

# FOCUS<sup>®</sup>

The magazine of the Joint Center for Political and Economic Studies

## THE INCARCERATED GENERATION:

### **Imprisoned Parents Mean Children Suffer**

By Patrice Gaines

*Miquelle West remembers vividly that day in 1991 when she was nine years old and her mother drove her to school, as she normally did, kissed her goodbye and said, "I love you. I'll see you later."*

*West didn't see her mother again until several years later. And when she did it was in a federal prison. Her mother, who had pleaded innocent, was sentenced to life plus 50 years on charges police said stemmed from her involvement in a drug ring run by her ex-boyfriend. Miquelle West was taken from her Detroit neighborhood and sent to live with her aunt and grandmother in Kalamazoo.*

*The move was nothing compared to the absence of her mother. "People don't realize how much kids suffer," says West, now 21. "My aunt and grandmother did a good job of raising me, but they didn't place a priority on me seeing my mother."*

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## The Grip of Structural Racism

The tentacles of structural racism grip American society in many interlocking ways, but perhaps nowhere is that hold tighter than in the criminal justice system.

Entrenched bias in the system affects everyone from babies born to incarcerated mothers to killers on death row. In this special issue of FOCUS we explore the various ways racial injustice undermines justice. We also show how activists, policymakers and legislators can work to bring justice to criminals through fair, progressive programs that counter the insidious impact of racism.

Even in the criminal justice system, sometimes those hardest hit by racism are those who are completely innocent. Our cover story deals with the more than 2 million children who have at least one parent incarcerated. These children suffer in many ways. They miss parental love and guidance. They fare worse in school and are more likely than other children to have disciplinary problems. Ultimately, they face increased chances of following a parent to prison themselves.

Fortunately, there are public and private efforts to work with these children. One worth noting is the Amachi program, headed by former Philadelphia Mayor W. Wilson Goode, who now is with Public/Private Ventures in Philadelphia. Amachi provides mentors to the children of incarcerated parents.

On a related note, special attention also should be paid to females. Although there are far more males in trouble with the law than females, the rate at which our mothers, sisters and daughters are being sentenced to prison now exceeds that of our fathers, brothers and sons. As Joyce London Alexander, a U.S. magistrate judge and a Joint Center board member, has long noted, too little attention is given to girls in trouble. Furthermore, she argues convincingly in an article for the *Suffolk University Law Review* that we cannot afford to ignore “the connection between policies that have the strong potential to aggravate poverty and increasing rates of crime and delinquency.”

Certainly, there are many, many poor people who do not succumb to the theft, dope dealing and violent turf battles that hurt many of our communities. And poverty is no excuse for those who prey on their neighbors. Those neighbors support strong law enforcement, but it must be practiced impartially. All too often, Black and Brown people are introduced to the system through a vicious cycle of racial bias that starts with racial profiling and continues with privileged treatment for White offenders and greater punishment for Black people.

Our legislators and law enforcement officers should seriously examine why, as our page 3 feature reports, Black people account for only 13 percent of the nation's illicit drug users yet are 57 percent of the inmates in state prisons for drug crimes. Curiously — or not — White people are more than two-thirds of the drug users, but less than one-fourth of the prisoners.

State and federal lawmakers, often worried about the enormous cost of keeping massive numbers behind bars, have begun to address some of these disparities, as our page 9 story shows. Everything from traffic stops to capital punishment is under reexamination. It will take those efforts and more to bring greater justice to the criminal justice system. ■

  
PRESIDENT

This issue of FOCUS was funded in part by the Annie E. Casey Foundation. We thank them for their support. We also acknowledge that the findings and conclusions in this publication do not necessarily reflect the opinions of the Foundation.

# FOCUS<sup>®</sup> MAGAZINE

Volume 32, Issue 3

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Selected back issues of FOCUS are also available on-line at the Joint Center's web site: [www.jointcenter.org](http://www.jointcenter.org). An index to the preceding year's articles is published in the December or January issue.

Printed in the United States of America.

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# Racial Disparity in the Justice System: More Than the Sum of Its Parts

## *Bias Infects System from Investigation to Incarceration*

BY ERIC LOTKE

Yesterday, approximately 800 African American baby boys were born in America. Unless something changes, roughly 250 of them will serve at least a year in prison during their lives.

The size of the American prison system is almost as notorious as its racial disproportion. African American men are confined at seven times the rate of White men. Altogether, more than 2 million people are currently locked in American prisons or jails. Nearly two-thirds of them are minorities and 173,000 are women. Many people believe that the disparities arise because minorities commit more crime, but it is not so simple. African Americans constitute roughly 12 percent of the nation's population and 13 percent of the nation's drug users, but 57 percent of those in state prison for a drug crime. In comparison, White people constitute roughly 69 percent of the nation's population and 68 percent of the nation's drug users, but only 23 percent of inmates in state prison for a drug crime.

This prison disparity does not occur all at once. Rather, it follows from countless small decisions made at every stage of the criminal justice process. Each decision compounds the disparity from the decision before and delivers additional disparity downstream. Each of these decisions could be made differently. In the words of Louisiana State Senator Donald Cravins, "Step by step, we have created a monster."

Racial profiling is one of the first steps. Along Interstate 95 in Maryland, for example, African Americans make up 20 percent of motorists but 75 percent of people pulled over by police. Yet the rate at which African Americans exceed the speed limit is the same as it is for Whites and, once searched, African Americans are found

in possession of illegal drugs at the same rate as Whites.

