefits*, in Urban America: Policy Choices for Los Angeles and the Nation (1992), at 187.
2. David F. Greenberg, *A Cost-Benefit Analysis of Imprisonment*, 17 Soc. Just. 49, 63 (1990), at 64-65; John Irwin & James Austin, It's About Time: America's Imprisonment Binge (1994), at 13; Lois J. Forer, A Rage to Punish (1994), at 7.
3. For a recent study in support of the deterrent effect of severe punishment, see Donald E. Lewis, *The General Deterrent Effect of Longer Sentences* 26 Brit. J. Crim. 47. But see also Raymond Paternoster, *The Deterrent Effect of the Perceived Certainty and Severity of Punishment: A Review of the Evidence and Issues*, 4 Just Quarterly 173.
4. See, e.g., Alfred Blumstein, et al., Criminal Careers and "Career Criminals," Vol. I [hereinafter *Criminal Careers*]: National Academy Press (Washington, D.C. 1986).
5. See, e.g., Sheldon Ekland-Olson et al., *Crime and Incarceration: Some Comparative Findings from the 1980s*, 38 *Crime & Delinq.* 392, 395-96; Stevens H. Clarke, *Increasing Imprisonment to Prevent Violent Crime: Is It Working?*, Popular Government, Summer 1994, Institute of Government, University of North Carolina at Chapel Hill at 16.
6. See Ekland-Olson, *supra* note 5, at 393-95 [citing studies by Clarke, 1974; Greenberg, 1975; Cohen, 1978; Greenwood, 1983; Conrad, 1985].
7. Petersilia, *supra* note 1, at 184.
8. See, e.g., James Austin & John Irwin, *Does Imprisonment Reduce Crime?: A Critique of "Voodoo" Criminology* [hereinafter *Voodoo*], National Council on Crime and Delinquency (1993), at 9. Some experts speculate that in the 1980s, criminals who might otherwise have committed burglaries shifted their activity to the more lucrative drug trade. The NCVS would show a decrease in the burglary crime rate without reflecting a simultaneous increase in the drug-related crime rate.
9. Michael Tonry, Malign Neglect -- Race, Crime and Punishment in America, Oxford University Press, 1995, pp. 22,23
10. *Did the Growth of Imprisonment During the 1980s Work?: The NRA and the Misuse of Criminal Justice Data* [hereinafter *Growth*], The Sentencing Project, Washington, D.C. (1994), at 3-4. This pamphlet examines crime and incarceration rates for the period 1980-91, in direct response to the NRA-funded report *The Case for*

*Building More Prisons.* The NRA report's time frame (and disproportionate scaling of its graphs) would lead a reader to believe that there is a strong negative correlation between incarceration and crime rates. However, the report failed to examine the rates over an extended period of time, in which case statistics reveal little if any correlation.

11. *Id.*
12. Petersilia, *supra* note 1, at 184 & 193 (citing Alfred Blumstein, et al., Criminal Careers and "Career Criminals," Vol. I (1986)).
13. *Id.* at 16.
14. Albert J. Reiss Jr. and Jeffrey A. Roth, editors, Understanding and Preventing Violence, National Academy Press, D.C., 1993, p. 6.
15. Ekland-Olson, *supra* note 5, at 402.
16. *Id.*
17. *See* Voodoo, *supra* note 8, at 18; Ekland-Olson, *supra* note 5, at 402.
18. *See* Voodoo, *supra* note 8, at 18.
19. Ekland-Olson, *supra* note 5, at 411.
20. *Id.* (citing studies by Cantor & Land, 1985; Cook & Zarkin, 1985; Wilson & Cook, 1985; Chiricos, 1987).
21. Edwin W. Zedlewski, *Making Confinement Decisions*, U.S. Department of Justice (July 1987).
22. *Id.*
23. *Varieties of Criminal Behavior*, RAND Document R-2814-NIJ.
24. Zedlewski, *supra* note 23, at 4.
25. *Id.*
26. Peter Greenwood, *Crime Rates & Prison Terms: A Question & Answer Fact Sheet from Rand* (Jan. 13, 1994).
27. Greenberg, *supra* note 2, at 53; *Criminal Careers*, *supra* note 4, at 125.
28. John Irwin & James Austin, It's About Time: America's Imprisonment Binge (1994), at 143.

