

Sentencing and Corrections
in the 21st Century:
Setting the Stage for the Future

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The past 30 years have seen enormous changes in the philosophy and practice of sentencing and corrections. The strong emphasis on rehabilitation that existed for the first seven decades of the 20th century gave way in the 1970s to a focus on fairness and justice, by which sentences reflected “just deserts” rather than a utilitarian motive. Sentencing practices later moved toward a crime-control model that emphasized incarceration as a way to reduce crime in the community; this crime-control model became increasingly popular during the 1980s and 1990s. Discussion of sentencing and corrections in the 21st century must begin with a review of these changes and their impact on the criminal justice system.

The historical changes in sentencing and corrections policies and practices can be characterized, in part, by the emphasis on different goals. Four major goals are usually attributed to the sentencing process: retribution, rehabilitation, deterrence, and incapacitation. Retribution refers to just deserts: people who break the law deserve to be punished. The other three goals are utilitarian, emphasizing methods to protect the public. They differ, however, in the mechanism expected to provide public safety. Deterrence emphasizes the onerousness of punishment; offenders are deterred from committing crimes because of a rational calculation that the cost of punishment is too great. The punishment is so repugnant that neither the punished offender (specific deterrence) nor others (general deterrence) commit crimes in the future. Incapacitation deprives people of the capacity to commit crimes because they are physically detained in prison. Rehabilitation attempts to modify offenders’ behavior and thinking so they do not continue to commit crimes. Although sentences frequently address several of these goals in practice, the emphasis on which goal is the highest priority has changed dramatically in the past 30 years.

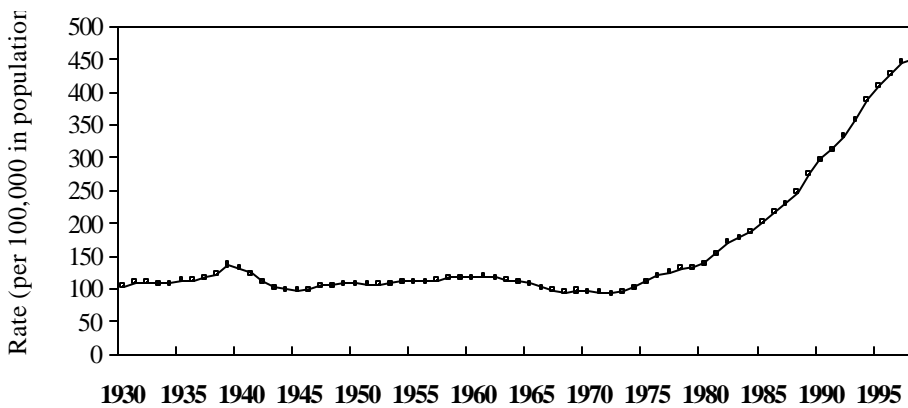
At the same time the goals of punishment have been changing, the number of people in the United States who are under correctional supervision has increased enormously. Changes in the practice and philosophy of sentencing and corrections have clearly had a major impact on incarceration rates. However, there is no consensus on what, specifically, has caused the changes, the impact of the changes, or their intended and unintended consequences. This paper explores these issues.

Growth of Correctional Populations

A dramatic increase in offender populations accompanied changes in sentencing and correctional philosophy; this increase was unprecedented and followed a period of relative stability (exhibit 1). From 1930 to 1975 the average incarceration rate was 106 inmates per 100,000 adults in the population. The rate fluctuated only slightly, from a low of 93 to a maximum of 137 per 100,000.¹ This was the age of indeterminate sentencing and rehabilitation.

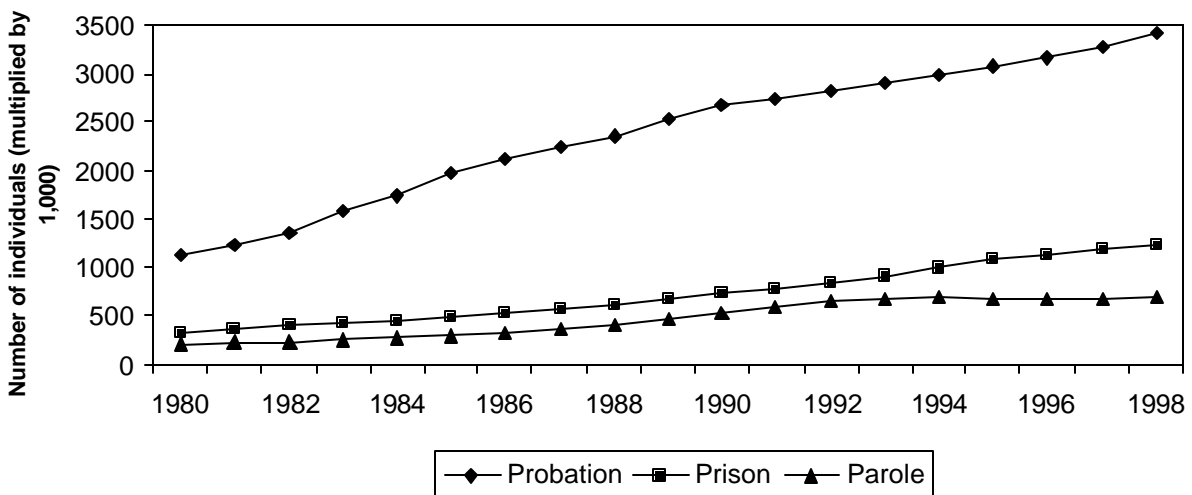
After 1975 incarceration rates grew tremendously; by 1985 the incarceration rate for individuals in State or Federal prisons was 202 per 100,000 adults in the population. The rate continued to grow, reaching 411 in 1995 and 445 in 1997. If local jail populations are also considered, the incarceration rate in 1997 was 652. By the end of 1998, more than 1.3 million prisoners were under Federal or State jurisdiction, and more than 1.8 million were in jail or prison.²

Exhibit 1. U.S. Incarceration Rates, State and Federal Institutions, 1930-98



The increases in the correctional populations were not limited to jails and prisons. The number of individuals on probation and parole also grew substantially (exhibit 2).³ From 1980 to 1997, the national correctional population rose from 1.8 million to 5.7 million, an increase of 217 percent. During the same period, the probation population grew by 191 percent; parole, 213 percent; and the number of prisoners, 271 percent.⁴ By 1998, more than 4.1 million adult men and women were on probation or parole, and there were 1,705 probationers and 352 parolees per 100,000 adults in the population.⁵

Exhibit 2. Adults on Probation and Parole and in Prison, 1980-97



Source: Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 176356; Bonczar, T.P., and L.E. Glaze, *Probation and Parole in the United States, 1998*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1999, NCJ 178234.

In 1998 the adult correctional population in Federal, State, and local facilities reached an all-time high of approximately 5.9 million.⁶ One in 34 adults, or 2.9 percent of the adult population, were either incarcerated or on probation or parole at the end of the year.⁷ The majority of these adults (69.1 percent) were on probation or parole.⁸

Differences among States

The expansion of the prison population affected all State and Federal prisons. However, it is important to note that the number of individuals in prison or in the community on probation or parole—and the changes over time in these numbers—differ greatly by jurisdiction, as shown by the following table of selected States.

Exhibit 3. Rates of Sentenced Prisoners, Selected States, 1980, 1990, 1997

STATES	1980	1990	1997
California	98	375	484
Georgia	219	327	492
Illinois	94	234	353
Louisiana	211	427	709
Minnesota	49	72	117
New York	123	304	384
Texas	210	290	700
Washington	106	162	243

*Per 100,000 adult residents.

Source: Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 176356.

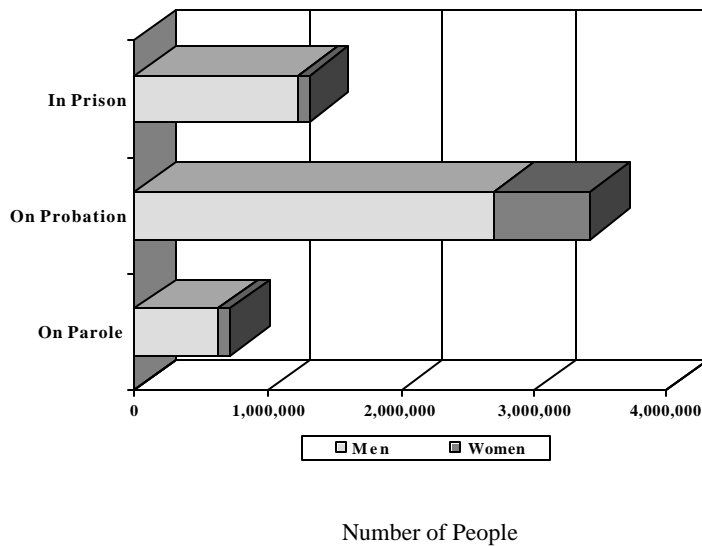
Although incarceration rates in all jurisdictions have increased, the amount of increase, the timing of the changes, and the 1997 rate vary substantially by jurisdiction. Also, there are significant and relatively stable regional differences in incarceration rates.

Race, ethnicity, and gender

Overall, women made up a small percentage of the total correctional population (exhibit 4). However, the incarceration rate for women has grown faster than the rate for men. In 1980 the U.S. incarceration rate for females was 11 per 100,000 women, compared with a rate of 275 for males. By 1999 the rate

for women had grown to 59 (a 436-percent increase), while the rate for men was 913 (a 232-percent increase).⁹

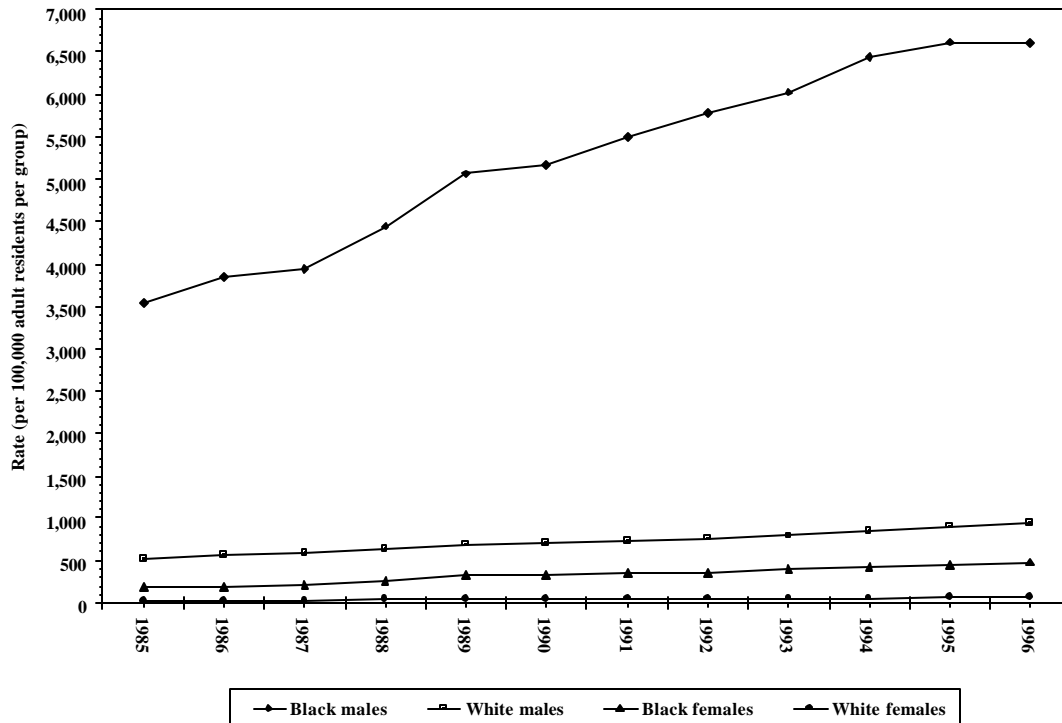
Exhibit 4. Number of People in Prison, on Probation, and on Parole, by Gender



Source: Beck, A.J., *Prisoners in 1999*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 2000, NCJ 183476; Bonczar, T.P., and L.E. Glaze, *Probation and Parole in the United States, 1998*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1999, NCJ 178234.

Minority males had both the greatest overall rate of incarceration and the greatest increases in rates over time. From 1980 to 1996, the incarceration rate for African-American prisoners in State or Federal prisons grew from 554 to 1,574 per 100,000 U.S. adults (a 184-percent increase).¹⁰ Also during this time, incarceration rates for Hispanics increased from 206 to 609 (a 196-percent increase); rates for whites rose from 73 to 193 (a 164-percent increase).¹¹ When both prison and jail populations are calculated, the rates for African-Americans in 1996 were 6,607 and 474 (per 100,000 U.S. adult residents) for males and females, respectively; for whites the rates were 944 for males and 73 for females.¹² Incarceration rates by gender and racial group, as well as the dramatic increase from 1985 to 1996 for African-American males, are shown in exhibit 5.

Exhibit 5. Incarceration Rates, Prisons and Jails, by Race and Gender, 1985–96



Source: Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 176356.

