

history of sexual or physical abuse. But when prior sentencing patterns—primarily based on male offenders—were calculated, these factors were deemed largely irrelevant.

Thus, the sentencing policies of recent years, whether motivated by a desire to “get tough” or to reduce disparity, or merely reflecting white racism, have in practice unfairly affected low-income people and minorities. Had these been the only changes in criminal justice policy, the impact would have been regrettable enough. The inauguration of the “war on drugs,” though, made these policies pale in significance.

8

The War on Drugs and the African American Community

Sure, it's true we prosecute a high percentage of minorities for drugs. The simple fact is, if you have a population, minority or not, that is conducting most of their illegal business on the street, those cases are easy pickings for the police.

—Delaware Prosecutor Charles Butler¹

Picture this scene in any middle-class suburb in the United States: students at the local high school, a “good” school with high graduation rates and college acceptances, have been getting into trouble. Nothing too serious, but some drug use, some underage drinking, and a few smashed cars here and there. Parents are cautioned by the principal to check with their kids for signs of trouble.

The parents of one 17-year-old boy had already been concerned about possible drug use, and examine their son's bedroom while he is at school. They discover what appears to be some drug residue and a substantial amount of cash hidden in a drawer. Confronting their son when he comes home, he admits he has been using cocaine and occasionally selling to some friends.

How do the parents respond? Do they call up the police, demand that their son be arrested for using and selling drugs, and receive a five-year mandatory minimum sentence for his behavior? The question is ludicrous, of course.

Instead, the parents do what any good middle-class family would do: they consult with their insurance provider and then secure the best treatment program they can find. The criminal justice system never even becomes an issue for them.

A few miles away, picture another family in a low-income section of the city. Their son, too, appears to be getting involved with drugs. Unfortunately for him, his parents have no health insurance, and there are few drug treatment programs available in the neighborhood. Finally, he is picked up one night on a street corner and charged with drug possession with the intent to sell.

Two families with substance abuse problems, two different responses. What does this tell us about the choices available to families and communities, and whether the criminal justice system need be the inevitable response to illegal behavior?

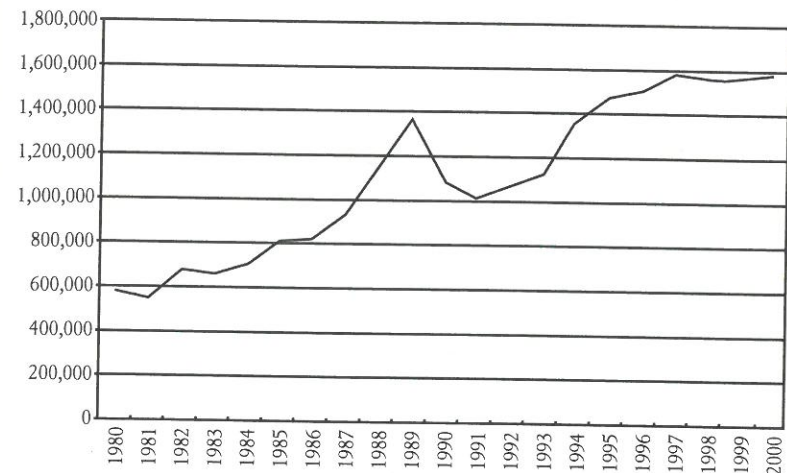
Since 1980, no policy has contributed more to the incarceration of African Americans than the "war on drugs." To say this is not to deny the reality of drug abuse and the toll it has taken on African American and other communities; but as a national policy, the drug war has exacerbated racial disparities in incarceration while failing to have any sustained impact on the drug problem.

DRUG USE AND DRUG ARRESTS

With nondrug street crimes, such as burglary or larceny, the police operate in a reactive mode: citizens report a crime and the police investigate. With drug selling or possession, though, there is no direct "victim"; consequently, no reports are made to the police (except possibly those made by complaining neighbors). Drug law enforcement is far more discretionary than for other offenses. The police decide when and where they will seek to make drug arrests, and most important, what priority they will place on enforcing drug laws.

Figure 8-1

Drug Arrests 1980–2000



Source: FBI data provided to the author.