29. Franklin E. Zimring & Gordon Hawkins, *The New Mathematics of Imprisonment*, 34 Crime & Delinq. 425, 429 (1988).
30. See, e.g., Petersilia, *supra* note 1, at 193 (citing Alfred Blumstein, et al., Criminal Careers and Career Criminals," Vol. I: National Academy Press (Washington, D.C. 1986); Ekland-Olson, *supra* note 4, at 403. See generally Greenberg, *supra* note 2, for a critical look at how the principle of diminishing marginal returns seriously affects any calculations about the benefits of increased incarceration.
31. Michael Tonry, Malign Neglect - Race, Crime, and Punishment in America, Oxford University Press, 1995, 26-28.
32. Thomas B. Marvell, "Is Further Prison Expansion Worth the Costs?" *Federal Probation*, Vol. 58, No. 4, December 1994, 59-62.
33. *Criminal Justice in Crisis*, American Bar Association, 1988, at 56-57.
34. See, e.g., Clarke, *supra* note 5, at 10-11; Petersilia, *supra* note 1, at 196.
35. Christy A. Visher, *The Rand Inmate Survey: A Reanalysis*, in Criminal Careers and Career Criminals, Vol. II., at 162 (1986).
36. *Id.* at 169.
37. Petersilia, *supra* note 1, at 196.
38. *Id.* at 194.
39. See, e.g., B. Boland, Sentencing Criminals, Urban Institute (1978).
40. Petersilia, *supra* note 1, at 196.
41. Michael Gottfredson and Travis Hirshi, "National Crime Control Policies," *Society*, Jan/Feb 1995, pp. 22-28.
42. See Alfred Blumstein et al., Deterrence & Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates (1978), at 38.
43. See Paternoster, *supra* note 3, at 174-87 (1987) for a detailed summary of recent research.
44. *Id.* at 187 [quoting Franklin Zimring & James A. Hawkins, Deterrence (1973)]. Only a few studies provide any support for the position that increased severity of punishment has a deterrent effect on criminal behavior, and these studies present methodological difficulties in their failure to control for a variety of other possible influences [i.e. social, economic, and political variables] on criminal behavior. See, e.g.,

studies by Grasmick & Bryjak 1980 [only exogenous variables considered are certainty & severity of punishment]; Grasmick & Green 1980 [controls for only one additional variable besides certainty & severity of punishment]. An article by Lewis, *supra* note 3, summarizing research on the effect of severity of punishment, concludes that there is a negative correlation between increased incarceration and the crime rate; however, the author fails to address numerous methodological problems with many of the studies upon which he relies.

45. Daniel Nagin, *General Deterrence: A Review of the Empirical Evidence, in Deterrence & Incapacitation: Estimating the Effects of Criminal Sanctions on Crime Rates* (1978), at 136.

46. Career Criminals, *supra* note 4, at 123.

47. See, e.g., Joseph B. Treaster, *20 Years of War on Drugs, and No Victory Yet*, New York Times, June 14, 1992 at E7; Daniel L. Feldman, *Let the Small-Time Drug Peddlers Go*, New York Times, Feb. 23, 1991, at 16.

48. Ekland-Olson, *supra* note 5, at 411.

49. Voodoo, *supra* note 8, at 20-21.

50. Ekland-Olson, *supra* note 5, at 411.

51. Alfred Blumstein and Joan Petersilia, "Investing in Criminal Justice Research," Crime, 1995, Institute for Contemporary Studies Press, San Francisco, California.

52. Delbert S. Elliott, "Youth Violence: An Overview," The Center for the Study and Prevention of Violence, University of Colorado, Boulder, March 1994.

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