Correctional expenditures

As a consequence of the enormous growth in correctional populations, the cost of corrections has also increased. Direct expenditures for correctional activities by State governments grew from \$4.26 billion in 1980 to \$21.27 billion in 1994.¹³ Most expenditures supported institutions rather than correctional programs such as probation, parole, and community corrections. Furthermore, the proportion of funds allocated for institutions continued to grow during this period. In 1980 institutions accounted for 80.1 percent of total correctional expenditures, in spite of the fact that the number of probationers was growing more rapidly than the number of prisoners. By 1994 institutional spending made up 83.4 percent of correctional costs. Expenditures for other correctional programs were reduced from 19.9 to 16.6 percent during the same period.

Overall, the cost of keeping inmates in institutions is much greater than the cost of community supervision. In 1996 the average annual operating expenditure per inmate in State prisons was \$20,100. The annual per-inmate costs of regular probation and parole supervision are estimated to be about \$200 for probation and \$975 for parole.¹⁴

As an annual cost per U.S. resident, total State correctional spending rose from \$53 in 1985 to \$103 in 1996.¹⁵ Although annual spending for prisons increased at a greater rate than other areas of State budgets, corrections' relative share of the total outlay remained small. For example, the annual per capita costs for State spending for education, public welfare, and health care in fiscal year 1996 were \$994, \$738, and \$123, respectively.¹⁶ However, there is some concern that the increased cost of corrections adversely affects States' budgets for higher education. It has been widely alleged that university and college budgets are the areas of total State budgets most likely to be targeted to cover increasing correctional expenditures.

From Indeterminacy to Crime Control

The age of indeterminate sentencing and rehabilitation

Thirty years ago, the Federal Government, all States, and the District of Columbia had indeterminate sentencing systems that emphasized the rehabilitation of juvenile delinquents and adult offenders. Legislatures set maximum authorized sentences; judges sentenced offenders to imprisonment, probation, and fines and set maximum sentences; correctional officials had power over granting good-time, earned-time, and furloughs;¹⁷ and parole boards set release dates.¹⁸ In some States, the indeterminacy of sentences permitted courts to sentence offenders to prison for time periods ranging from 1 day to life. After a sentence was imposed, decisionmaking was almost totally the prerogative of correctional authorities or parole boards.

The idea behind indeterminate sentencing was individualization of sentences. Judges handed down sentences with a wide range between the minimum and maximum length of time (e.g., 0 to 20 years) offenders had to serve in prison, and offenders were supposed to be released when they were rehabilitated. Release decisions were the responsibility of the prison authorities and parole board. Officials were given broad authority to tailor dispositions to the treatment needs of individual offenders. The goals of this practice were to prevent new crimes; to promote the correction and rehabilitation of the offenders; and to safeguard offenders against excessive, disproportionate, or arbitrary punishment.

Two beliefs appear to underlie the philosophy supporting indeterminate sentencing—one environmental and the other psychological.¹⁹ Environmental explanations focused on the wretchedness of inner-city slum environments and questioned how individuals growing up in such environments could be held responsible for later criminal behavior. Fairness dictated that offenders be treated as individuals; anything else was vengeful. The psychological perspective considered offenders to be ill and in need of treatment. Both beliefs, however, maintained that the criminal justice system was responsible for changing lawbreakers into lawabiders. In his 1965 address to the U.S. Congress, President Lyndon Johnson called for “the establishment of a blue ribbon panel to probe fully and deeply into the problems of crime in our Nation.”

The strong rehabilitative perspective of the times was reflected in the panel's recommended changes for the courts and corrections, which emphasized probation and parole. Among others, these included:

- Caseloads should be reduced to an average ratio of 35 offenders per probation or parole officer.
- All releasees from institutions should receive adequate supervision.
- All jurisdictions should provide services for "felons, juveniles, and adult misdemeanants who need or can profit from community treatment."
- Probation and parole officials should develop new methods and skills to aid in reintegrating offenders through active intervention on their behalf with community institutions.²⁰

A review of some of the panel's recommendations for institutions similarly reflect the emphasis on rehabilitation, services, and reintegration:

- Model, small-unit correctional institutions for flexible, community-oriented treatment should be established.
- Educational and vocational training programs should be upgraded and extended to all inmates who could profit from them.
- Modern correctional industries aimed at the rehabilitation of offenders should be instituted.
- Graduated release and furlough programs should be expanded and coordinated with community treatment services.²¹

Prosecutors were urged to make discriminating charge decisions by "assuring that offenders who merit criminal sanctions are not released and that other offenders are either released or diverted to non-criminal methods of treatment," such as community treatment. Out of these recommendations grew the Law Enforcement Assistance Act of 1965 and the Omnibus Crime Control and Safe Streets Act of 1968.

These recommendations, as well as the indeterminate sentencing structure, clearly demonstrate the emphasis at the time was on rehabilitation, with special attention to community treatment, diversion, reintegration, and education and employment programs. Despite this emphasis, however, these programs were often poorly implemented and funded.

A time of change: 1970–2000

Although the 1960s began with great optimism and promises that a new frontier would be created and a more equitable order achieved, by the end of the decade belief in a Great Society had given way to a despairing distrust of the State. This change significantly affected correctional policy because the

rehabilitative ideal relied on trust in criminal justice officials to reform offenders. Some observers questioned the unbridled discretion of criminal justice decisionmakers to give preferential sentences to the advantaged and coerce inmates into conformity. Others wished to return to earlier times when “law and order” reigned, and they called for a “war on crime” to preserve the social order. The time was ripe for change, and the 1970s witnessed the beginning of a revolution in sentencing and corrections policies and practices.

One of the most visible influences on this revolution was Robert Martinson’s 1974 summary of a more elaborate report by Douglas Lipton, Martinson, and Judith Wilks.²² Martinson’s essay described the results of the research team’s assessment of 231 evaluations of treatment programs conducted between 1945 and 1967. From this research, Martinson concluded, “With few and isolated exceptions the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism.”²³ These reports were widely interpreted as demonstrating that “nothing works” in the rehabilitation of offenders. Subsequently, a National Academy of Sciences panel reviewed the results and agreed with Martinson.²⁴

However, critics argued that Martinson’s conclusion was flawed for two reasons. First, the research methodology available was so inadequate that only a few studies warranted unequivocal interpretations, and second, the majority of studies examined programs that were so poorly implemented they would hardly have been expected to affect criminal activities. Yet, “nothing works” instantly became a cliché and exerted a powerful influence on both popular and professional thinking.

Several factors may explain why Martinson’s conclusion became so widely accepted, although some argued that the time was ripe for a full-scale attack on rehabilitation and the indeterminate sentencing model.²⁵ The decade of social turbulence preceding the publication of Martinson’s article profoundly affected many Americans. Inequities based on gender, race, and class had been exposed and challenged. Protests, riots, and bombings over issues such as civil rights and the war in Vietnam were common occurrences. Within the criminal justice system, the 1971 riot and slaughter of inmates and guards at Attica demonstrated the extent to which government officials would go to suppress offender protests over prison conditions. Could judges and correctional officials be trusted to exercise the extreme discretion permitted by the rehabilitative ideal?

For many the answer to such a question was “no,” but liberals and conservatives differed in why they wanted to limit discretion in sentencing. Conservatives argued that judges and parole boards were too lenient; they released predatory criminals who continued to victimize innocent citizens. Liberals contended that the discretion given to officials was coercive and ineffective because officials could not really know when offenders were rehabilitated. If the professionals responsible for rehabilitation could not demonstrate how they effectively changed offenders, liberals claimed, then those officials’ authority and autonomy in establishing the length of sentences should be severely restricted. Furthermore, they argued that wide discretion often results in disparity and unfair sentences that are not remedied through the parole release system. As a result, offenders with similar histories who were convicted of similar crimes often served widely disparate sentences; conversely, those with disparate histories and crimes served similar sentences. Critics of indeterminate sentencing argued that the system discriminated

against poor and minority offenders, coerced imprisoned offenders into programs, and denied parole to offenders who challenged prison conditions.

The justice model of sentencing and corrections

A proposed solution to the problems raised by indeterminacy was to return to a “justice model” of sentencing and corrections²⁶—a process of determining sentences according to fair and just sentencing policies. The model is based on retributive notions of deserved punishment; the sentence should fit the crime. Under the model, offenders would receive their just deserts— nothing more, nothing less. Advocates of the justice model argued that neither people nor prisons should be used to achieve any public end, such as rehabilitation. Instead, punishment should be proportionate to the crime, not a means to achieve a utilitarian motive such as rehabilitation or crime control. The only relevant factors to consider when sentencing an offender would be the crime(s) of conviction and the offender’s criminal history. Individualized treatment and discretion would be eliminated, and the criminal justice system would treat all offenders similarly.

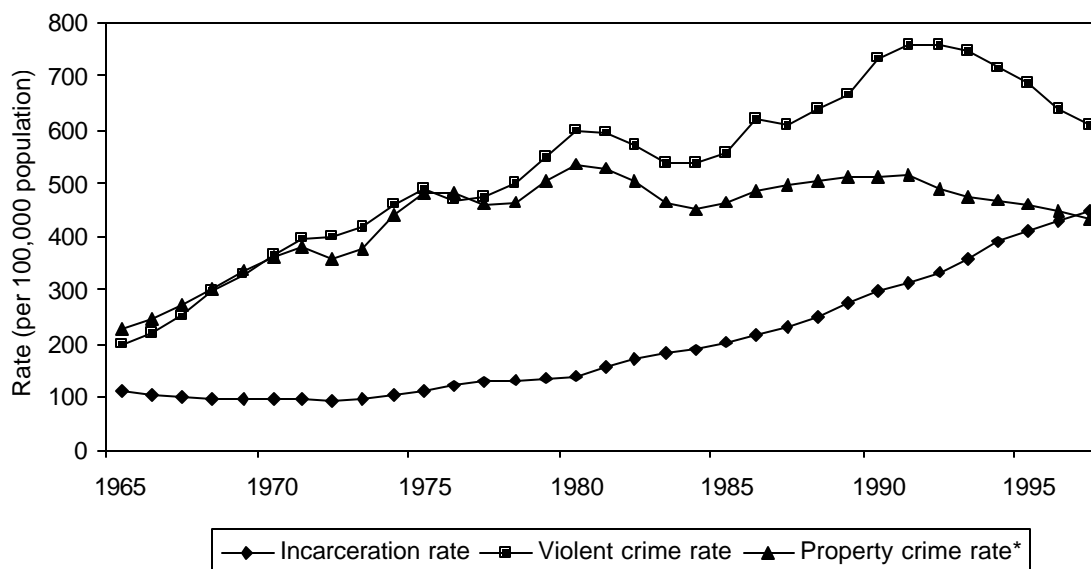
The justice model carried with it direct implications for public policy. For example, the model held that offenders should be given substantial procedural protections at all stages of the criminal justice process. Thus, the legal rights of inmates became of great importance for the courts and corrections. Rehabilitation, if used, should be voluntary. The largest policy impact grew from the need to change from indeterminate sentencing to determinate, or “flat,” sentencing. Under determinate sentencing, a specific crime would carry a clearly identified sentence length, not a broad minimum and maximum. Parole release would be eliminated. Sentence lengths would be determined by guidelines that considered only the offender’s current and past criminal activity.

Crime control: Incapacitation and deterrence

While proponents of the justice model argued for abandoning the rehabilitation model, others began to argue for increased crime control through incapacitation and deterrence. Escalating crime rates from 1965 to 1975 (exhibit 6) led law-and-order advocates to attack rehabilitation as coddling criminals. They wanted to implement policies that would limit the ability of judges and correctional officials to mitigate criminal sanctions and advocated “get tough” proposals for mandatory minimum sentences and lengthy determinate sentences.

The concept of incapacitation is simple—as long as offenders are incarcerated, they cannot commit crimes outside of prison. Interest in incapacitation as a crime prevention strategy grew during the mid-1970s, in part due to concerns about the efficacy of rehabilitation raised by the Martinson report, rising crime rates, and public fear of crime.

Exhibit 6. U.S. Crime and Incarceration Rates, 1965–97



* For illustration purposes, the rate of property crime was divided by 10. The actual rate of property crime far exceeds the rate of violent crime and the rate of incarceration.

Source: Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 176356.

Most people accept the notion that crime prevention through incapacitation is one primary justification of imprisonment.²⁷ It is also generally accepted that some individuals should be incarcerated for long periods of time both as retribution for the seriousness of their offenses and because they pose threats if released. However, questions arise over how broadly the incapacitation strategy should be applied and whether it is a cost-effective crime prevention strategy. Some who favor incapacitation and deterrence ask that prison space be reserved for only a small, carefully selected group of dangerous repeat offenders. Others support a general incapacitation strategy that would incarcerate a substantial number of felons. The success of incapacitation in reducing crime remains a controversial subject.