Much of this activity is self-fulfilling. If more African Americans are searched, then more contraband will be found on African Americans and more of them will be sent to prison. Thus, the raw numbers weigh against African Americans even though probability tells a different story. An analysis by the Customs Service of searches in airports in New York City in 1998 and 1999 found that 43 percent of people searched were minorities. However, illegal material was found on 6.7 percent of Whites, 6.3 percent of African Americans and just 2.8 percent of Latinos. With commendable self-awareness, the Customs Service then changed its practice to exclude any consideration of race, focusing only on suspicious behavior. The result? In 2000, the Customs Service conducted 61 percent fewer searches than in 1999 but the seizures of cocaine, heroin and ecstasy all increased. The "hit rates" for Whites and African Americans more than doubled and for Latinos it more than quadrupled — demonstrating that law enforcement can focus more effectively on people more likely to be guilty and spare innocent people needless harassment.

### The Decision to Prosecute

After the arrest comes the decision to prosecute. The same set of facts can be prosecuted as an aggravated assault, a simple assault, disorderly conduct, or dismissed altogether. These decisions, too, reflect racial disparities.

The *Miami Herald* recently reviewed nearly 800,000 felony cases in Florida, and found that White suspects arrested for drug crimes were given a "withhold of adjudication" break—meaning they pleaded guilty,

but without having a conviction registered or getting a criminal record—nearly twice as often as African Americans. The *Herald* recounts the story of Tim Carter and Richard Thomas, arrested in separate incidents three months apart in nearly the same location. Police found one rock of cocaine on Carter, who is White, and a crack pipe with cocaine residue on Thomas, who is Black. Both men claimed drug addictions and both men potentially faced five years in prison. Carter, however, had his prosecution withheld and the judge sent him to drug rehabilitation. Thomas was convicted and went to prison. "A lot of times, Black defendants are viewed as criminals, while the White defendant is viewed as having a drug problem," Thomas's lawyer Ronnie Adili told the *Herald*.

Prosecutors' choices directly affect the sentence, as happens with the federal mandatory minimum infamous for imposing the same harsh prison term on 5 grams of crack cocaine as on 500 grams of powder cocaine. Approximately 97 percent of all federal crack prosecutions between 1992 and 1994 were of minorities. The U.S. Sentencing Commission determined in 1992 that only minorities were being prosecuted for crack offenses in more than half of the federal judicial districts that handled crack cases. Not one single White person was prosecuted for crack by federal prosecutors in Los Angeles between 1988 and 1994. These findings are remarkable partly because of the disparity and severity of crack sentencing in federal law, and partly because more Whites use crack than African Americans.

Decisions on granting bail also lead to racial imbalance. People released on bail have an advantage. They can participate in their own defense and they have less

incentive to accept unfavorable plea bargains. Yet the bail decision, too, seems to be infected by racial disparity and is not explainable by the severity of the offense or risk of flight. The *Hartford Courant* in Connecticut found that African American and Hispanic men paid twice the bail of White men accused of the same offense. The Florida Department of Corrections found that young unemployed African American men arrested on “public order” offenses were three times more likely to be kept in jail than unemployed Whites arrested on the same charges. In New York State, the Division of Criminal Justice Services found that one-third of all minorities accused of felonies would have been released before arraignment if they were treated the same as similarly situated White suspects.

## Plea Bargaining

Plea bargaining also is infected by racial disparities. The vast majority of cases are not settled in trial but in deals under which the defendant pleads guilty in return for a lighter sentence. Available evidence indicates that Whites are routinely offered better deals than minorities. A study by the *San Jose Mercury News* of 700,000 California cases in 1991 found that of 71,668 adults who had no prior record and were charged with a felony, one third of Whites had their charges reduced to a misdemeanor or less. Only a quarter of African Americans and Hispanics received such reductions. In drug abuse cases, for which treatment without prosecution was an option, 20 percent of White people got treatment, compared to 14 percent of similarly situated African Americans and 11 percent of similarly situated Latinos.

The criminal sentence is like the punchline to a joke. There are many other parts, but in the end it all comes down to the sentence. In the justice process, the punchline is that minorities fare worse at every stage in the process and then fare worse again at sentencing.

The Justice Policy Institute recently

studied the impact of the “three-strikes-you’re-out” law in California, which is now 10 years old. Analysis revealed that among people serving prison sentences of 25 years to life under this law, the rate of three-strikes sentences for African Americans is 12 times as high as the rate for White felons. Moreover, these do not appear to be dangerous or violent individuals. Nearly two-thirds of people sentenced under three-strikes committed nonviolent offenses, suggesting that they could have been sentenced differently.

Similar disparities seem to arise in every context. Examining the juvenile justice system, a study by Building Blocks for Youth found that African Americans with no prior incarceration experience are 48 times more likely than similarly situated White youth to be sentenced to juvenile prison for drug offenses and that the Whites confined had shorter sentences. Even in application of the death penalty, where the stakes are highest and the need for fairness is most acute, disparities are the order of the day. The classic study by David Baldus, a University of Iowa law professor, found that African Americans who killed White people were sentenced to death seven times more frequently than White people who killed African Americans.

Some of the disparity might, of course, have seemingly race-neutral explanations. African Americans tend to be worse off financially, so they must rely on overworked public defenders rather than private counsel. They might not be able to afford bail even if race did not affect the amount. Careful statistical analysis reduces the racial correlation somewhat, but doesn’t change the big picture. “The system feeds on poor people,” says Senator Cravins. And, of course, the lower income status of African Americans is directly and seriously affected by generations of embedded, often hidden, racial bias.

That bias creates an insidious spiral. A police officer who pulls over a motorist with an active warrant is more likely to make an arrest, and a judge sentencing a person with a prior criminal record is likely to increase

the sentence. Yet these decisions can be self-perpetuating. The African American motorist might not have had the warrant if the earlier case hadn’t been stacked against him; the defendant with the prior record might not have been convicted if he could have made bail. Thus, each contact with the justice system makes the subsequent contact more likely and more forceful. Economic disadvantage might explain some of the disparity — but it is hard to get ahead with a felony record and probation obligations. In communities where half the young men are under judicial supervision on any given day — as research has shown is now the case in the District of Columbia and Baltimore — the justice system perpetuates its own future.