The drug war's impact on the African American community can be mapped by looking at two overlapping trends. First, there has been an enormous increase in the number of drug arrests overall; second, African Americans have constituted an increasing proportion of those arrests.

As seen in Figure 8-1, in 1980 there were 581,000 arrests for drug offenses, a number that nearly doubled to 1,090,000 by 1990. Although it appeared for a while that these trends might be leveling off in the early 1990s with a decline in arrests, that trend was quickly reversed: a record 1,579,566 drug arrests were made by 2000.²

Did these arrests reflect rising rates of drug abuse nationally? No. In fact, the best data available show that the number of people using drugs had been declining since 1979, when 14.1 percent of the population reported using drugs in the past

month. This proportion had halved to 6.7 percent by 1990, and it declined to 6.3 percent by 2000.³ Since fewer people were using drugs, and presumably fewer selling as well, then all things being equal, one would have thought that drug arrests would have declined as well.

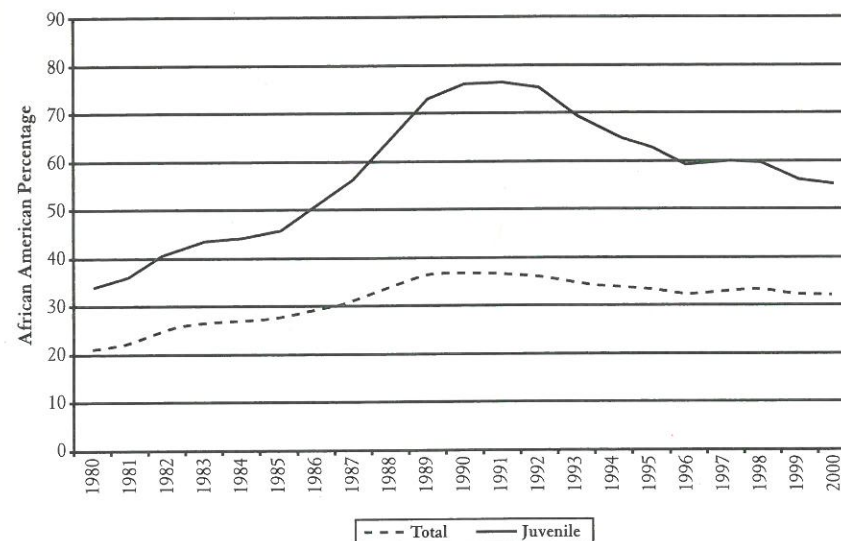
But all things are not equal when it comes to crime and politics. Instead, heightened political and media attention, and increased budgets for law enforcement all contributed to a greater use of police resources to target drug offenders. At the same time, police increasingly began to target low-income minority communities for drug law enforcement.

We can see this most clearly by analyzing arrest data prepared annually by the FBI. As seen in Figure 8-2, in 1980, African Americans, who constitute 13 percent of the U.S. population, accounted for 21 percent of drug possession arrests nationally. This number rose to a high of 36 percent in 1992 before dropping somewhat to 32 percent by 2000. For juveniles, the figures are even more stark: although blacks represented 13 percent of juvenile drug possession arrests in 1980, this proportion climbed to 40 percent by 1991, before declining to 23 percent in 2000. In looking at these statistics, we might conclude that blacks began using drugs in greater numbers during the decade of the 1980s, thereby leading to their being arrested more frequently. Certainly, a glance at television newscasts or weekly newsmagazines would have given us this impression.

In fact, no such dramatic rise can be detected. The best data available on drug use is compiled by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the Department of Health and Human Services, which conducts a household survey annually to prepare estimates on the extent of drug use. Although these data cover 98 percent of the population, they have some limitations. Since this is by definition a household survey, anyone not living in a household will not be incorporated in the findings. Thus, prisoners, homeless persons

Figure 8-2

African American Proportion of Arrests For Drug Possession
1980–2000



Source: FBI data provided to the author.

not living in a shelter, and military personnel are not covered. Since minorities are disproportionately represented among these groups, they will therefore be underrepresented in the household survey. Nevertheless, the survey is generally regarded as the best portrait of the nation's drug-using population.