Both increases in prison populations and research that revealed large differences in crime committed by individual offenders directed societal attention toward a strategy of selectively incapacitating small groups of offenders. Support for selective incapacitation came from research revealing that a small number of very active offenders (6 percent) accounted for a disproportionately large number of the arrests (52 percent) in a Philadelphia birth cohort.²⁸ Incapacitation advocates argued that crime could be reduced if these “career criminals” were identified and incapacitated.²⁹ The strategy identifies the offenders who are most likely to commit serious crimes more frequently so they can be incarcerated longer. Further support for incapacitation came from the proposal that, although incarcerating large numbers of felons was enormously costly, costs were also substantial if offenders were released and continued committing crimes (i.e., the costs of ongoing criminal processing and loss to victims).³⁰ Some

results attributable to the incapacitation strategy are habitual offender laws,³¹ mandatory sentences, abolition of parole, and recent three-strikes laws.

War on drugs. The “war on drugs” significantly influenced sentencing and corrections. Expansion of criminal sanctions for drug crimes began in the 1970s but picked up speed in the 1980s with the declaration of “war on drugs” and the passage of the Anti-Drug Abuse Acts of 1986 and 1988. From a crime control perspective, it was thought that increasing arrests and punishments for drug offenses would reduce illegal drug use and sales. As described later in this paper, this war had—and continues to have—a profound impact on correctional populations and minorities.

Intermediate sanctions. As a result of disillusionment with rehabilitation, incapacitation, and the focus on justice, intermediate sanctions were proposed as a way to provide a range of sanctions between probation and parole.³² Theoretically, these sanctions could be scaled up or down in severity to match the seriousness of the crimes committed. Furthermore, sanctions were expected either to deter offenders from future criminal acts or restrict (in a sense, incapacitate) their opportunities to reoffend.

Most jurisdictions in the United States have some type of intermediate sanctions programs. They have been variously called correctional alternatives, intermediate sanctions, community corrections or, more recently, correctional options. Intensive supervised probation or parole (ISP), house arrest, boot camp prisons, and day reporting centers are some of the more common intermediate sanctions. They are frequently used in conjunction with other supervisory tools such as urine testing or electronic monitoring. The sanctions are used as either “front end” options for probationers or as “back end” options for those released on parole or community supervision.

Before the 1970s, intermediate sanctions were referred to as community corrections, and the focus of sentencing and corrections was on providing services and rehabilitation. In contrast, the intermediate sanctions of the 1980s and 1990s focused on increased control over offenders. Typical requirements for offenders in ISP programs, for example, included more frequent meetings with correctional agents, periodic urine testing, substance abuse treatment, and verification of employment. A goal was to make community supervision more onerous so the punishment was perceived as retributive. This was, in part, a response to the attitude that probation was nothing more than a slap on the wrist and failed to provide either a deserved punishment or a method for reducing offenders’ criminal activities while under community supervision.

Truth-in-sentencing. The amount of time offenders serve in prison is almost always shorter than the amount of time they are sentenced to serve by the court. Prisoners released in 1996, for example, served an average of 30 months in prison and jail—or 44 percent of their 85-month sentences.³³ Under indeterminate sentencing, sentencing decisions were made by professionals in low-visibility settings who were unlikely to be influenced by public sentiment. But in the past three decades, sentencing requirements and release policies have become more restrictive; pressure for longer sentences and uniform punishment has led to mandatory minimum sentences and sentencing guidelines. However, prison crowding, good-time reductions, and earned-time incentives continue to result in early release of prisoners. Many States have responded by enacting restrictions on early release. These laws,

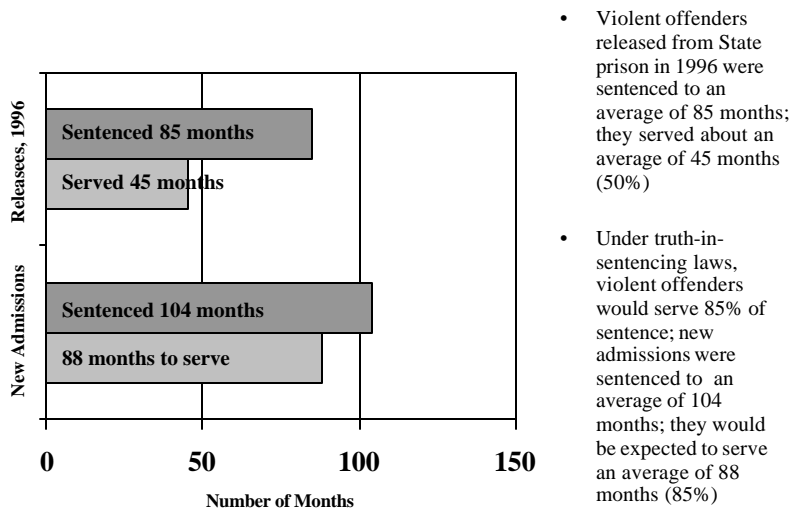
known as “truth-in-sentencing” laws, require offenders to serve a substantial portion of the sentence imposed by the court before becoming eligible for release. The laws are premised on the idea that juries, victims, and the public are entitled to know what punishments offenders will face at the time judges order them.

Truth-in-sentencing gained momentum in the 1990s. To provide States with incentives to pass truth-in-sentencing laws, the U.S. Congress authorized incentive grants for building or expanding correctional facilities through the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants Program in the 1994 Crime Act. To qualify for the grants, States had to require people convicted of violent crimes to serve no less than 85 percent of their sentences.

Two-thirds of the States established truth-in-sentencing laws under the 85-percent test. To satisfy the 85-percent requirement, States limited the power of parole boards to set release dates, the power of prison managers to award good-time, or earned-time, or both. The laws reduced the discrepancy between the sentence imposed and actual time served in prison (exhibit 7).

Most States target violent offenders under truth-in-sentencing laws. However, the definition of truth-in-sentencing varies among the States, as do both the percentage of the sentence that must be served and the crimes covered by the laws. A few States, such as Florida, Mississippi, and Ohio, require all offenders to serve a substantial portion of their sentences before being eligible for release.³⁴ Most States require that 50 to 100 percent of a minimum sentence be served.

**Exhibit 7. Discrepancy Between Sentence and Time Served,
Comparing State Prisoners Released From Prison in 1996
With Expected Time Served for New Admissions**



Source: Ditton, P.M., and D.J. Wilson, *Truth in Sentencing in State Prisons*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 170032.

Changes in Crime Rates

One of the questions most commonly asked after analyzing the rising incarceration rate pertains to its impact on public safety: Has the recent focus on crime control through incapacitation and deterrence been effective in reducing crime in the community, preventing crimes, or increasing public safety? The answer is unclear because other factors influence crime and incarceration rates. Furthermore, there is no simple association between the two (exhibit 6).

Exhibit 6 shows the rate of serious property and violent crimes (index crimes³⁵) reported to the police and the rate of convicted offenders confined in State and Federal prisons from 1965 to 1997. The relationship between crime and incarceration rates is not simple and varies greatly by the period examined. The incarceration rate was stable from 1965 until approximately 1972, after which it moved steadily upward.

Crime rates for adults fluctuated during this period. Violent crime rose from 1971 to 1981, fell from 1981 to 1985, rose again until 1991, and has been declining ever since. As exhibit 6 shows, property crime rates (divided by 10 in the exhibit) fluctuated in much the same way as the violent crime rate. Since approximately 1991, the rates for both property and violent index crimes have been declining.

Victim surveys measure crime without depending on victims to report the crime to the police. The National Crime Victimization Survey (NCVS), conducted by the U.S. Bureau of the Census for the U.S. Bureau of Justice Statistics, obtains data from interviews with individuals in households representative of the U.S. population. It shows that changes in crime victimization rates over the past 25 years for both property and violent crime are very similar to the changes in official rates obtained through the FBI's Uniform Crime Reports (UCR).³⁶ From the 1970s, crime rates rose to a peak in 1980; after 1980 the rates dropped sharply and then fluctuated until 1990, when there was a substantial decline. Victimization rates in 1996 were lower than in 1973.

Both crime and incarceration rates may be influenced by some factors operating during the time they are studied, such as changes in demographics, labor markets, or other economic, social, cultural, or normative factors. Any apparent relationships between crime and incarceration may be spurious. Researchers have used complex statistical models in an attempt to study the relationships. Although almost everyone acknowledges that increased incarceration rates have affected crime rates, there is a great deal of controversy about the extent of the impact. Researchers who have studied the effects of incapacitation and deterrence, for example, have generally concluded that these policies have had a modest impact on reducing crime in the community.

Incarceration rates and the results from studies of crime rates in individual States are consistent with the above discussion. There is no simple and direct relationship between the two.

Factors Accounting for the Growth in the Incarceration Rate

Alfred Blumstein and Alan Beck asked a somewhat different question: “What accounts for the growth in the incarceration rates?”³⁷ They wanted to know whether the growth in incarceration was due to an increase in crimes committed or to the policies and procedures of the criminal justice system. If the latter, then what, specifically, has changed to cause the growth? They investigated the sources of the growth in the incarceration rate from 1980 to 1996, focusing on the six crimes that account for three-quarters of State prison populations: murder, robbery, aggravated assault, burglary, drugs, and sexual assaults. For each crime, they examined whether the growth in incarceration occurred as a result of increases in offending rates, arrests per offense, commitments to prison per arrest, or time served in prison (including time served by parole recommitments).

Blumstein and Beck found that only 12 percent of the increase in incarceration rates was the result of more offenses being committed.³⁸ Aggravated assault was the only offense examined that displayed an upward trend, and they attributed this to an increase in the reporting of domestic assaults. Eighty-eight percent of the growth in incarceration was attributed to imposing more sanctions, incarcerating more offenders, and increasing time served.

Incarceration of drug offenders was the major component of the overall growth in incarceration rates. In 1980, the incarceration rates for State and Federal prisons for drug offenses were approximately 15 inmates for every 100,000 adults. By 1996, the drug incarceration rate had grown to 148 inmates per 100,000 adults. Drug offenders made up 60 percent of the Federal prison population and 23 percent of State prison populations.

Another way to examine the increase by type of crime is to compare the percentage of the total increase among crime types. As exhibit 8 shows, drug offenses accounted for 29 percent of the total increase, more than any other crime type. However, if violent offenses (murder, sexual assault, robbery, assault, and other violent crimes) are combined into a single category, their growth is more significant than that of drug offenses (a 43-percent versus a 29-percent increase).

As shown in exhibit 9, the number of inmates serving time for drug and violent offenses has grown dramatically since 1980. Incarceration for property and public order offenses has also risen steadily, but at a lower rate. In 1980 violent offenders made up 58.6 percent of the prison population, and in 1995 they made up 46.9 percent. In comparison, the number of drug offenders grew from 6.4 to 22.7 percent of the prison population during the same period.

According to Blumstein and Beck, for nondrug crimes, the growth in the State prison population was due first to increases in time served (60 percent of the growth) and second to increases in the number of arrests that led to prison sentences (42 percent of the growth). The new sentencing laws (e.g., mandatory-minimum, sentencing enhancements, and three-strikes) and longer delays until initial release (truth-in-sentencing) are likely contributing to this trend.

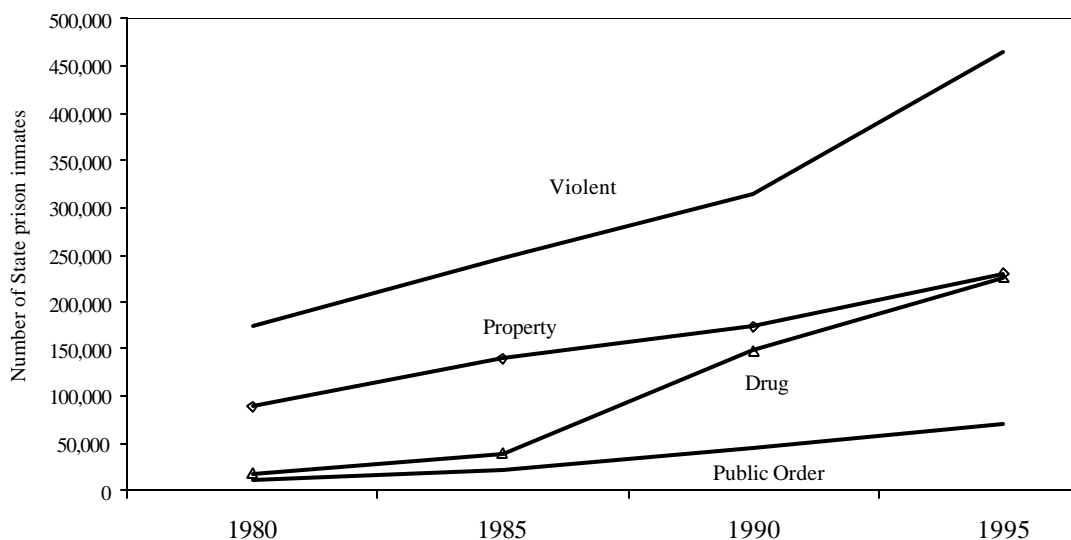
Exhibit 8. Increases in State Prison Populations, by Offense, 1980–96

	Increase 1980–1996	Percentage of Total
All Offenses	736,621*	100
Six Selected Offenses		
Drugs	215,100	29
Murder	76,300	10
Sexual assault	80,400	11
Robbery	64,900	9
Assault	73,900	10
Burglary	59,200	8
Other Offenses		
Other violent	19,300	3
Other property	88,000	12
Public order	57,800	8

* Data are estimates and due to rounding errors do not equal the sum of all offenses.