To help reverse that course, Maryland State Delegate Obie Patterson, chairman of the Maryland Legislative Black Caucus, sponsored legislation that diverts nonviolent drug offenders into treatment instead of prison. “We’ve made some progress, but we still have a long way to go,” says Patterson.

Pushed by the high cost of incarceration, states around the country are amending earlier “tough on crime” approaches with a new emphasis on programs like those Patterson advocates. Two reports by Judith Greene, one for the Justice Policy Institute ([www.justicepolicy.org](http://www.justicepolicy.org)) and one for Families Against Mandatory Minimums ([www.famm.org](http://www.famm.org)) document a trend among states to reform mandatory sentencing laws, shorten sentences, reform parole policies, close prisons and pass laws diverting people accused of nonviolent offenses from prison into treatment.

Says Greene: “The silver lining in the state fiscal crisis is the incentive to adopt more effective responses to the problems of crime and drug abuse. If prisons are used more wisely in the future, that should help reduce racial disparity too.” ■

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*Eric Lotke is the research and policy director at the Justice Policy Institute in Washington, D.C.*

# POLITICAL REPORT

## Disenfranchising Felons Hurts Entire Communities

By Marc Maurer

Lumumba Bandele is a teacher and guidance counselor in the Brooklyn neighborhood of Bedford Stuyvesant in New York City. As the father of two, he and his wife struggle to provide a safe and secure environment for their children in a neighborhood with overcrowded public schools, failing small businesses and little affordable housing. Bandele sees political change as the means of improving these conditions, but he's frustrated by declining voter turnout in his community.

Electoral participation is lacking across the country, but in places like Bedford Stuyvesant it takes on a particularly curious slant. With so many of his neighbors unable to vote because they are in prison or on parole, Bandele feels that he, too, has lost political influence. To change that, he is now a plaintiff in a lawsuit challenging New York State's felon disenfranchisement laws, in part because they dilute the vote in communities of color, like his own neighborhood.

"The issue of disenfranchisement is really about power," Bandele says. "As the 'prison industrial complex' grows, one of the results is an increase in the number of people of color who are not allowed to participate in the electoral process. Our communities have been and will continue to struggle for power. The big battle now is to empower our family members who have returned and who are returning home from prison."

The New York litigation is but one aspect of a growing recognition that the vast expansion of the prison apparatus over the last two decades is now hurting not only

those incarcerated and their families, but their communities as well. Increasingly, the ability of these communities to gain political representation and influence — and therefore access to public resources — is being thwarted by the American race to incarcerate. The structural racism in the system, an entrenched and often unconscious bias in law enforcement, has weakened Black political power. This affects everything, from elections for township supervisors to the president and all the policies that result.

As we celebrate the 50th anniversary of the historic *Brown v. Board of Education* Supreme Court decision, we can measure the contours of the expansion in incarceration against the background of the intervening five decades. While much attention is being focused on assessing progress in educational opportunity, the contrast with developments in the criminal justice system is quite profound.

The figures themselves are shocking even after countless news stories and government reports. On the day of the *Brown* decision in 1954, about 98,000 African Americans were incarcerated. Today, there are nine times that number, an estimated 884,000, which is nearly half of today's total incarcerated population. If current trends continue, one of every three Black males born today will be sentenced to prison at some point in his lifetime. And in recent decades, the combined impact of poverty and the war on drugs has resulted in rapidly escalating figures for Black women as well.

The ripple effects of large-scale incarceration now extend well beyond the time individuals are locked up. We can see this most directly in the way low-income

communities have lost political influence as a result of felony disenfranchisement laws. Depending on the state, a felony conviction can result in the loss of the right to vote while serving a sentence or even after completion of sentence. At present, prisoners can vote only in Maine and Vermont. In the other 48 states and the District of Columbia, persons in prison are not permitted to vote; in 33 of these states, persons on probation and/or parole cannot vote either; and in 13 states a felony conviction can result in the loss of voting rights for life.

As a combined result of the growth in incarceration and disenfranchisement practices, more than four million Americans will be unable to vote in this year's presidential election. Among African American men, an estimated 13 percent are disenfranchised as a result of a current or previous conviction. And in the states with the most restrictive laws, 30 percent to 40 percent of the next generation of Black males will lose their right to vote if current trends continue.

These dynamics are not just the unfortunate consequences of higher rates of involvement in crime among African Americans. There is documented evidence of racial disparity in criminal justice processing and in the legacy of disenfranchisement being used as a means of restricting Black voting.

In the years after Reconstruction in the South, state legislators tailored their disenfranchisement laws with the intent of reducing participation among the new Black electorate. The means by which they accomplished this was to expand disenfranchisement for crimes believed to be committed by Blacks but not for those offenses presumed to be committed by Whites. This led to the bizarre situation in Alabama whereby a man convicted of beating his wife would lose his right to vote but a man convicted of killing his wife would not.

Disenfranchisement laws directly affect the 1.4 million African American men and 245,000 women who cannot vote, but the impact goes well beyond them. The effect

on families can be particularly hard when women are incarcerated. “Almost half of all Black families are headed by women. When Black women are disengaged from the political process, the whole family is disfranchised,” says Monifa Bandele, field coordinator for the Right to Vote Campaign and wife of Lumumba Bandele. Communities with high rates of people with felony convictions have fewer votes to cast. All residents of these neighborhoods, not just those with a felony conviction, become less influential than residents of more affluent neighborhoods.

Emerging research also suggests that disenfranchisement laws may affect voter turnout in neighborhoods of high incarceration even among people who are legally eligible to vote. Since voting is essentially a communal experience — we talk about elections with our families and often go to the polls together — limitations on some members of the community translate into lower overall participation. Disenfranchisement laws now affect growing numbers of young people as well. The increasing tendency to charge juveniles with adult crimes is causing greater numbers of 16- and 17-year-olds to lose the right to vote, in some cases permanently, even before they are old enough to cast their first ballot.