The SAMHSA surveys question individuals regarding drug use during the past month, past year, or ever in their lifetime. For our purposes, drug use during the past month is the most relevant piece of information, since frequent users are more likely to be arrested than infrequent ones.

Looking at the data for 2000, we find that African Americans were no more likely to be monthly drug users than whites and only slightly more likely than Hispanics (6.4 percent vs. 6.4 percent and 5.3 percent respectively).⁴ But the much greater number of whites in the overall population resulted in their constituting the vast majority of drug users. Thus, the SAMHSA data indicate that whites represented 75 percent of current drug users, with African Americans constituting 12 percent of users and Hispanics, 9 percent. Even assuming that blacks may be somewhat undercounted in the household surveys, it is difficult to imagine that African American drug use is of a magnitude that could explain blacks representing 12 percent of current drug users yet 32 percent of arrests for drug possession.

Some observers have speculated that the higher arrest rates for drug possession may reflect the type of drug that is being used—in essence, law enforcement is more likely to target cocaine users or crack cocaine users. Unfortunately, FBI arrest data do not distinguish between powder cocaine and crack cocaine. Arrest data for all cocaine possession offenses for 2000 show that African Americans constituted 45 percent of all such arrests. Looking at data on cocaine use, though, we find that there are no dramatic differences in cocaine use by race or ethnicity. In 2000, 0.7 percent of blacks reported that they had used cocaine in the past month, compared to 0.8 percent of Hispanics and 0.5 percent of whites.⁵ Overall, this translates into African Americans representing 16 percent of all recent cocaine users.

For users of crack cocaine, the disproportionate use among blacks is considerably higher than for cocaine overall, but it doesn't explain the arrest disparities. Because relatively few people use crack compared to most other illicit drugs, demographic estimates of use rates are subject to a significant amount of variation. In 2002, for example, blacks reported using crack

in the past month at a rate eleven times that of whites or Hispanics, but in 2003, the differential was just 4.5 times as much.⁶ Given the relatively modest proportion of blacks in the overall population, though, these rates translate into blacks constituting 35 percent of users in 2002 and 46 percent in 2003. In either case, these proportions are well below arrest rates for crack offenses. In the federal court system, blacks have consistently represented about 85 percent of crack defendants for more than a decade.

Are police arresting crack and cocaine users in general or preferentially going into black neighborhoods where some people are using these drugs? Conducting drug arrests in inner-city neighborhoods does have advantages for law enforcement. First, it is far easier to make arrests in such areas, since drug dealing is more likely to take place in open-air drug markets. In contrast, drug dealing in suburban neighborhoods almost invariably takes place behind closed doors and is therefore not readily identifiable to passing police. Second, because both drug use and dealing are more likely to take place openly, residents of African American neighborhoods are more likely to complain about these behaviors and to ask for police intervention. Since law enforcement has long been accused of failing to respond to problems of minority neighborhoods in a timely manner, many police departments are now more focused on attempting to remedy this problem—so they are likely to respond to complaints emanating from these neighborhoods.

Racial targeting by police may also have an effect on black neighborhoods that are not inner-city. Criminologists James Lynch and William Sabol analyzed data on incarceration rates, race, and class during the period 1979–91.⁷ They identified inmates as either being “underclass” or “non-underclass” (working-class or middle class) based on educational levels, employment history, and income. They concluded that the most significant increase in incarceration rates was for working

class black drug offenders, whose rates increased sixfold, from 1.5 per 1,000 in 1979 to match that of underclass blacks at 9 per 1,000 by 1991. The trend for whites, on the other hand, was just the opposite; the underclass drug incarceration rate was double that of the nonunderclass by 1991.

Lynch and Sabol suggest that two factors may explain these trends. First, law enforcement targeting of inner-city neighborhoods may initially sweep many underclass blacks into the criminal justice system. Second, due to residential racial segregation patterns, there may be a "spillover" effect whereby police increase the number of arrests in the working-class black neighborhoods that border underclass communities. They conclude that there has been

an increased targeting of black working and middle class areas for discretionary drug enforcement and ultimately increased incarceration for drug offenses. The immunity that working and middle class status used to bring in the black community (and still does among whites) may have been lost. While the processes that produced these outcomes may not have been racially motivated in intent, they have resulted in racially disparate outcomes.⁸

DRUG SALES AND ARRESTS

Similar disproportionate arrest patterns can be seen for drug selling. In this area, the African American proportion rose from 35 percent in 1980 to 47 percent by 2000.