Source: Blumstein, A., and A.J. Beck, "Population Growth in U.S. Prisons, 1980–1996," in *Prisons*, ed. M. Tonry and J. Petersilia, Chicago: University of Chicago Press, 1990.

Exhibit 9. Number of Prisoners in Custody of State Correctional Authorities, by Most Serious Crime, 1980–95



Source: Beck, A.J., and D.K. Gilliard, *Prisoners in 1994*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1995, NCJ 151654; Beck, A.J., *Prisoners*

in 1999, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 2000, NCJ 183476.

The factors contributing to the increase of drug offenders in prison differed from those associated with other crime types. In contrast with other offenses, the increased number of drug offenders in prison is mostly due to growth in the number of adult drug arrests and subsequent prison sentences. This increase in the use of prison may reflect the tendency to use incarceration as a principal weapon in the war on drugs. Between 1980 and 1998, there were large changes in the percentage of offenders entering prisons for drug offenses. In 1980, the most serious offense of fewer than 10 percent of prison entrants was a drug offense; by 1998, 30 percent of entrants had been convicted of drug offenses. Among incoming prisoners in 1998, the most serious offense of approximately 30 percent was a drug offense; of 30 percent, a violent offense; of 30 percent, a property offense; and of 10 percent, a public order offense.

As previously noted, the growth in incarceration was greater for minorities and women. Blumstein and Beck partitioned the growth in incarceration rates from 1980 to 1996 by gender, race, and ethnicity and found that drug offenders accounted for a far greater share of the total growth among females (43 percent of growth) compared with males (28 percent of growth), and among minorities (36 percent of African-Americans and 32 of percent Hispanics) compared with whites (17 percent).

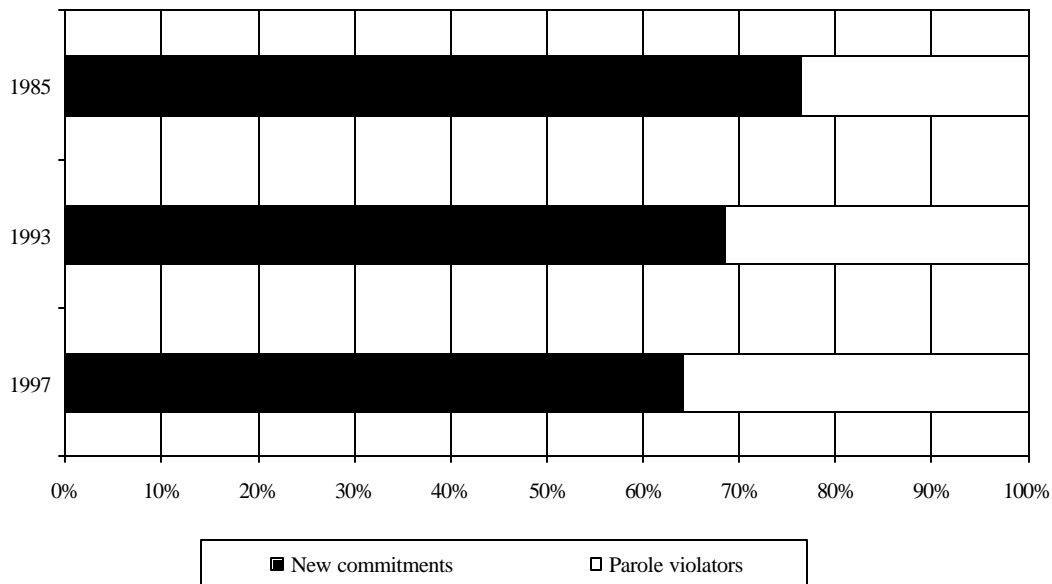
Community supervision and revocations

Approximately 69 percent of adults under correctional supervision are in the community on probation or parole. Many of them will fail supervision and be sent to prison or jail. For example, 18 percent of those who left probation in 1998 were incarcerated for a new sentence (9 percent) or another sentence (9 percent), and 9 percent failed another way; the others successfully completed their sentence (59 percent), absconded (3 percent), or left probation or parole in another way (11 percent).³⁹

In comparison with probationers, a higher percentage of parolees failed community supervision; 42 percent were returned to jail or prison with a new sentence (13 percent) or had parole revoked for technical violations or some other reason (29 percent); the remainder successfully completed parole (45 percent), absconded (9 percent), or left for another reason (4 percent).^{40 41}

Parole violations have increasingly contributed to the growth in prison time served. An increasing percentage of prison admissions are parole violators (exhibit 10). Additionally, the percentage of parole violators admitted to prison differs enormously by State. In some States, a majority of those entering prison are parole violators. In California, for example, 64.7 percent of individuals admitted to prison in 1997 were parole violators.

**Exhibit 10. Percentage of Admissions to State Prisons,
1985, 1993, 1997***



* Includes technical and new crime violators.

Source: Beck, A.J., *Prisoners in 1999*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 2000, NCJ 183476; Cohen, R.L., *Probation and Parole Violators in State Prison, 1991*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1995, NCJ 149076.

Impact of the Changes

Changes in the philosophy of sentencing and corrections have had a dramatic impact on the criminal justice system. Sentencing, release decisions, and correctional populations have been transformed.

Structured sentencing

In contrast with the widespread use of the indeterminate sentencing model of 30 years ago, there is no standard approach to sentencing and corrections today. Some jurisdictions have parole; some have abolished it. Most still use good-time release, but it is more limited in scope than in the past. A minority of States have adopted structured sentencing but more than 30 retain indeterminate sentencing.

Early attempts to enact structured sentencing were designed to reduce sentencing disparities, to limit the possibility of gender or racial bias, and to achieve a form of “truth in policymaking” by linking sentencing policies to corrections spending policies. Neither increasing sentence severity nor reducing crime rates were primary goals of the justice model. Later, guidelines using incapacitation as a goal were developed, enhancing the likelihood that judges would impose harsher sentences that could not be mitigated through early release or parole.

By 1990, substantial differences existed in sentencing and corrections in the United States. Under indeterminate sentencing structures of the 1960s, there was consistency among jurisdictions in the use of parole boards for release decisions, indeterminate sentences with wide minimum and maximum sentence ranges, and release on parole. By contrast, in sentencing and corrections today there are widely different policies and practices. Thirty-six States and the District of Columbia continue with indeterminate sentencing systems. The remaining 14 States have eliminated parole, but not necessarily parole supervision.⁴² (See the Bureau of Justice Assistance classification system in exhibit 11.)

Exhibit 11. State Sentencing Structures, 1997

Number of States	Type of Sentence	Description
5	Statutory determinate sentencing	No parole release, sentencing standards in legislation
30	Indeterminate sentencing jurisdictions	Parole release, no guidelines
6	Voluntary/advisory sentencing guidelines	Voluntary guidelines, with or without parole
10	Presumptive sentencing guidelines	With or without parole release, presumptive guidelines

Source: Tonry, M., "Reconsidering Indeterminate and Structured Sentencing," in *Sentencing and Corrections Issues for the 21st Century, Papers From the Executive Sessions on Sentencing and Corrections*, No. 2, Research in Brief, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1999, NCJ 175722.

Mandatory sentences

Although many States did not change to a determinate sentencing structure, they did make other changes to limit the individualization of sentences and court and correctional discretion. Particularly popular were statutes eliminating parole for certain offenses or requiring mandatory minimum sentences. Some States, for example, passed laws specifying that the penalty for aggravated murder must be a life term in prison without the possibility of parole. Mandatory minimum statutes eliminate discretion to choose a sentence of less, but not more than, the State minimum. For instance, a law might require a mandatory minimum sentence of 10 years for a specific drug offense. Upon conviction, the judge must impose a prison term of not less than 10 years but may impose a longer term. The penalty cannot be reduced even if, in the opinion of the judge, the individual case warrants it.

In the 1980s and 1990s, every State adopted some type of mandatory minimum sentencing law. Most of these laws applied to crimes involving serious violence, drugs, or firearms. Another type of mandatory sentencing law was tied to an individual's criminal record. Such habitual-offender laws had long been used to require heavier-than-normal sentences for career criminals because of the number and severity of their prior convictions.

Three-strikes laws

Variants of the habitual-offender laws that emerged in the 1990s were the “three-strikes” laws. The “three strikes and you’re out” baseball metaphor is used throughout the country to refer to criminal sanctions that become increasingly severe upon each conviction until the offender is considered to be “out,” or in prison for life. Under these laws, each felony conviction is considered a strike, and penalties are increasingly severe; at the third strike the offender is out. The focus on tougher sentencing laws led to increasingly rigid sentencing statutes, and these had a particular impact on repeat offenders. By 1994, 30 States had introduced three-strikes legislation, and 10 had passed tougher sentencing for repeat offenders. Twenty-four States had enacted three-strikes laws by 1997.⁴³

Just as with other changes in the criminal justice system, the impact of these laws differs according to their implementation. For example, some jurisdictions define the third strike as “any felony.” This means that a conviction for theft can result in a sentence of life in prison without the possibility of parole. In such States, the impact on prison populations could be dramatic. Other jurisdictions define the third strike as a serious violent felony. Because many of these convictions would have resulted in a lengthy prison sentence even without the three-strikes law, the impact on the prison population is minimal.

Most three-strikes laws have had minimal impact on States’ prison systems because the laws apply to only the most violent repeat offenders.⁴⁴ In the State of Washington, only 85 offenders had been admitted to the State prison system 3 years after the law took effect. California was the only State where the three-strikes law had a dramatic impact on the prison population. After the first year, the number of “strike” offenders entering prison was not as great as originally predicted; however, the numbers have had a major impact on the prisons. Most of those given lengthy sentences under the second- or third-strike provisions have been convicted of nonviolent property or drug crimes.

Parole release

Although many States continue to use parole boards, their use for discretionary release has changed dramatically. In the late 1970s, approximately 70 percent of prison releases were discretionary (resulting from a parole board decision). By 1997 only 29.3 percent of the releases from prison were a result of discretionary parole. Most (41.2 percent) of the release decisions were mandatory and not decided by a parole board (they resulted from determinate sentences, good-time provisions, and emergency releases); 17.5 percent were expiration releases (resulting from maximum court sentence served); and 12 percent were other conditional releases (the result of commutations, pardons, and deaths).⁴⁵

All States except Maine and Virginia have some requirement for post-prison or parole supervision—though it may have a different name (e.g., controlled release, community control, supervised release, and community custody) to distance it from the negative image of parole. Nearly 80 percent of all prisoners released in 1997 were subject to some form of conditional community or supervised release.⁴⁶

Decisionmaking

Changes inside and outside the criminal justice system have affected the relationship of symbolic and operational influences on societal responses to crime.⁴⁷ Although politicians and decisionmakers have always been symbolically responsible for public safety and, therefore, have taken “tough-on-crime” positions, they have not always been involved in operational decisions. Thus, in the past, politicians could and did argue for severe punishments for serious and violent crime. Today, however, politicians are more directly involved in decisions that affect operations. According to Franklin Zimring, single-issue lobbies (prison guards, victims rights advocates), distrust of criminal justice officials, single-issue (crime) candidates for public office, and new sentencing structures (determinate sentencing, mandatory sentences) have pushed the public and politicians into areas where they can and do have a large impact on decisionmaking.⁴⁸

Under the indeterminate system of sentencing, the politics of punishment were insulated from the actual operation of the criminal justice system. Judges, parole boards, and correctional officials had the power to consider individual cases and mitigate the seriousness of sentences. They could also use their decisions to regulate prison populations by paroling more offenders when prisons were crowded. Changes in the system have reduced or eliminated this authority.

Legislatively mandated sentencing terms and mandatory minimum sentencing laws have shifted punishment from criminal justice professionals to the public.⁴⁹ Much power now resides in prosecutors’ offices and legislatures. Some argue that prosecutors have “unchecked” power to decide whether to file charges under mandatory provisions or to bargain to lesser charges.⁵⁰ Federal prosecutors have been selective in their use of mandatory laws and have brought charges in only a fraction of cases to which such laws apply. Politicians have been forced to take responsibility for the decisions made by criminal justice system officials. Whereas the criminal justice system formerly would have been blamed for releasing a dangerous criminal into society, politicians are now the target of public anger for the release of criminals such as Willie Horton, who after being furloughed, murdered someone. This has made politicians more sensitive to the operation of the criminal justice system.