While disenfranchisement policies raise serious questions about democratic inclusion, their practical effect is now of such a magnitude that it may be determining electoral outcomes. On the day of the historic Florida election fiasco in 2000 — when 537 votes in the state effectively decided the presidential election — an estimated 600,000 persons who had completed their felony sentences were unable to vote due to the state’s restrictive laws. Had these persons been eligible to vote, even a modest rate of participation could easily have altered the national outcome.

Political influence and access to resources are further hindered by the growing tendency to build prisons in rural areas. Prison officials have always sought rural

land for prison construction, primarily due to low real estate costs, and these trends have accelerated in recent years. Communities hard hit by the loss of manufacturing jobs and the decline of family farms have come to view prisons — often incorrectly, it turns out — as a recession-proof means of providing jobs. In New York State, for example, all 38 of the prisons built since 1982 have been located in upstate areas, most in rural communities.

Rural prison expansion affects urban communities of color through the mechanism of the census count. The Census Bureau’s general rule is to count people in their “usual residence”; for prisoners, this has been interpreted to mean that they should be counted at the prison where they are housed, not in their home communities. The effect of this policy is that sparsely populated rural communities are artificially enlarged through their inmate population consisting mostly of people of color from urban neighborhoods. In Florence, Arizona, for example, two-thirds of the town’s 16,000 inhabitants are prisoners, and for every dollar raised by local taxes, the town receives an additional \$1.76 from state and federal allocations based on its prison population. Says town council member Tom Rankin, without the inmate bounty, “we would have been here but wouldn’t have been going anywhere.”

The increased political clout in many areas is now quite significant. In one prison district near Albany, New York, every 93 residents enjoy the political representation that would require 100 residents in other areas of the state, according to Soros Justice Fellow Peter Wagner.

Fiscal dynamics created by the census play out in similar ways. Former Soros Senior Justice Fellow Eric Lotke (currently with the Justice Policy Institute) estimates that nationwide each prisoner brings in between \$50-\$250 a year to the local government in which he or she is housed. Thus, a new 500-bed prison may yield about \$50,000 annually in new revenue. If such facilities were located in the urban areas many inmates call home, at

least their communities would reap any financial and political benefits.

Finally, urban areas suffer from the vicious cycle set in motion by the dramatically high rates of arrest and imprisonment of members of their communities. Eric Cadora of the Open Society Institute, who tracked this geographic concentration in a publication for the Urban Institute, found that New York City taxpayers spend \$1 million to incarcerate inmates from some city blocks in Brooklyn. Suppose that this rate of incarceration could be reduced by just 10 percent; that would free up \$100,000 in savings that could be invested to provide education, health care, and job training to this distressed area.

In recent years, considerable momentum for change in disenfranchisement laws has developed nationally. Nine states have adopted reforms of their policies since 1996, resulting in a half million persons becoming eligible to vote. These changes have been bipartisan, with five of these laws signed by Republican governors and four by Democrats.

The changes represent a growing realization in the states and in Washington that restricting voting rights does not serve a crime control agenda—the goal of racial inclusion or democracy itself. At the federal level, Congressman John Conyers (D-MI) introduced legislation last year that would permit any non-incarcerated person to vote in federal elections, even if prohibited from voting in state elections. He argues that there should be uniformity in electing national leaders. “If we want former felons to become good citizens,” he said, “we must give them rights as well as responsibilities, and there is no greater responsibility than voting.” ■

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*Marc Mauer is the assistant director of The Sentencing Project and the author of Race to Incarcerate and co-editor of Invisible Punishment: The Collateral Consequences of Mass Imprisonment (both published by The New Press).*

# ECONOMIC REPORT

## Ex-Felons Face Major Economic Obstacles

By Margaret C. Simms

Over the next decade, American society will see a virtual flood of individuals coming out of prisons. Experts predict more than 500,000 ex-felons a year will return to communities across the country.

Because African Americans constitute nearly 45 percent of the inmate population in federal and state prisons and one-third of those released on parole each year, African American communities will be disproportionately affected. Moreover, the impact will be highly concentrated geographically. According to the Urban Institute, 75 percent of releases were in only 16 states in 1998. Within the states, it is often only a few cities, counties and neighborhoods that are home to ex-felons both before and after their release.

New programs to improve re-entry are clearly needed, because existing policies and programs make it difficult for ex-felons to obtain stable employment, secure housing, and gain access to health care. A number of policies enacted during the “tough on crime” era of the 1990s are severely constraining the ability of former prisoners to re-integrate into society and the economy.

### Welfare Benefits

High proportions of those incarcerated during the past 15 years were convicted of drug-related crimes. Under current federal law, individuals convicted of drug offenses face a lifetime ban from welfare benefits and related programs such as Food Stamps. The federal ban applies to no other offenses.

States can opt out or modify the lifetime ban and 33 have done so, according to the Sentencing Project. Nearly one-quarter of people entering parole today are women, and many of them are mothers, meaning their children also might suffer from the policy. The denial of welfare benefits makes it difficult if not impossible for women to stabilize their economic situation, provide for their children and regain child custody rights. Without greater transitional benefits, many of these women may never be in a position to find employment.

Without a job, it is also difficult to obtain housing. Employers seldom hire people with no fixed address, making for a vicious cycle. One option, of course, is for people to move in with relatives while they get their feet back on the ground. For ex-felons, this is not always possible, because federal law prohibits individuals who have been convicted of certain crimes from living in public housing and units subsidized by various assisted housing programs such as Section 8. The Vera Institute of Justice in New York, in a recent issue brief on homelessness among former prisoners, reports that “at any given time in Los Angeles and San Francisco, 30 to 50 percent of all people under parole supervision are homeless.” The brief also points to statistics demonstrating that those who remain homeless are more likely to commit crimes that lead to re-incarceration.