It is at least theoretically possible that the proportion of black drug traffickers has risen substantially in recent years, and that the arrest percentages reflect actual law-breaking behavior. However, as we examine these disparities we find that statistics on drug users are fairly irrelevant, since one can be a drug seller without being a user.⁹ One means of addressing this

problem is to look at responses to parts of the SAMHSA surveys in which 12-17-year-old respondents are asked whether it is "fairly or very easy" to obtain drugs in your neighborhood. Overall, 25 percent of the population in 2003 responded affirmatively regarding cocaine and 26 percent regarding crack. These figures, which document the relative ease of obtaining drugs after massive increases in the law enforcement resources devoted to the drug war, should give pause to those committed to such policies.

While blacks were more likely than whites to report that it was easy to obtain these drugs (29 percent vs. 24 percent for cocaine, and 33 percent vs. 25 percent for crack), the differences are nowhere near the order of magnitude that would explain the arrest disparities.¹⁰ A report issued by the Wisconsin Policy Research Institute, a conservative thinktank, provides part of the explanation in describing differences in the white suburban drug markets and inner-city black and Hispanic neighborhoods of Milwaukee.¹¹ While drug dealing was prevalent in each of the communities, the inner-city sales tended to be neighborhood-based, often taking place on street corners. In contrast, the suburban distribution of cocaine and other drugs took place by word of mouth through contacts at work, bars, athletic leagues, and alternative cultural events such as "raves." Suburban sales locations were more hidden from law enforcement than were those in the inner-city neighborhoods, but they were "not very difficult to locate," in the words of the author.

Even when such urban-suburban distinctions are not the issue, African Americans are disproportionately targeted for drug prosecutions. A study of arrest practices in Seattle by sociologist Katherine Beckett examined the validity of the popular explanations for higher arrest rates for crack cocaine and hence, blacks.¹² These explanations generally include the idea that outdoor arrests represent higher priorities for law enforcement and that crack is more associated with violence than other

drugs. Beckett found no confirmation for these contentions. While only about one third of outdoor serious drug transactions (also including heroin, methamphetamine, and powder cocaine) involved crack, three quarters of all arrests were for crack. Crack was also much less associated with violence than the other drugs; crack arrests were only one tenth as likely as heroin arrests to involve guns. Beckett concludes that "these patterns appear to reflect a racialized conception of who and what comprises the drug problem in Seattle."¹³

A 1997 report of the National Institute of Justice lends support to the fact that whites are frequently involved in selling drugs. In an analysis of drug transactions in six cities, the researchers found that "respondents were most likely to report using a main source who was of their own racial or ethnic background."¹⁴

Finally, consider the patterns of daily life in urban areas. If it were true that the overwhelming number of drug dealers are black, we would see large numbers of drug-seeking whites streaming into Harlem, South Central Los Angeles, and the east side of Detroit day after day. While some do visit these neighborhoods, there are few reports of massive numbers doing so on a regular basis. As Barry McCaffrey, former director of the White House Office of National Drug Control Policy, has stated, if your child bought drugs, "it was from a student of their own race generally."¹⁵

SENTENCING FOR DRUG OFFENSES

The overrepresentation of African Americans in the criminal justice system has been exacerbated by changes in sentencing policy that coincided with the current drug war. Since 1975, every state has passed some type of mandatory sentencing law requiring incarceration for weapons offenses, habitual offenders, or other categories. These statutes have been applied most

frequently to drug offenses, with two primary effects. First, they increase the proportion of arrested drug offenders who are sentenced to prison and, second, they increase the length of time that offenders serve in prison.

Data from the Bureau of Justice Statistics show that the chances of receiving a prison term after being arrested for a drug offense increased by 447 percent between 1980 and 1992.¹⁶ A good portion of this increase was likely related to the requirement of mandatory sentencing, although no breakdown is available. Part of the increase may have also been a result of generally harsher attitudes toward drug offenders—that is, prosecutors and judges responding to a political climate increasingly punitive in its orientation toward drugs.