Prison crowding

The enormous increase in prison populations has led to severe prison overcrowding, and changes in sentencing have limited the ability of criminal justice professionals to use early release mechanisms to alleviate the problem. In the past, early release from prison through good-time reductions, earned-time incentives, and parole permitted officials to individualize the amount of punishment or leniency an offender received and also provided a means to manage the prison population. Although half of all prisons in the United States have been built in the past 20 years, State prisons in 1998 were operating at 15 percent more than capacity, and Federal prisons were at 19 percent more than capacity.⁵¹

Behavioral, cultural, and social changes impinging on corrections

Changes in the larger society inevitably impinge on corrections. As previously mentioned, the most dramatic influence on incarceration has been growth in the use of illegal drugs. Three other changes affecting corrections include the aging of the population, the increase in infectious diseases (particularly HIV/AIDS), and changes in the management of individuals with serious mental illness.

Aging. The fastest growing age group in the United States is people age 65 and older. This demographic change, combined with correctional policies such as life without parole and shorter prison terms, has resulted in a growing number of older offenders in prison. Planning and programming for older inmates have legal and fiscal implications; some obvious examples are increased costs for medical care and changes in prison cells and dormitories to accommodate physical disabilities and other limitations of the elderly.

Infectious diseases. HIV/AIDS, sexually transmitted diseases, and tuberculosis are disproportionately high among correctional populations, presenting serious challenges for correctional administrators and health service providers. In 1997, approximately 2.1 percent of State and Federal prison inmates were HIV positive, and 1 in 5 inmate deaths was attributed to AIDS-related causes.⁵² In response to the increased numbers of terminally ill inmates, 11 jurisdictions and the Federal Bureau of Prisons have established prison hospice programs.

Serious mental illnesses. Correctional officials have had to manage an increasing number of individuals with serious mental illness.⁵³ Major changes in mental health policies in the United States, such as deinstitutionalization, have led to increases in the number of people in the community with serious mental illness, who frequently receive inadequate care. Many of these individuals become involved with the criminal justice system, and correctional officials struggle to provide for their care and safety. Limited funding for programs and for community services and treatment means that many mentally ill offenders are not treated while under correctional supervision. Mentally ill inmates are more likely than others to be in prison for a violent offense and to have been homeless or lived in a shelter in the year before arrest. Those with serious mental illnesses have a high prevalence of drug abuse and dependence, and this comorbidity presents additional management and treatment difficulties.

Examining the Effectiveness of Different Strategies

Incapacitation and deterrence

Understanding the relationship between sanctioning policy and crime rates has been the focus of considerable research in the areas of deterrence and incapacitation—research that requires careful measurement and control for factors that may affect crime rates. Most reviews of the literature conclude that the effect of sanctioning policies on crime reduction has been modest. This was the conclusion reached by the most famous examination of the subject, the 1978 National Academy of Sciences Panel on Research on Deterrent and Incapacitative Effects.⁵⁴ Successive panels—Criminal Careers⁵⁵ and Understanding and Control of Violence⁵⁶—reached similar conclusions. However, many unresolved

questions have led to a debate about how much influence incapacitation and deterrence strategies have had on the crime rate.

Most of the research uses complex statistical simulations to estimate the impact of incapacitation policies on crime in the community. Although it is generally accepted that incapacitation policies prevent crime because offenders who are imprisoned do not have the opportunity to commit crimes, estimates of the number of crimes prevented vary greatly.⁵⁷ Most researchers estimate crime savings of somewhere between 10 and 30 percent, but this depends upon the policy being examined. True estimates of the crimes prevented are difficult to calculate because both the frequency of criminal participation and the duration of criminal careers must be estimated. Large increases in the use of imprisonment, for example, may have limited returns because the additional offenders currently not incarcerated may be lower frequency offenders who would not be committing many crimes in the community. Thus, every new incarceration would reduce the return on investment for every new dollar expended. There also may be limited returns because offenders who are incarcerated for a long time may be at the end of their criminal careers and therefore might not commit any crimes in the community even if they were free to do so.

A consistent finding in the literature is that a small number of offenders commit a large number of crimes; if they could be incapacitated, a large number of crimes would be prevented. It is not yet possible to predict who will become the high-frequency offenders; therefore, targeting them for increased prison sentences is impossible. Increased use of incapacitation as a crime prevention strategy must also address the increases in imprisonment rates and the financial costs that accompany such strategies.

As a result of new sentencing structures, such as mandatory-minimum laws, sentencing enhancements, three-strikes laws, and longer delays until release under truth-in-sentencing laws, those sentenced to prison are spending more time there. Time served has been the major factor contributing to the growth of incarceration at State prisons. Research on whether certain criminal sanctions deter offenders raises some concerns about the benefits of extending the time served. Indeed, increasing the probability of commitment to prison or the certainty of punishment has a stronger impact on reducing criminal activity than increasing the severity of the sanction, such as lengthening the time served.

Some of the research examining the impact of drug policies has also led to questions about the effectiveness of incapacitation and deterrence. As long as the drug market continues to recruit replacements for those scared out of the business or locked away in prison, it will continue to provide new offenders. The drug market trade offers a lucrative financial incentive for attracting new recruits. Therefore, a new recruit is always available to replace anyone who is arrested and confined to prison. On the other hand, if those who are locked up would have been committing serious and violent crimes in the community, their imprisonment could be contributing to the incapacitative effect of incarceration.

Controversy over costs

As incarceration rates continued to climb throughout the 1980s, people began to question whether the high cost of incarceration was worth the benefits gained. In response, Edwin Zedlewski pointed out that releasing offenders had social costs, and these costs must be weighed against the costs of incarceration.⁵⁸ If an offender is released and continues to commit crimes, for example, the criminal justice system incurs additional costs related to arrests, revocation hearings, and court proceedings; there are also costs for victims, such as property loss or the need for additional private security.

Zedlewski's argument about the social costs of releasing offenders had direct policy implications and began a controversy that still rages. If releasing offenders has its costs, then policymakers can justify additional prison construction expenditures as a way to keep offenders in prison and, thereby, save the social costs of release. The controversy is over what numbers to use in calculations. Researchers differ in what costs they believe are legitimately included and how these elements should be calculated. For example, should the calculations include criminal justice system costs, monetary costs to victims, private security costs, health care expenses, pain and suffering of victims, and risk of death? Should they include tangible and intangible costs to victims, costs to others (victim's family, insurance companies, businesses, and society), and costs of preventing crime (theft insurance and guard dogs)?

After decisions are made about what social costs to include, the number of crimes prevented by incarceration must be estimated. If each crime has social costs, the problem is to determine how many crimes offenders would commit if they were in the community rather than in prison. All evidence suggests that official statistics do not provide adequate information for these estimates, so researchers have used self-reported data for this purpose. Estimates vary from study to study, and recent findings suggest that the estimates of criminal activity will differ greatly if offenders are given a sentence of community supervision.⁵⁹ Furthermore, these estimates become more difficult to calculate because criminal careers span a number of years. Offenders are more active at some points in their careers and, as they get older, their criminal activity usually declines. Therefore, estimates of the number of crimes offenders would commit if they were in the community must take career length into consideration.

When the estimates of the cost of crime to society and the average number of crimes committed are known, the annual social costs of not imprisoning an offender can be determined. This figure is weighted against estimates of what it costs to keep an offender in prison; the result is the benefit of imprisonment.

Some in the criminal justice community reject social cost calculations completely. They argue that the imputed costs of victim pain and suffering do not take into account the suffering of imprisoned offenders or of offenders' partners, children, and communities. From these opponents' perspective, cost-benefit assessments require weighing inherently incommensurable values, and attempts to do so have reached a dead-end. They argue that it may be more productive to compare the costs and benefits of alternative crime prevention policies and not attempt to calculate the social costs of crime. Both groups in this debate include knowledgeable scientists who are aware of the complexity of the problems. At this time, there is no clear answer.

Intermediate sanctions

Throughout the 1980s and 1990s, the National Institute of Justice funded evaluations of various intermediate sanctions and correctional alternatives, including intensive supervision and correctional boot camps, as well as tools of supervision such as electronic monitoring and urine testing. These studies permit researchers to draw some conclusions about program effectiveness.⁶⁰ Most studies of intermediate sanctions have focused on whether increased control and surveillance reduces recidivism. Few studies have focused on the rehabilitative aspects of the sanctions.

Intermediate sanctions were proposed as methods to simultaneously divert offenders from incarceration, reduce recidivism rates, and save money while providing credible punishments that could be matched to the severity of offenders' crimes. Although some jurisdictions may have achieved these goals, many have not. In particular, research has provided little evidence that intermediate sanctions successfully reduced recidivism. Intensive supervision programs, electronic monitoring, correctional boot camps, home confinement/house arrest, and urine testing were found to be ineffective in reducing recidivism unless combined with effective rehabilitation programs. In fact, sanctions requiring increased surveillance of offenders in the community often resulted in higher levels of technical violations when compared with less intensive sanctions. (Offenders sentenced to community supervision are required to adhere to certain conditions of supervision. If they violate these conditions—even without committing a new crime—they can suffer consequences. Violations of these conditions are called technical violations. These violations can result in a revocation of the community sentence and a subsequent term in prison.) There is little reason to believe that offenders who receive intermediate sanctions commit more crimes, let alone more technical violations. Most likely, they were caught more often for the violations they committed.

Intermediate sanctions also were successful in diverting offenders from prison. Use of sanctions was expected to achieve two goals: The provision of both an intermediate range of punishments and more fair and just sentences, and financial savings from giving alternative punishments to offenders who would otherwise go to prison. Those convicted of intermediate crimes could be given intermediate sanctions. Because the intermediate sanctions were between probation and prison, they were expected to draw from the populations of both probationers and prisoners. However, few policymakers and correctional officials were willing to release higher-risk offenders into the community. Thus, while policymakers supported the new intermediate sanctions, they took pains to limit eligibility to low-risk offenders—those offenders who would otherwise serve a sentence of probation and be at lower risk for recidivism. Frequently, various intermediate sanctions in the same jurisdiction competed for a limited number of eligible candidates.

Intermediate sanctions are often criticized for increasing the overall cost of corrections. In general, it costs more to keep offenders in prison than in the community, and increases in control and surveillance in the community cost more than standard probation. Because many offenders who were given alternative sanctions were drawn from the group of offenders who were given the least costly sentencing option—probation—intermediate sanctions often increased, rather than decreased, the cost of corrections.

Additionally, by drawing from the population of offenders who would otherwise be on probation, the alternatives “widened the net” of control over a larger number of offenders. Netwidening was also a problem because increased surveillance and control over offenders increased the probability that technical violations would be detected. This is, most likely, a reason for the increase in the proportion of offenders admitted to prison as probation or parole violators.

Rehabilitation: What works in corrections?

Rehabilitation strategies attempt to change individual offender behaviors and thinking patterns so they will not continue their criminal activities. Many people continue to be interested in rehabilitation in spite of changes in the philosophy and practice of corrections. Correctional administrators struggle to continue providing rehabilitation and treatment programs, frequently combining treatment with punitive intermediate sanctions, such as boot camps, in order to obtain necessary funds.⁶¹

Research attempts to identify and understand the traits of individuals that explain criminal behavior and how interventions can modify behavior so people will no longer commit crime. The work is based on psychological theories of learning, cognition, and general principles of human development as applied to the analysis of illegal behavior.⁶²

Although there is still some debate about the effectiveness of rehabilitation, recent literature reviews and meta-analyses demonstrate that rehabilitation can effectively change some offenders and reduce their criminal activities.⁶³ During the 1980s and 1990s, when many U.S. criminologists were studying the effectiveness of increases in surveillance and control over offenders, many Canadian researchers who were trained in psychology continued to study the effectiveness of rehabilitation programs.

Reviews of the research literature find that 48 to 86 percent of the studies analyzing rehabilitation programs report evidence of treatment effectiveness. The available evidence reveals that some treatment approaches are better than others. Psychological researchers emphasize that effective treatment programs must follow some basic principles. First, treatment must directly address characteristics that can be changed (dynamic factors) and that are directly associated with an individual’s criminal behavior (criminogenic factors). Numerous risk factors are associated with criminal activity, such as age, gender, and early criminal involvement. In comparison with others, males who began criminal activities at a young age are at higher risk for future criminal activities. However, these static characteristics, though predictive of recidivism, cannot be changed in treatment. Instead, dynamic, or changeable factors, should be the target of treatment programs.

Equally important is the distinction between criminogenic and noncriminogenic factors. Criminogenic factors are directly associated with criminal behavior. Research has found that some dynamic factors are also criminogenic (e.g., attitudes; thoughts; behavior regarding employment, education, peers, authority, and substance abuse; and interpersonal relationships that are directly associated with an individual’s criminal behavior). Treatment programs that target noncriminogenic factors will not be particularly successful in reducing recidivism. For example, less promising targets for reducing future

criminal behavior include increasing self-esteem without addressing antisocial propensity or increasing the cohesiveness of antisocial peer groups.

A second factor influencing whether a treatment program will be effective is its design and delivery—that is, its therapeutic integrity. Poorly implemented programs delivered by untrained personnel, in which offenders spend only a minimal amount of time, can hardly be expected to successfully reduce recidivism.