### Employment of Ex-Felons

Unfortunately, there are no definitive national statistics on the employment status of ex-felons. But both anecdotal evidence and fragmentary data confirm what common sense would predict: individuals who have been incarcerated have great

difficulty securing employment when they return to society. Except for a short period in the late 1990s, when the labor market was so tight that the *Wall Street Journal* reported on employer efforts to reach out to ex-felons, those leaving prison have faced formidable obstacles to employment. Some of these difficulties are related to company policies or procedures and others are the result of employer perceptions of ex-felons’ job skills or trustworthiness. Ex-felons are also barred from public employment in a number of states, including three with a high proportion of African American residents (Alabama, Mississippi, and South Carolina). Occupations that are licensed by states also have restrictions on allowing ex-felons to work in them. (See related information on page 10).

At a business forum hosted by the Joint Center in 1999, one participant said the barriers faced by ex-offenders are “50,000 feet high.” Some business owners cited bonding requirements that prevented them from employing ex-felons in some or all jobs in their companies. For other companies, it was more a matter of discretion. When two out of three employers say they will not consider ex-felons (according to a Michigan State University survey of that period), it is clear that employers’ discretion does not work in the favor of those who have been incarcerated.

What about minority employers? Are they more likely to consider ex-offenders for jobs? Research in the field of minority business development has consistently found that minority-owned companies are more likely than non-minority owned firms to hire minority employees. The Joint Center’s own research in the early 1990s found that minority business owners also viewed the skills and work habits of minority workers more positively than did White employers. Interviews with some of the respondents to that survey about their views on hiring ex-felons also revealed a more positive view of this population. The

question is, how widespread is this view?

In 2003, the Joint Center received funding from the Open Society Institute to survey 500 minority-owned firms regarding their attitudes toward hiring ex-felons. The national sample consisted of African American, Asian American, Hispanic, and Native American owned companies and was distributed across a variety of industries. All had at least five employees and 12 percent had 20 or more. Three-quarters of them had over \$100,000 in gross revenue, with nearly one-half having sales in excess of \$500,000. In other words, they are probably typical in size of the firms many African Americans might approach for employment.

Twenty percent of the responding firms had employed at least one ex-felon, with Black-owned firms among the most likely to have done so. In addition, one-half of the firms who had never hired ex-felons said they would consider doing so. These data from the Joint Center, viewed alongside the Michigan State study cited earlier, indicate that minority-owned firms are nearly twice as likely to accept ex-felons as are employers in general. Furthermore, African American firms were more likely to report that they would consider ex-felons for employment than were other minority-owned firms.

A willingness to hire ex-felons, however, does not always result in many job opportunities for them. A relatively small percentage of the firms interviewed were working with agencies that place ex-felons; most of their employees were “walk-ins.” This suggests that a greater pool of potential jobs for ex-felons might be available through programs that promote the use of workforce intermediaries. Also, since minority employers said the lack of job skills was a major factor in the failure of ex-felons to get jobs, vocational education and training programs, either in prison or as part of a transition effort, would increase their employment prospects. This might be particularly true of minority business owners, who are more likely than others to look beyond the ex-con label and see the whole person. Currently it is estimated that

only one-fourth of those in prison have access to vocational training.

### Promising Programs

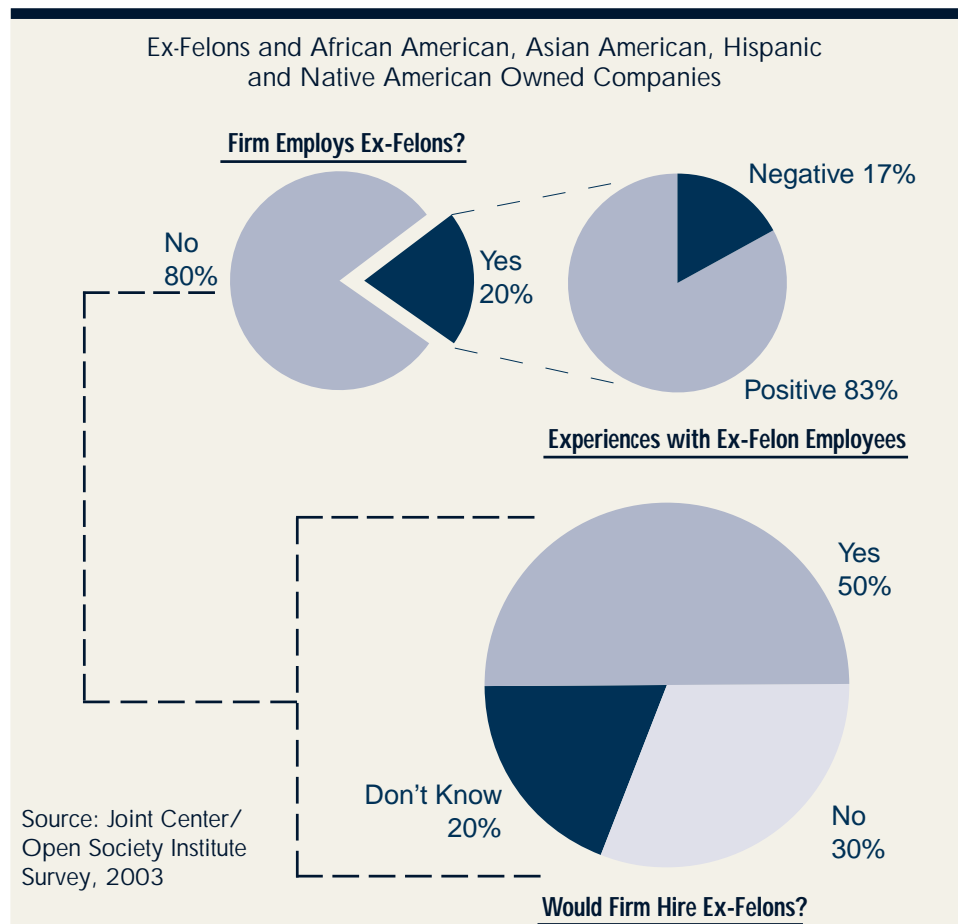
With the rise in prisoner releases, a number of organizations have begun to compile information on programs that are addressing these employability issues. Many of the programs use state or federal re-entry funds. The Vera Institute brief summarizes information on one Maryland program for ex-offenders in Baltimore, which combines job training, job placement, and two months of subsidized housing. Participants contribute to the cost of housing with stipends they receive in the job-training program. Other programs — in Hawaii, Massachusetts, Rhode Island, and Tennessee — combine housing and a variety of other transitional services such as drug abuse treatment and job training.