The impact of mandatory drug laws can be seen most dramatically in the federal court system. Drug offenders released from prison in 1990, many of whom had not been sentenced under mandatory provisions, had served an average of thirty months in prison. But offenders sentenced to prison in 1990—most of whom were subject to mandatory penalties—were expected to serve more than twice that term, or an average of 66 months.¹⁷ This fact, combined with a greatly increased number of federal drug prosecutions, has resulted in the proportion of federal prisoners who are drug offenders increasing from 25 percent in 1980 to 55 percent by 2004.

At the state level, the longer prison terms brought about by mandatory sentencing laws have also had a significant impact on African Americans. Between 1985 and 1995, the average time served in prison for drug offenses rose by 20 percent from twenty months to twenty-four months.¹⁸ Overall, the number of drug offenders in prison increased by 478 percent during this period, compared to a rise of 119 percent for all offenses.

A substantial portion of this increase consists of African Americans. This can be seen in Table 8-1. From 1985 to 1995, drug offenders constituted 42 percent of the rise in the black

Table 8-I

State Prison Inmates by Race and Offense						
Offense	White			Black		
	1985	1995	% Total Increase	1985	1995	% Total Increase
Total	224,900	471,100	109%	211,100	490,100	132%
Violent	111,900	214,800	92%	124,800	228,600	83%
Drug	21,200	86,100	306%	16,600	134,000	707%
Property	75,100	130,700	74%	60,600	100,200	65%
Public Order	14,900	39,000	162%	7,600	25,000	229%
Other	1,800	500	-72%	1,400	2,300	64%

Source: Christopher J. Mumola and Allen J. Beck, "Prisoners in 1996," Bureau of Justice Statistics, June 1997.

state prison population. Note here that drug offenders in this case refers to individuals convicted only of a drug offense and not, for example, a drug-related assault or robbery. For white offenders, by contrast, drug offenders represented 26 percent of the increase and violent offenders 42 percent. Overall, the number of white drug offenders increased by 306 percent in the ten-year period, while for blacks the increase was 707 percent.

The combined impact of law enforcement and sentencing policies on minorities is even more startling in some states. A 1997 study of drug law enforcement in Massachusetts found that blacks were thirty-nine times more likely to be incarcerated for a drug offense than whites.¹⁹ And the impact of drug policies on black women has been even more dramatic than for black men. In just the five-year period 1986–91, the number of black women incarcerated in state prison for a drug offense rose by 828 percent. Although the absolute numbers of women drug offenders in the system are considerably lower than for men, the trend is clearly disturbing.

Besides mandatory sentencing, other drug policies that may have been well intended have contributed to the alarming trends in black incarceration. One such policy is the set of drug laws that increase penalties for offenders who sell drugs near schools or public housing. Ostensibly, the goal is to establish “drug-free” zones that are safe for children and other residents. As a University of Chicago law professor reminds us:

... in Illinois, a fifteen-year-old first-time offender charged with selling a controlled substance within 1,000 feet of public housing is treated as an adult. In contrast, a fifteen-year-old first-time offender charged with selling a controlled substance from or near his home in the suburbs is treated as a juvenile. Counseling, treatment, and targeted programs are made available to the juvenile suburbanite while the inner city youth

most in need of social services enters the resource starved adult criminal justice system.²⁰

Bobbie Marshall, an African American who has used drugs since his teens, experienced the impact of this kind of law following his arrest for selling drugs within 1,000 feet of a school in Los Angeles. Because of his three prior convictions for selling small quantities of drugs to feed his habit, Marshall faced the possibility of life without parole under a federal statute. Marshall's attorneys documented that eighty-nine of ninety persons arrested under a joint state/federal task force in the "schoolyard program" were either African American or Hispanic.