A third factor in effective programming is targeting offenders who are at sufficient risk for recidivism so that a reduction is measurable. Many offenders are at low risk for future recidivism. Treatment programs that provide intensive services for such offenders will show little reduction in future criminal activities because few of these offenders would have recidivated anyway.

The final factor in effective treatment is delivery in modes that address the learning styles and abilities of offenders. For example, more effective programs follow a cognitive behavioral and social learning approach, rather than nondirective, relationship-oriented counseling or psychodynamic, insight-oriented counseling.

Meta-analyses examining treatment studies have classified treatment programs as appropriate or inappropriate according to the identified principles. In general, programs based on these principles are found to reduce recidivism, although the extent of the reduction varies by study and principle being examined.⁶⁴

In summary, there is evidence that rehabilitation reduces the criminal behavior of at least some offenders. The meta-analyses suggest that effective correctional treatment programs appear to be based on several basic principles. To reduce recidivism, these programs should:

- Be carefully designed to target specific offender characteristics and problems both that can be changed (dynamic characteristics) and that are predictive of the individual's future criminal activities (criminogenic), such as antisocial attitudes and behavior, drug use, and anger responses.
- Be implemented in a way that is appropriate for participating offenders, use effective therapeutic techniques (e.g., techniques that are designed by knowledgeable individuals and programs that are provided by appropriately educated and experienced staff and adequately evaluated), and require offenders to spend a reasonable length of time in the program (deliver sufficient dosage).
- Offer the most intensive programs to offenders who are at the highest risk of recidivism.
- Use cognitive and behavioral treatment methods based on theoretical models such as behaviorism, social learning, or cognitive-behavioral theories of change that emphasize positive and, as much as possible, individualized reinforcement contingencies for prosocial behavior.

More information is needed about (1) how to ensure that treatment programs have adequate integrity, (2) what should be targeted for change in treatment (antisocial attitudes, values, employment behavior, education), (3) what methods should be used to deliver the treatment (required staff training, outpatient treatment, in-prison programs), (4) what the specific characteristics of the effective programs are, and (5) what populations should be targeted.

Another method for drawing conclusions about the effectiveness of programs is an assessment technique developed by University of Maryland researchers.⁶⁵ Using this technique, my colleagues and I assessed the effectiveness of various programs for reducing the criminal activities of known offenders.⁶⁶ For each study identified within a program area, we rated the quality of the science used in the research. Decisions about “what works, what doesn’t, what’s promising, and what we don’t know” were made using clearly described decisionmaking rules regarding the scientific merit, the direction and significance of the studies’ results, and literature reviews and meta-analyses. We drew the following conclusions:

What works. The following programs will probably reduce recidivism in the social contexts in which they have been evaluated. Their findings can be generalized to similar settings in other places and times.

- Inprison therapeutic communities (TC) and inprison TCs with followup community treatment.
- Cognitive behavioral therapy: Moral Recognition Therapy (MRT) and Reasoning and Rehabilitation.⁶⁷
- Nonprison-based sex offender treatment programs.
- Vocational education programs.
- Multicomponent correctional industry programs.
- Community employment programs.

What doesn’t work. The following programs will probably *not* prevent recidivism in the social contexts in which they have been evaluated. Their findings can be generalized to similar settings in other places and times.

- Increased referral, monitoring, and management in the community.
- Correctional programs that increase control and surveillance in the community.
- Programs emphasizing structure, discipline, and challenge (e.g., boot camps using old-style military models and juvenile wilderness programs).
- Programs emphasizing specific deterrence (e.g., shock probation and “Scared Straight” programs).

-
- Vague, nondirective, unstructured counseling.

What's promising. The following programs may prevent recidivism in the social contexts in which they have been evaluated; their findings *cannot* be generalized to similar settings in other places and times. There is some empirical basis for predicting that further research could support generalizing them.

- Prison-based sex offender treatment.
- Adult basic education.
- Transitional programs providing individualized employment preparation and services for high-risk offenders.
- Fines.
- Drug courts combining rehabilitation and control.
- Juvenile aftercare.
- Drug treatment combined with urine testing.

What's unknown. The following programs have not been coded in one of the three other categories and are defined as having unknown effects.

- Intensity and integrity of substance abuse treatment programs for referred offenders.
- Anger and stress management programs.
- Victim awareness programs.
- Community vocational training programs.
- Programs that include various types of sex offenders.
- Life skills training programs.
- Work ethics training, inprison work programs, and halfway houses with enhanced services.
- Combinations of treatment with either control (e.g., drug treatment in boot camps or literacy programs combined with ISP) or challenge (e.g., outward-bound programs) components.

Rehabilitation programs that have specific characteristics as described are effective in reducing recidivism. Furthermore, research examining various types of programs can be used to determine which programs are effective with specific types of offenders and in specific contexts. In contrast to Martinson's earlier "nothing works" conclusion, most researchers in this field today agree that treatment programs can effectively reduce recidivism. However, as with the earlier Martinson findings, the quality of science is inadequate for drawing unambiguous conclusions about the programs' effects, as many of them are poorly implemented and funded.

Intended and Unintended Consequences

Risk management and the new penology

According to Malcolm Feeley and Jonathan Simon, a new penology is emerging as a direct consequence of the changes in the philosophy and practice of corrections.⁶⁸ They do not believe that the shift is reducible to any one reigning idea (e.g., crime control or getting tough on criminals) but, instead, has multiple and independent origins. This new penology has a new language, new objectives, and new techniques. It reflects a shift away from the traditional concerns of criminal law and criminology, which focused on the individual, and a redirection toward managing groups of people according to the risks they pose. The new focus on risk assessment has gained many adherents among criminal justice practitioners and in the research community. According to Feeley and Simon, this new way of perceiving the functions of criminal sanctions has contributed to the rise in prison populations.

The new penology replaces moral or clinical descriptions of individuals with actuarial discussions of probabilities and statistical distributions. Improvements in statistics and the availability of computers have greatly facilitated this trend, as has the involvement of those interested in systems theory and operations research in public policy. However, even in the 1967 report, *The Challenge of Crime in a Free Society*,⁶⁹ it is possible to see the beginnings of this change in the report's emphasis on actuarial representation and the commitment to rehabilitation.

The objective of the new penology is the identification and management of unruly people, not punishment or rehabilitation. Although recidivism rates are still viewed as important, their significance has changed. Rather than focusing on recidivism rates as evidence of individual success or failure, the new penology views return-to-prison rates as evidence of the efficiency and effectiveness of parole officials to control people. The new penology perceives probation and parole as cost-effective ways of imposing long-term management and not as methods to reintegrate individuals into the community.

New techniques of more cost-effective forms of custody have been developed to manage offenders and to identify and classify risk. Management tools such as electronic monitoring or drug testing are not designed to rehabilitate, reintegrate, retrain, or provide employment but are justified as effective risk management tools. Incarceration is justified as a method to affect crime rates. Intermediate sanctions provide a "custodial continuum" for using different control mechanisms with different groups, depending on their risk profiles.

Feeley and Simon provide many practical examples of the shift to the new penology. Prisons are less apt to be classified according to specialized functions or populations (rehabilitation for drug users or the mentally ill, vocational training, and young adults); they are now classified according to their level of security. Drug testing is used to classify probation and parole populations within a risk group.

The shift away from a concern for individuals to managing aggregates and dangerous populations has important implications for sentencing and corrections. Feeley and Simon's most serious concern is how the new penology relates to the emergence of a new view of poverty in the United States. Some are beginning to view poverty as a problem of the "underclass," a group excluded from social mobility and economic integration. Most often this term refers to African-Americans and Hispanics who live in concentrated zones of poverty in central cities and are separated physically and institutionally from mainstream American life. In contrast to other groups, the underclass is considered to be permanently marginal, without literacy, without skills, and without hope. Nonmembers of the underclass often believe members of the underclass are dangerous and different from themselves.

If this is indeed a new view of poverty in United States, then the new penology may reflect, in part, these views and attitudes about how the underclass should be treated. From this perspective, the new penology will continue to focus on assessing risk and controlling behavior in lieu of rehabilitation, reintegration, or education. Attempts at rehabilitation would be expected to fail for the underclass population; the best that can be hoped for is management of risk. The "we versus them" philosophy will lead to neither sympathetic treatment by the criminal justice system nor a focus on rehabilitation. The impact on minority populations could be disastrous. Feeley and Simon, however, are not suggesting that such effects are inevitable and permanent. They maintain the new penology changes the goals of corrections from rehabilitating individuals toward the presumably more realistic task of monitoring and managing intractable groups. This more task-oriented view is also fraught with dangers that should be recognized.

Minority populations

Nine percent of African-American adults were under some type of correctional supervision in 1996, compared with 2 percent of the white population.⁷⁰ Of individuals ages 25 to 29, a much larger percentage (8.6) of African-American non-Hispanic males was in prison in 1997, compared with 2.7 percent of Hispanic males and 0.9 percent of white males.⁷¹

Whether the original intent of sentencing reforms—to reduce racial disparity and discrimination—has been accomplished is unclear. Evaluations of the effects of sentencing guidelines in both the Federal and State systems document mixed results. The principal problem does not appear to be biased decisionmaking by criminal justice officials but rather the adoption of policies that disproportionately affect minority offenders. The rapid growth in prison populations in the past 30 years has exacerbated the overrepresentation of African-Americans in the U.S. prison system. The proportion of African-Americans in Federal or State prisons or local jails increased from approximately 30 percent in the 1970s to 40 percent in the 1980s, and finally to 50 percent in the 1990s.⁷² There are at least two reasons for the increases. First, the war on drugs has disproportionately affected African-Americans.

The war was designed to be tough on crime and to ensure the arrest, prosecution, and imprisonment of street-level drug dealers. As previously reported, the war has resulted in more arrests of drug offenders and more of these arrests resulted in prison sentences. In urban areas where such arrests are common, most dealers are poor and members of a minority. Thus, the increased incarceration of African-Americans is, in part, a byproduct of deliberate strategies employed in the war on drugs.

Second, changes in sentencing—such as three-strikes laws, mandatory minimum sentences, and truth-in-sentencing laws that abolish parole release and require inmates to serve longer sentences—also disproportionately affect minority offenders. These laws increase the length of time offenders convicted of violent offenses must serve in prison. African-Americans constitute a large percentage of the people arrested for violent crimes and, thus, they are disproportionately affected by these changes in laws. Whether these policies are a result of malign neglect⁷³ (failure to consider the impact of the policies) or attitudes toward the underclass (as suggested by the new penology) is debated.

Impact on individual offenders

The majority of people who are convicted of crimes spend their sentences in the community under supervision and, likewise, the majority of convicted offenders who are sent to prison will one day be released back to the community. Thus, there exists a legitimate concern for how arrest, conviction, and imprisonment affect individuals and whether those experiences have lasting effects on ex-offenders. Evidence suggests that such experiences with the criminal justice system reduce ex-offenders' subsequent incomes and employment potential. (The reasons for these reductions are not always clear.) Employment is limited by various Federal and State laws that deny ex-offenders the right to vote, hold certain public offices, and engage in certain occupations. Other nonlegal influences are less obvious; the stigma of prison may reduce marriage prospects, for example.

Imprisonment has additional negative effects on offenders and their families. It often leads to a breakup of family or other social relationships and lessens parental involvement with children. Problems related to finances and single-parenting can arise for family members who remain in the community. Prisons may adversely affect individual offenders by increasing their ties to criminal compatriots or creating stress, thereby overwhelming an inmate's ability to cope. Inmates may learn antisocial and criminal attitudes from other inmates, which could lead to increased criminal activity upon release.

Although the potential negative effects of prison are many, the treatment literature demonstrates that rehabilitation programs in prison can reduce recidivism. However, problems with overcrowding and funding frequently limit the number of offenders who receive treatment. Alternatively, programs may be offered but are so poorly implemented and of such limited duration that they could not reasonably be expected to influence recidivism. This is of particular concern because there is strong evidence that many arrestees have used illegal drugs and would likely benefit from drug treatment.

Drug-involved offenders. Some observers question the wisdom of the changes in sentencing policy that have sent more offenders to prison for longer periods of time. The concern is expressed with regard to specific types of offenders. They argue that the more structured sentences (those that

eliminate discretion) require prison sentences for some offenders who may not be best served with a lengthy period of incarceration. For example, an increasing number of individuals, many with substance abuse problems, are sent to prison for drug offenses. The results of drug testing of arrestees document the large number who have used illegal drugs shortly before their arrest. For years, the emphasis on incapacitation in prison and surveillance and control in the community meant that only a small percentage of offenders with substance abuse problems actually received treatment. However, a growing body of research evidence showing that drug treatment effectively reduces both drug use and criminal activities has led many correctional jurisdictions and the Federal Government to support treatment programs for drug-involved offenders.

Women offenders. It is also commonly argued that the elimination of discretion in sentencing and release decisions is inappropriate for many women offenders. Although a high percentage of them are serving time in prison for drug offenses or other nonviolent crimes, many do not receive treatment while in prison. Furthermore, the majority of the women in prison are single mothers. Because the number of women offenders is relatively small, they are often sent to prisons far from their homes or in other jurisdictions and are unable to see their children for long periods of time. The community supervision emphasis on control and surveillance also presents problems for women offenders when they return to the community. Upon release from prison, they must return to their family responsibilities and also complete the requirements of supervision. For many, these responsibilities present insurmountable challenges.