The Urban Institute, in the publication *From Prison to Home*, discusses several job placement programs, including one offered by the Center for Employment Opportuni-

ties in New York City. It has a 70 percent placement rate within three months of program entry, and about one-half of its participants are still employed after six months. An effort in Texas, called Re-Integration of Offenders (Project RIO), begins working with individuals while they are incarcerated. Participants in Project RIO have had higher placement rates and lower recidivism rates than non-participants.

With programs that seem to work and minority employers willing to hire, this is a policy area that could benefit from attention. Many African American communities will suffer if policy makers do not take advantage of this combination.

*For more information, go to the following web sites: Urban Institute <http://www.urban.org/content/PolicyCenters/Justice/Overview.htm>; The Vera Institute of Justice <http://www.vera.org>; the Sentencing Project <http://www.sentencingproject.org/>. Also see *FOCUS*, May 2003.*





# STATES, FEDS MOVE TO RIGHT RACIAL WRONGS

## ATTEMPTS TO EASE RACISM IN JUSTICE SYSTEM

By JONETTA ROSE BARRAS

In April, District of Columbia Delegate Eleanor Holmes Norton successfully inserted into the Transportation Equity Act an anti-racial-profiling provision and \$60 million to aid in its implementation. The bill, which passed the House, would provide federal funds for states to maintain racial data on police vehicle stops and to train law enforcement officers on racial profiling issues.

Norton's amendment is one recent indication that years of fighting to end structural racism in the criminal justice system — which often begins with racial profiling and is exacerbated by mandatory minimum sentences — are beginning to pay off at the federal and state levels.

Last year, the Justice Department issued guidelines banning racial profiling by federal law enforcement officials. In February, Rep. John Conyers Jr. (D-Michigan), introduced the "End Racial Profiling Act." If passed, it would impose strong sanctions, including the loss of federal funds, on states that do not make satisfactory progress against racial profiling.

So far, at least 29 states have implemented anti-racial-profiling measures. In 2001, Colorado's governor issued an executive order prohibiting racial profiling. Oklahoma and New Jersey have made racial profiling by law enforcement officers a misdemeanor.

Since 1999, Congressional Black Caucus members, including Reps. Maxine Waters (D-Calif.) and Charles Rangel (D-NY) have offered legislation to eliminate or restructure federal mandatory sentencing. Congress has failed to act, but since 2001 at least nine states have eliminated or restructured their own mandatory minimum sentences,

according to the Sentencing Project. Nearly all have done so because of budget concerns. Missouri saved \$21 million in 2003 with the release of 1,500 prisoners, according to the Criminal Justice Policy Coalition. There also is a growing realization that mandatory sentences often lock up minor criminals for unfairly long periods.

The death penalty also is being reviewed in light of actions taken by George Ryan when he was governor of Illinois. In 2003, Ryan, who earlier had imposed a moratorium on executions, commuted the sentences of all death row inmates. No other governor has followed Ryan's lead, but some states have abolished capital punishment for the mentally ill and now allow greater use of DNA in capital cases. In the last year, Missouri, South Dakota and Wyoming have abolished the death penalty for juveniles. The Supreme Court prohibited capital punishment for the mentally ill in a 2002 decision, and later this year will consider whether to do the same for crimes committed while the felon was still a juvenile.

Keenan Keller, Democratic general counsel for the Judiciary Committee and a spokesperson Conyers, says that "the United States is close to catching up with the rest of the

***Years of fighting to end structural racism in the criminal justice system — which often begins with racial profiling and is exacerbated by mandatory minimum sentences — is beginning to pay off at the federal and state levels.***

world" with respect to capital punishment. The European Union nations are among 117 countries that have banished the death penalty in law or practice, according to the Death Penalty Information Project.

The most consistent progress in the fight against racial disparities has been made in reducing disproportionate minority confinement (DMC) among juvenile offenders. DMC exists when minorities inside juvenile detention facilities exceed their proportions in the general population. Pressure by the Coalition for Juvenile Justice and others resulted in DMC reduction becoming a "core requirement" of the Juvenile Justice and Delinquency Prevention Act. Currently, 46 states have DMC reduction initiatives underway.

"About a half dozen to a dozen states are making actual progress," says Robert Flores, head of the federal Office of Juvenile Justice and Delinquency and Prevention. "But, I don't think anyone is in a position to rest on their laurels."

Multnomah County, Oregon, may be the DMC gold standard. In six years, it cut the percentage of minorities confined almost in half by developing alternatives to confinement, creating a risk assessment evaluation process, forming a new detention intake team, developing a special strategy for dealing with probation violators, diversifying the probation staff, and expanding legal assistance to indigent offenders. In 1994, among all arrested youths, African Americans were 11 percent more likely to be detained than White youths. By 2000, the disparity had narrowed to three percentage points, according to the Center for Juvenile and Criminal Justice.

Two years ago, Congress changed the "C" in DMC from "confinement" to "contact," giving it broader meaning. "Contact is critical," Flores says. "Every time a child comes in contact with law enforcement, there is a chance that things can go south." ■

*Jonetta Rose Barras is the political analyst for NPR affiliate WAMU-FM in Washington, D.C.*

# Incarcerated Generation

## *Imprisoned Parents Mean Children Suffer*

### Continued from cover

For years, the children of incarcerated people were not recognized as a group with special needs. But research shows that these children often experience stressful shifts in living when a parent is locked away and are at greater risk for emotional and behavioral difficulties, poor academic performance, precocious sexuality, alcohol and drug abuse and juvenile delinquency.