Unintended consequences for the community

There is growing concern that increased incarceration rates, especially the unprecedented rates in the United States today, may affect other social institutions such as families, communities, or schools in a manner that increases crime and social disruption or that, at a minimum, offsets any crime-reduction effect of increased incarceration.⁷⁴ The argument is that families, neighborhoods, communities, educational institutions, and labor markets provide and enforce norms of behavior that keep most people from engaging in criminal activity. When the ties or bonds to these institutions are weakened or lost, individuals become more marginalized; such individuals have higher rates of violence and crime.

Historical changes have particularly affected young African-American inner-city men.⁷⁵ Among African-Americans in inner cities in the past 20 years, labor force participation has declined dramatically, and the percentage of female-headed households has increased. At the same time, participation in the drug trade has increased, and the violence attendant on the drug trade has further weakened ties to social institutions.

The high rate of incarceration is thought to have exacerbated problems in the inner cities. When incarceration rates were low, the imprisonment of some inner-city family members did not appear to have a strong effect on communities. However, when the incarceration rate is so high that 10 percent of the men in a community are affected—and the majority of men in the community have been in correctional institutions at some point in their lives—incarceration may adversely affect the community in ways that it previously did not. Incarceration weakens families by removing men, and the remaining

family members may be less effective in supervising and controlling teenage children. Furthermore, incarceration reduces the supply of marriageable men, leaving more single mothers to support and raise children. The very communities hit hardest by incarceration are those already negatively affected by recent historical changes. These low-functioning neighborhoods are depleted when every available resource is needed.

From one perspective, the removal of criminal men to prison may benefit a community because they can no longer commit crimes. However, this assumes—perhaps wrongly—that offenders are solely a drain on the community. Even while involved in criminal activities, offenders may provide important support to the community or its individual members. Some ethnographic research demonstrates that offenders represent both assets and liabilities to their communities. Although they are not model citizens, they provide some resources to the community. If such individuals are incarcerated, those resources are withdrawn and may not be restored after the offender is released because ties are loosened or broken beyond repair. Thus as a direct consequence of correctional policies, inner-city, underclass communities may experience more, not less, disorganization and crime.

Emerging Paradigms

An examination of the state of corrections at the beginning of the 21st century reveals emerging paradigms that may influence the future of corrections in the United States.

Restorative and community justice

In the past decade restorative and community justice programs have been proliferating throughout the United States.⁷⁶ Such programs offer new ways of viewing the justice system and responding to crime. Both restorative and community justice assume that crime damages individuals, communities, and relationships. Restorative justice includes all responses to crime that attempt to repair the harm or heal the wounds it causes. Under this model, justice involves the victim, the offender, and the community in a search for solutions that promote repair, reconciliation, and reassurance. From this perspective, justice requires more than punishing or treating those found guilty of lawbreaking. It recognizes that crime harms the victim and the community and that harmony should be restored between victims and offenders; victims should be repaid for tangible and emotional losses; and offenders should take responsibility, recognize the shame, and regain dignity.

Examples of the types of programs included under the restorative justice models include:

- Victim-offender mediation. Offenders and victims meet with volunteer mediators to discuss the effects of the crime and decide on restitution.
- Family group conferencing. Offenders, victims, families, and other people significant in the lives of affected individuals meet to discuss the impact of the crime and restitution. These conferences are usually organized and moderated by criminal justice officials or social service agencies.

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- Sentencing circles. Originating in Native American peacemaking, they are based on negotiation and consensus and involve victim, offender, supporters, and community members. The process is open to the whole community.
 - Reparative probation and other citizen boards. Offenders are sentenced to probation, and a citizen board of volunteers draws up a contract, which the offender must carry out.

Except in a few locations, restorative programs currently are used in a limited number of cases—for example, more with juveniles than adults, and more for minor offenses than serious crimes. There is still a great deal of debate about how many of the restorative and community justice programs should be implemented, and by whom. Furthermore, it is often difficult to mobilize and involve the community, particularly in disadvantaged, inner-city environments where the need may be greatest.

Community justice has a less explicit definition and means different things to different people. At the broadest level, it includes any program involving or focusing on the community (including most restorative justice programs). The term is sometimes used to describe a new community-corrections focus on problem solving and community empowerment, similar to its use in community policing. It is also used to describe strategies that focus on neighborhood locations that offer flexible hours of operation, social services, and close contact among supervising agents and various members of the community, including offenders, victims, and offenders' families. Community service and payment of restitution by probationers and parolees may be included under the umbrella of community justice.

Community corrections. Various named “neighborhood probation or parole,” “corrections of place,” or “police-corrections partnerships,” the community corrections model of community supervision involves the community in offender supervision in a way similar to how community policing involves the community in policing. Key components include (1) strengthening the ties between law enforcement and the community; (2) offering a full-service model of supervision, including both services and surveillance; and (3) attempting to change the lives of offenders through personal, family, and neighborhood interventions. Rather than managing offenders in the conventional caseload model, supervision agents are responsible for more actively supervising offenders; problem solving to initiate changes in offenders; and helping offenders obtain employment, social support, and needed treatment. Unlike earlier community corrections programs that focused on rehabilitation, the new community corrections focuses on involving the community (including law enforcement agencies) to help with supervision, accountability, and rehabilitation, including coercing offenders into treatment. Thus, community corrections combines rehabilitation with strict control and uses the help of community members and technology to ensure compliance.

Interest in police-corrections partnerships has been growing. The partnerships take various forms, from enhancing supervision and apprehending fugitives to sharing information and problem solving. Critics are concerned about the due process rights of offenders because probation and parole agents have broad powers (such as conducting warrantless searches) that officers do not have. Furthermore, some

difficulties—in coordinating activities, identifying goals, and dealing with limited resources—have arisen in the implementation of the partnerships.

Reemerging interest in treatment

With a growing body of research demonstrating the effectiveness of treatment programs with some offenders, interest in rehabilitation as a goal of sentencing and corrections has returned. Rather than accepting the rehabilitation model of the past, however, the new researchers, practitioners, administrators, and decisionmakers are focusing on how rehabilitation can be combined with more coercive or accountability-driven methods. Both the large number of drug-involved offenders in the criminal justice system and mounting evidence that treatment can be effective among this group has encouraged many jurisdictions to initiate drug treatment programs in prison and require drug treatment during community supervision.

Specialized courts

One response that has become particularly popular for managing and treating drug-involved offenders is the drug court. The wide acceptance of drug courts, as well as preliminary information about their effectiveness in reducing illegal drug use and other criminal behavior, has led some jurisdictions to develop other types of specialized courts designed to address specific groups of offenders. Jurisdictions are experimenting with specialized courts for juveniles and families, probation violators, prisoners reentering the community, and mental health clients.

Drug courts. These specialized courts were developed to manage correctional sentences given to low-level drug offenders. The courts stress rehabilitation, community integration, and accountability. A judge manages a caseload of drug-involved offenders, requiring them to make regular appearances in court, participate in some form of drug treatment, and be subjected to regular urine testing. The judge also administers a predetermined set of graduated, parsimonious sanctions for violating the drug court “contract.”

Juvenile and family courts. Justice system practitioners have recognized that many youths appearing on juvenile, family, or criminal dockets are substance abusers. To address this problem, some jurisdictions have attempted to develop juvenile and family drug courts. However, this has proven to be a more complex task than the development of adult drug courts, because juveniles may be less motivated to change and are negatively influenced by peers, gangs, and family members. In addition, stringent confidentiality is required for juvenile proceedings.

Reintegration and reentry

How to facilitate the reentry and reintegration of prisoners into the community after release is a critical issue for corrections today. Approximately 500,000 prisoners are released from State prisons each year.⁷⁷ According to one Bureau of Justice Statistics study, approximately 62 percent of them will be

rearrested for a felony or serious misdemeanor, and 41 percent will be sent back to prison within 3 years of release.⁷⁸ The risk of recidivism is highest during the first year after release.

The rapid growth in the number of parolees means that caseloads have grown correspondingly, and community supervision agents have limited time to spend with each individual. Caseloads on regular parole have grown from 30 parolees to 1 agent in the 1970s to 84 to 1 in 1995.⁷⁹

Frequently, serious offenders are released with little or no supervision because they have completed their sentence in prison. Many of those being supervised in the community are returned to prison for a new crime or violation of the conditions of supervision. As a consequence, a high percentage of the people entering prison have failed community supervision. This “revolving door” has led many to rethink the processes of reentry and develop new concepts incorporating governmental, private, community, and individual responsibilities for reintegrating prisoners into society. Various methods have been proposed for managing reentry, including community corrections, increased use of rehabilitation programs, graduated sanctions that can be used before the offender is returned to prison, and reentry courts.

Reentry courts. Modeled after drug courts, reentry courts manage offenders’ return to the community by applying graduated sanctions and positive reinforcement, as well as marshaling resources to support reintegration and promote prosocial behavior. The court essentially performs a resource triage. Releasees who are the most dangerous are identified and given the most resources during supervision. The goal is to reduce the recidivism rate of returning prisoners and establish a broad-based coalition to support successful reintegration.

Technology

Perhaps the greatest impact on corrections in the 21st century will be new technology. One of the most immediate effects is the use of computers to collect and share information. Theoretically, through the use of computer networks, information collected at one stage of criminal justice processing (e.g., arrest) can be shared as the offender progresses through the system. For example, risk and needs assessments, urine test results, and self-reported substance involvement determined pre- and post-sentencing can be shared with probation agents and prison administrators. Performance during probation and parole can be used to determine management and treatment strategies for those who return to prison. Conversely, information on releasees’ performance during community supervision can be fed back to prisons and treatment programs, informing program staff about what happens (e.g., recidivism, employment, treatment) to offenders after release and whether the programs are successful. New software will permit correctional facilities to record and track inmate records, bed assignments, medical data, and account information. Barcode printing and scanning can track inmate movements and perform cell checks. Information from the criminal justice system could be shared with other Federal, State, and local agencies (e.g., welfare, health, insurance) or with the public through the Internet (e.g., sex offender notification).

Technology extends beyond computer networks, of course. Surveillance techniques will benefit from the use of video, cellular, and satellite tracking technologies. Prisons may be made safer through the use of digitized identification cards, handheld metal detectors, stab- and slash-resistant vests, and improved perimeter security systems. Hair testing, rather than more invasive urine testing, may be used to more closely monitor drug use. Problem solving and community supervision management will be aided by mapping techniques that show where most probationers and parolees reside. New medical techniques, such as chemical castration and drugs, may be used to reduce sex or violent offending or to treat other behaviors associated with criminal activity. Telemedicine might cut correctional costs. DNA databases will help identify offenders and exonerate the innocent, and additional information provided by the Human Genome Project may have psychiatric and behavioral management applications.

Technology holds many promises. However, despite its potential value in reducing crime and controlling criminals, technology also carries risks. These risks must be clearly identified and examined.⁸⁰

Evidence-based corrections

It is generally recognized that research is needed to make reasonable, rational, cost-effective decisions regarding correctional policies. Although in the past many have expressed this interest, only recently has the field of corrections been moving toward more research and research-based decisionmaking. There is interest in using performance measures to hold departments of corrections accountable. Ideas such as criminal justice extension agents⁸¹ and partnerships between State agencies and universities have been proposed as methods to encourage collaboration between researchers and criminal justice agencies. Criminal justice extension agents, working with local, State, and Federal agencies and the community, would facilitate and promote the close exchange of information among these constituents. University research faculty would be informed of new developments in the community; practitioners, decisionmakers, and others in the community would be informed about the latest research findings. The agents would work to facilitate interaction among university researchers to increase the amount of research, and they would communicate research results to policymakers and citizens. Federal, State, and local partnerships modeled after the land grant university agricultural extension agents (who provide a bridge between universities and the community) will ensure adequate funding for long-term continuing projects.

If we are to move ahead without repeating past mistakes, we must begin to use empirical knowledge to guide decisionmaking. We should implement programs that have been proven to work. A stronger relationship among universities and criminal justice agencies, community members, decisionmakers, and others will be necessary in the 21st century. There is every reason to believe that scientific knowledge will help us address the problems in sentencing and corrections.

Conclusion

This paper has examined sentencing and corrections in the United States over the past 30 years: the goals, the policies, and the effects of the policies. As we enter the 21st century, it is time to reflect on

the goals of sentencing and corrections. What are they? Have we achieved them? What can we do to achieve them? It is perhaps most important to ask what society expects from corrections. Are those expectations reasonable? If not, can we educate the public to understand the challenges of sentencing and corrections? If they do not, how will we go about meeting their expectations?