West is among the more fortunate children, raised by relatives in a middle-class environment. But even children like West share a major challenge, explains Arlene Lee, director of the Federal Resource Center for Children of Prisoners in Washington, D.C. “All of them tell one important story: the hardest part was the shame and stigma they felt from their community for something that wasn’t their fault.”

The Bureau of Justice Statistics estimates that 2.3 million children are affected by the 1.1 million parents incarcerated. The imprisoned population is growing at a rate of 3.8 percent annually, so the number of affected children is growing also. The situation is worst for African American children, 7 percent of whom have at least one incarcerated parent. About 2.6 percent of Hispanic children and 0.8 percent of White children fall into this category.

Black people represent a disproportionate number of those arrested and imprisoned, often because of bias within the system. They are 12 percent of the population, but FBI statistics show they represented 29 percent of the arrests in 1999. African American men are sent to state prison on drug charges at 13 times the rate of White men similarly charged, a Human Rights Watch study found. The unequal treatment of Black people infects every stage of the criminal justice process — from determining who is stopped as a suspect, to the charge, the sentence and the ability of ex-convicts to find work.

This over-incarceration of African Americans jeopardizes the future of Black children. Without better support, they will suffer long-term harm — in effect they will be punished for their parents’ imprisonment.

“What we see is grades start dropping, they get into trouble more. They are angry and have feelings of abandonment. Some get extremely depressed,” says Carol Fennelly, director of Hope House in Washington, D.C., which sponsors programs aimed at keeping incarcerated men connected to their families and community.

With the incarceration rate of women now exceeding that of men, new problems have arisen because these women are generally the main caregivers for their children, some of whom end up in foster care.

Chartrese Cunningham lost her six-month-old son when she was incarcerated for two and a half years for a parole violation in 1998. Since returning home, Cunningham says she has been drug-free, has remarried and has had another son. Now, she wants to regain custody of her older child.

“There is no help for mothers like me who return and want to reunite our families,” complains Cunningham, near tears. “I am trying to break the cycle in my family and provide a good life for my children,” she added, recalling the drug addiction of her mother. She says her sister, who still has custody of her son, also is drug dependent.

In addition to the mental and emotional costs of incarceration, there are other losses that can affect the financial future of the children. Employers are less likely to hire people with criminal records, so parents may have difficulty supporting their children. A Department of Housing and

Urban Development policy prevents some people with criminal backgrounds from living in federally subsidized housing. A 1996 federal welfare reform law bans people with felony drug convictions from receiving Temporary Assistance for Needy Families and Food Stamp benefits. (See Economic Report)

In addition to these handicaps, some states prohibit convicted felons from holding certain jobs. In 46 states they can’t even become barbers, in 26 states they can’t get licenses to become beauticians, and in 10 states they can’t be hearing aid dealers, according to the Legal Action Center in Washington, D.C. (See related information on page 5).

When the main breadwinner of a family is incarcerated, the family’s lifestyle may greatly change. Incarcerated fathers can’t pay child support. Children often move in with elderly, fixed-income grandparents. Sometimes a remaining parent and the children become homeless. And only a family with an incarcerated member knows the everyday monetary drain — the cost of transportation to visit the person in prison, the cost of collect calls from prison (which are expensive because prisons make money by selling their phone business to for-profit companies). Also, families generally dig into the budget to provide the person who is incarcerated with money for things like writing paper, snacks and toiletries.

Tappi Straughn’s husband served four years on drug charges and returned home to Washington, D.C., in February of this year. Straughn remembers their 10-year-old son used to say over and over, “I can’t wait until we become a family again.” I told him, “We never stopped being a family.”

But to keep that family bond, Straughn and her son had to travel to a North Carolina prison to visit every other weekend. Ronald Straughn also stayed in touch through daily phone calls, sometimes helping his son with homework by phone.

“At one time my phone bill was \$1,000,” recalls Tappi Straughn. “It cost about \$30 in gas each visit and you’re there from 8:30 a.m. to 3 p.m., and have to buy your food from the vending machines.” Even now that

Ronald Straughn is home and working, he has to pay restitution of \$90 a week to his halfway house. His gross weekly salary from his home improvement job is \$360.

Research shows that even when parents are incarcerated they remain significant to their children and can continue to make positive contributions to their development, as Straughn did. Fennelly, who runs her programs in federal prisons, said the Bureau of Prisons decided in the late 1980s that every federal prison should have parenting classes for inmates. An offshoot of this has been the appearance in some prisons of children's visiting rooms that resemble daycare centers. One of the best-known prison programs for mothers is at the New York State maximum security facility in Bedford Hills. A baby born to a woman imprisoned there can stay up to one year with the mother in a special area of the prison. But nationally, programs vary from prison to prison, with wardens or state corrections departments determining what will be allowed in each institution.

Last year, Wendell Poole, Sr., returned home to Washington, D.C., from an Atlanta prison after serving 21 years for assault with intent to kill. Through the years, he continued to father his seven children. In the prison visiting room, he sat and did homework with them. He talked to his daughters about premarital sex and warned his sons about carrying guns. All of them have done well except his youngest son, 22, who shortly before Poole's release was sentenced to 25-to-life for murder. He was in a car involved in a drive-by killing.

"In prison I wrote and called their principals and teachers. Once my daughter was cutting up and her mother got a call from the school. Her mother told them to call her daddy. All their teachers knew I was in prison. The teacher let me call her collect. I was in Marion, Fla. I talked to my daughter. I called the teacher back the next week and she said, 'I don't know how you did it but I'm not having any problems with her now.'"

Poole and other parents say their children also motivate prisoner-parents to do well so

they can return home to the family. "We had an agreement that if they went to school I would too, so I enrolled in classes," says Poole. "I sent them copies of my transcripts and they sent me their report cards."

At Fennelly's Hope House, children can have teleconferences with their fathers every two weeks or go to a summer camp near a prison and spend some time each day visiting incarcerated dads. Fennelly has seen the healing power of such programs. She watched a 10-year-old girl delight in using her teleconference time to tell her father about each chapter she had read in her latest Harry Potter book. "Their grades go up and they become happier children after they start visiting with their dads," she says.

The simple fact is most of these children need contact with their parents to be emotionally and mentally healthy. That includes adult children.

In 2003, after graduating from high school and working to save some money, Miquelle West moved to New York City to go to Parsons School of Design at night and, most important, to be closer to the Danbury, Conn., facility where her mother is incarcerated. Shortly afterwards, she caught the subway and then the train for her first solo visit to see her mother.

"My mom said it was the best day of her life," says West. "But it was the best day of my life too." ■

*Patrice Gaines is author of the memoir Laughing In The Dark. She also is a mother, a convicted felon sentenced to five years probation on a drug charge 30 years ago, a motivational speaker and a former Washington Post reporter. FOCUS writers may be reached through [focuseditor@jointcenter.org](mailto:focuseditor@jointcenter.org).*

Frequency of telephone, mail, and personal contacts with children by parents in state or federal prison, 1997

Frequency and type of contact with children	Percent of inmate parents					
	Total	State		Federal		
		Male	Female	Total	Male	Female
<b>Any type of contact</b>						
Daily or almost daily	10.1	9.5	17.8	15.1	14.6	21.1
At least once a week	31.2	30.3	42.4	43.7	43.4	48.5
At least once a month	22.2	22.6	18.0	23.8	23.9	22.0
Less than once a month	16.1	16.6	9.7	10.0	10.3	5.0
Never	20.4	21.1	12.2	7.5	7.8	3.3
<b>Telephone</b>						
Daily or almost daily	6.6	6.2	11.3	13.0	12.8	15.0
At least once a week	19.8	19.2	27.0	36.3	35.9	41.2
At least once a month	16.5	16.6	15.3	23.2	23.1	24.9
Less than once a month	15.4	15.5	13.8	11.3	11.4	9.2
Never	41.8	42.5	32.6	16.2	16.7	9.7
<b>Mail</b>						
Daily or almost daily	4.8	4.4	9.6	4.3	3.9	9.5
At least once a week	23.2	22.2	35.6	30.4	30.0	35.9
At least once a month	23.1	23.3	20.6	30.4	30.5	27.8
Less than once a month	18.2	18.6	13.2	18.9	19.2	14.5
Never	30.8	31.6	21.0	16.1	16.4	12.3
<b>Personal visits</b>						
Daily or almost daily	0.8	0.7	1.1	0.4	0.3	0.9
At least once a week	6.6	6.5	8.0	7.1	7.1	6.6
At least once a month	13.9	13.8	14.7	15.1	15.3	12.0
Less than once a month	22.2	22.2	22.1	33.4	33.0	38.5
Never	56.6	56.8	54.1	44.1	44.2	42.0

Source: Justice Department, Bureau of Justice Statistics, "Incarcerated Parents and Their Children"

# STUDY: WHITE EX-CONS GET JOBS BLACKS CAN'T

## RACE MORE IMPORTANT THAN CRIMINAL RECORD

Milwaukee – When it comes to getting a job, a study in this midwestern city indicates, skin color is more of a mark against applicants than a criminal record.

Devah Pager, a professor of sociology at Northwestern University in Evanston, Illinois, sent equally qualified teams of Black and White testers to look for jobs in Milwaukee. She found that employers favored White job applicants who said they had a felony conviction more than Black applicants with no criminal record at all.

“I think there was a lot of skepticism among some policy makers about the extent that racism continued to play a part in employment,” said Pager in an interview.

In Pager’s study, “The Mark of a Criminal Record,” White applicants with criminal records were called back by potential employers 17 percent of the time, while Black people without criminal records were called back only 14 percent of the time.

“The fact that race alone could rival the effect of having a felony conviction, that was a surprise,” Pager added.

The testers had similar characteristics, including their levels of education. All applied for entry-level jobs that required no more than a high school diploma. Pager said

none of the testers she selected actually had a felony conviction because she wanted to control the experiment exactly. “It was critical to not have any of the testers actually have criminal records because I didn’t want the results to be influenced by whether one person was just a bad applicant,” she said.

Kit McNally, executive director of the Benedict Center, a nonprofit agency that has sponsored job fairs for former inmates, said Pager’s study “absolutely fits what we’ve seen.”

***In Pager’s study, “The Mark of a Criminal Record,” White applicants with criminal records were called back by potential employers 17 percent of the time, while Black people without criminal records were called back only 14 percent of the time.***

McNally is concerned about the disproportionate number of Black and Hispanic inmates behind bars in Wisconsin and nationwide, but even more concerned about the barriers to employment that they face.

“I think it’s just plain racism,” McNally says. “Just look at the employment figures, I can’t think of any other reason for it.”

Julia Taylor, president of the Greater Milwaukee Committee, a civic organization concerned with Milwaukee’s image, agrees. “I think the biggest concern is that the issue of racism is still very prevalent here and it spills into the hiring practices,” Taylor complains.

That doesn’t surprise people like Dominique Bowie, a 21-year-old Black man with a felony conviction for drug possession. He has been out of work since his release from prison in 2002. In an interview with the *Milwaukee Journal Sentinel*, Bowie complained about not getting a chance to prove his ability to hold a job because most Milwaukee employers never called back once he admitted he had a felony conviction for drug possession.

Living at home with his mother and occasionally working part-time at a car wash owned by a relative, he fears a return to a hustler’s life on the streets unless his job search improves.

“All I want is a chance,” Bowie says. ■

*Eugene Kane is a columnist with the Milwaukee Journal Sentinel.*



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