Notes

1. Blumstein, A., and A.J. Beck, "Population Growth in U.S. Prisons, 1980–1996," in *Prisons*, ed. M. Tonry and J. Petersilia, Chicago: University of Chicago Press, 1999.
2. State and Federal prisons housed more than two-thirds of the incarcerated population. Jails, which are locally operated and typically hold persons awaiting trial and those with sentences of 1 year or less, held the remainder.
3. Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics, 1998*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, October 1999, NCJ 176356.
4. Probationers include adult offenders whom the courts place in community supervision instead of incarceration; parolees include adults conditionally released to community supervision by parole boards or who receive mandatory conditional release after incarceration.
5. Bonczar, T.P., and L.E. Glaze, *Probation and Parole in the United States, 1998*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1999, NCJ 178234.
6. Ibid.
7. Ibid.
8. Ibid.
9. Beck, A.J., *Prisoners in 1999*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 2000, NCJ 183476; Beck, A.J., and D.K. Gilliard, *Prisoners in 1994*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1995, NCJ 151654.
10. Blumstein and Beck, "Population Growth in U.S. Prisons, 1980–1996."
11. Ibid.
12. Bureau of Justice Statistics, *Correctional Populations in the United States, 1996*, Washington, D.C.: Bureau of Justice Statistics, April 1999, NCJ 170013.

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13. Bureau of Justice Statistics, *Sourcebook, 1998*; dollar comparisons are given in constant dollars.
 14. Camp, G.M., and C. Camp, *The Corrections Yearbook 1995: Probation and Parole*, South Salem, NY: Criminal Justice Institute, 1995.
 15. Stephan, J.J., *State Prison Expenditures, 1996*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1999, NCJ 172211.
 16. Ibid.
 17. Good-time and earned-time are reductions in the length of a prison sentence for satisfactory prison behavior (good-time) or incentives for participation in work or educational programs (earned-time).
 18. Parole boards, in various forms, have the responsibility to set conditions of release for offenders under conditional or supervised release, the authority to return an offender to prison for violating the conditions of parole or supervised release, and the power to grant parole for medical reasons.
 19. Rothman, D.J., *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America*, Boston: Little, Brown, 1980.
 20. Arthur D. Little, Inc., Preliminary Report to the President's Commission on Law Enforcement and Administration of Justice Precedent to Drugs and Narcotics Report, Cambridge, MA: Arthur D. Little, Inc., 1967: 166–169.
 21. Ibid., 170–174.
 22. Martinson, R., “What Works? Questions and Answers About Prison Reform,” *Public Interest* 35 (2) (1974): 22–54; Lipton, D., R. Martinson, and J. Wilks, *The Effectiveness of Correctional Treatment: A Survey of Correctional Treatment Evaluations*, New York: Praeger, 1975.
 23. Martinson, R., “What Works?,” 25
 24. Sechrest, L., S. White, and E. Brown, *The Rehabilitation of Criminal Offenders: Problems and Prospects*, Washington, D.C.: National Academy of Science, 1979.
 25. Cullen, F.T., and P. Gendreau, “Assessing Correctional Rehabilitation: Policy, Practice, and Prospects,” in *Criminal Justice 2000: Vol. 3, Policies, Processes, and Decisions of the Criminal Justice System*, ed. J. Horney, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2000, NCJ 182410.
 26. American Friends Service Committee, *Struggle For Justice*, New York: Hill and Wang, 1971; Von Hirsch, A., *Doing Justice*, New York: Hill and Wang, 1976.
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27. Zimring, F.E., and G. Hawkins, *Incapacitation: Penal Confinement and the Restraint of Crime*, New York: Oxford University Press, 1995.
28. Wolfgang, M.E., R.M. Figlio, and T. Sellin, *Delinquency in a Birth Cohort*, Chicago: University of Chicago Press, 1972.
29. See section on examining the effectiveness of incapacitation and deterrence for a discussion of the difficulties of identifying these career criminals.
30. Zedlewski, E.W., *Making Confinement Decisions*, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1987, NCJ 105834.
31. Habitual offender laws had been enacted by many States in the 1960s; they became popular again during this time.
32. Morris, N., and M. Tonry, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*, New York: Oxford University Press, 1990; Tonry, M., "Intermediate Sanctions," in *The Handbook of Crime and Punishment*, ed. M. Tonry, New York: Oxford University Press, 1998.
33. Ditton, P.M., and D.J. Wilson, *Truth in Sentencing in State Prisons*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 170032.
34. Ibid.
35. Index crimes are the crimes used by the FBI in the Uniform Crime Reports (UCR) as indices for recording changes in crime rates over time and consist of violent crime index offenses (murder, forcible rape, robbery, and aggravated assault) and property crime index offenses (burglary, larceny-theft, motor vehicle theft, and arson).
36. Tonry, M., "Introduction: Crime and Punishment in America," in *The Handbook of Crime and Punishment*, ed. M. Tonry, New York: Oxford University Press, 1998.
37. Blumstein, A., and A.J. Beck, "Population Growth in U.S. Prisons, 1980–1996," in *Prisons*, ed. M. Tonry and J. Petersilia, Chicago: University of Chicago Press, 1999.
38. To investigate this, index offenses known to the police were used because drug offenses are not one of the index crimes and their research could not determine if drug offenses had increased during this time.
39. Bonczar and Glaze, *Probation and Parole in the United States*, 1998.

40. Many of those who have violated parole have been rearrested for a new crime; therefore, these are not just technical violations of conditions of parole.

41. Bonczar and Glaze, *Probation and Parole in the United States, 1998*.

42. Although discretionary release from prison by a parole board has been eliminated by these States, postrelease supervision still exists and is generally referred to as “community” or “supervised” release.

43. Clark, J., J. Austin, and D.A. Henry, “*Three Strikes and You’re Out*”: A Review of State Legislation, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1997, NCJ 165369.

44. Ibid.

45. Ditton and Wilson, *Truth In Sentencing in State Prisons*.

46. Ibid.

47. Zimring, F.E., “The New Politics of Criminal Justice: Of Three Strikes, Truth-in-Sentencing and Megan’s Law,” paper presented to the Perspectives on Crime and Justice: 1999–2000 lecture series, National Institute of Justice, Washington, D.C., 2000.

48. Ibid.

49. Ibid.; Tonry, M., and J. Petersilia, eds., *Prisons*, Chicago: University of Chicago Press, 1999.

50. Reitz, K.R., “Sentencing,” in *Handbook of Crime and Punishment*, ed. M. Tonry, New York: Oxford University Press, 1998.

51. Beck, A.J., and C.J. Mumola, *Prisoners in 1998*, Bulletin, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, August 1999, NCJ 175687; Stephan, J.J., *Census of State and Federal Correctional Facilities, 1995*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1997, NCJ 164266.

52. Maruschak, L.M., *HIV in Prisons 1997*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1999, NCJ 178284.

53. Lurigio, A.J., and J.A. Swartz, “Changing the Contours of the Criminal Justice System to Meet the Needs of Persons with Serious Mental Illness.” in *Criminal Justice 2000: Vol. 3, Policies, Processes, and Decisions of the Criminal Justice System*, ed. J. Horney, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2000, NCJ 182410.

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54. Blumstein, A., J. Cohen, and D. Nagin, eds., *Deterrence and Incapacitation*, report of the National Academy of Sciences Panel on Research on Deterrent and Incapacitative Effects, Washington, D.C.: National Academy Press, 1978.
55. Blumstein, A., J. Cohen, J. Roth, and C. Visher, eds., *Criminal Careers and "Career Criminals,"* Report of the National Academy of Sciences Panel on Research on Criminal Careers, Washington, D.C.: National Academy Press, 1986.
56. Reiss, A., and J. Roth, *Understanding and Control of Violence*, report of the National Academy of Sciences Panel on Research on Criminal Careers, Washington, D.C.: National Academy Press, 1993.
57. It should be noted that this research makes use of complex statistical models with reasonable estimates of the relevant factors completed by a respected group of researchers. Although there is still debate about the estimates used in the statistical models, it is important to distinguish these predictions from unscientific estimates given in some policy debates. For example, Zimring and Hawkins (see note 27) describe one unscientific estimate that would have produced a \$300 billion savings in the cost of crimes prevented; as noted by Zimring and Hawkins, this unreasonable estimate was greater than the Federal deficit or the national defense budget.
58. Zedlewski, E.W., *Making Confinement Decisions*.
59. MacKenzie, D.L., K. Browning, and S. Skroban, et al., "The Impact of Probation on the Criminal Activities of Offenders," *Journal of Research in Crime and Delinquency* 36 (4) (1999).
60. MacKenzie, D.L., "Criminal Justice and Crime Prevention," in *Preventing Crime: What Works, What Doesn't, What's Promising: A Report to the United States Congress*, ed. L.W. Sherman, D. Gottfredson, D. Mackenzie, et al., Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1997, NCJ 165366.
61. MacKenzie, D.L., and C. Souryal, *A "Machiavellian" Perspective on the Development of Boot Camp Prisons: A Debate*, University of Chicago Roundtable, Chicago: University of Chicago Press, 1995.
62. Andrews, D.A., and J. Bonta, *The Psychology of Criminal Conduct*, Cincinnati: Anderson Publishing Company, 1998.
63. Cullen, F.T., and P. Gendreau, "Assessing Correctional Rehabilitation."
64. Andrews, D.A., I. Zinger, and R.D. Hoge, et al., "Does Correctional Treatment Work? A Psychologically Informed Meta-analysis," *Criminology* 28 (1990): 369–404; Lipton, D.S., and F.S. Pearson, *What Works in Correctional Intervention? The CDATE Project*, unpublished manuscript, New York: National Development and Research Institutes, 1996; M. Lipsey, "Juvenile Delinquency
-

Treatment: A Meta-analytic Inquiry into the Variability of Effects,” in *Meta-Analysis for Explanation: A Casebook*, ed. T.D. Cook, H. Cooper, and D.S. Cordray, et al., New York: Russell Sage Foundation, 1992.

65. Sherman, L.W., D. Gottfredson, D. Mackenzie, et al., *Preventing Crime: What Works, What Doesn't, What's Promising: A Report to the United States Congress*. Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1997, NCJ 165366.

66. MacKenzie, D.L., “Criminal Justice and Crime Prevention”; MacKenzie, D.L., and L. Hickman, *What Works in Corrections?*, unpublished report to the State of Washington Legislature Joint Audit and Review Committee, 1998; MacKenzie, D.L., “Evidence-based Corrections,” *Crime and Delinquency* 46 (4) (2000): 457–471.

67. For a discussion of MRT, see Finn, P., *The Delaware Department of Correction Life Skills Program*, Program Focus, Washington, D.C., U.S. Department of Justice, National Institute of Justice, August 1998, NCJ 169589.

68. Feeley, M.M., and J. Simon, “The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications,” *Criminology* 30 (4) (1992): 449–475.

69. *The Challenge of Crime in a Free Society*, Washington, D.C.: President's Commission on Law Enforcement and Administration of Justice in the United States, 1967.

70. Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics, 1998*.

71. Beck, *Prisoners in 1999*.

72. Most of this discussion refers to African-Americans, not Hispanics, because only recently have statistics been reported for Hispanics. However, many of the problems discussed for African-Americans appear to also affect Hispanics.

73. Tonry, M., *Malign Neglect $\frac{3}{4}$ Race, Crime and Punishment in America*, New York: Oxford University Press, 1995.

74. Lynch, J.P., and W.J. Sabol, “Prison Use and Social Control,” in *Criminal Justice 2000: Vol. 3, Policies, Processes, and Decisions of the Criminal Justice System*, ed. J. Horney, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2000, NCJ 182410; Rose, D.R., and T.R. Clear, “Incarceration, Social Capital, and Crime: Implications for Social Disorganization Theory,” *Criminology* 36 (3) (1998): 441–479.

75. Wilson, W.J., *When Work Disappears*, New York: Knopf, 1996.

-
76. Bazemore, G., "Community Justice and a Vision of Collective Efficacy: The Case of Restorative Conferencing," in *Criminal Justice 2000: Vol. 3, Policies, Processes, and Decisions of the Criminal Justice System*, ed. J. Horney, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 2000, NCJ 182410; Braithwaite, J., "Restorative Justice," in *The Handbook of Crime & Punishment*, ed. M. Tonry, New York: Oxford University Press, 1998; Kurki, L., *Incorporating Restorative and Community Justice Into American Sentencing and Corrections*, Research in Brief, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, September 1999, NCJ 175723.
77. Beck, *Prisoners in 1999*.
78. Beck, A., and B. Shipley, *Recidivism of Prisoners Released in 1983*, Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 1989, NCJ 116261.
79. Petersilia, J., "Probation and Parole," in *Handbook of Crime and Punishment*, ed. M. Tonry, New York: Oxford University Press, 1998.
80. Fabela, T., "Technocorrections," in *Sentencing and Corrections for the 21st Century, Papers From the Executive Sessions on Sentencing and Corrections*, Volume 5, Washington, D.C.: U.S. Department of Justice, National Institute of Justice, May 2000, NCJ 181411.
81. MacKenzie, D.L., "Using Science and the U.S. Land-Grant University System to Attack This Nation's Crime Problem," *The Criminologist* 23 (2) (1998): 1-4.