By the time of Marshall's sentencing, he had in many ways turned his life around. He had become active in counseling gang members, helped keep the peace during the 1992 Los Angeles riots, and remained drug free. His efforts led to letters of support from ministers, a police commander, a congressman, and others. Although the prosecution eventually agreed to a nine-year term for Marshall, the sentencing judge imposed only half that term, arguing that Marshall's rehabilitation and value to the community were exceptional. Under the federal mandatory sentencing laws, though, the judge was overruled on appeal.

The most discussed reason for the racial disparity in drug sentencing in recent years has been the issue of sentencing for crack cocaine offenses. As crack made its entry into urban areas in the mid-1980s, reports began to surface about this new highly addictive and powerful drug. Cover stories appeared in *Newsweek*, *Time*, and periodicals around the country. Reports of "crack babies" born to addicted mothers were among the most frightening to surface. How could anyone fail to respond to this human tragedy? Only later did information surface that indicated that there were in fact no data on crack-addicted babies.

Testing cannot distinguish between prenatal exposure to crack cocaine and powder cocaine, so there is no way to know how many of these mothers had in fact used crack while pregnant. Further, the children of drug-abusing mothers who develop poorly may in fact be suffering from a combination of factors that often correlate with low-income drug abusing mothers, including poor nutrition, smoking, and lack of prenatal care. A study by researchers at the Albert Einstein Medical Center in Philadelphia tracked the development of more than 200 low-income inner-city children, half of whom had been exposed to cocaine in the womb and half not. The study found that both groups of children scored below average on IQ tests and other measures of cognitive development, but that there was no significant difference between the two groups.²¹ Clearly, any type of substance abuse by pregnant women is unhealthy for both mother and child. In this instance, though, the image of "crack babies" had a significant impact on subsequent legislation.

Crack, of course, is a dangerous drug; its use has caused real destruction to many individuals and communities. The extent of this harm and any realistic assessment of possible responses, though, were hardly considered by Congress in its rush to adopt harsh "antidrug" penalties in 1986 and again in 1988. The mandatory sentencing laws passed by Congress provided for far harsher punishments for crack offenses than for powder cocaine crimes. Thus, the sale of 500 grams of cocaine powder resulted in a mandatory five-year prison term, while only five grams of crack was required to trigger the same mandatory penalty.

In addition to the other racial dynamics of the drug war, these laws have had a major impact on African Americans. The vast majority of persons charged with crack cocaine offenses in the federal system—81 percent in 2001–02—have been African American.²² Federal prosecutors contend that

these figures merely reflect the proportions of large-scale traffickers in crack who qualify for federal prosecution because of their substantial role in the drug trade. Data analyzed by the U.S. Sentencing Commission, though, casts doubt on this contention. In the Commission's analysis of crack defendants in 2000, two thirds (69 percent) were considered street-level dealers or couriers.²³

Given the severity of crack penalties in the federal system, the prosecutorial decision regarding whether to charge a drug offense as a state or federal crime has potentially significant consequences for sentencing. The results of a *Los Angeles Times* analysis, which examined prosecutions for crack cocaine trafficking in the Los Angeles area from 1988 to 1994, are quite revealing.²⁴ During that period, not a single white offender was convicted of a crack offense in federal court, despite the fact that whites comprise a majority of crack users. During the same period, though, hundreds of white crack traffickers were prosecuted in state courts, often receiving sentences as much as eight years less than those received by offenders in federal courts. As is true nationally, the *Times* analysis revealed that many of the African Americans charged in federal court were not necessarily drug kingpins, but rather low-level dealers or accomplices in the drug trade.

The folly of using expensive prison space for drug offenders, even traffickers, has been documented in research conducted on the federal prison population. One study examined costs and recidivism for low-level drug traffickers in the federal prison system before and after the imposition of mandatory prison terms.²⁵ It found that over half of the offenders sentenced to prison in 1992 were drug traffickers. Of these, 62 percent, or 9,000 offenders, were considered low-risk as defined by their limited criminal histories. The study then examined recidivism rates for a comparable group of 236 offenders released

from prison in 1987, prior to the adoption of mandatory minimums and the federal sentencing guidelines. It found that only 19 percent of the low-risk drug traffickers were re-arrested during the three years after release, and that none of those arrested were charged with serious crimes of violence.

In contrast, the low-risk traffickers sentenced to prison in 1992 were expected to serve three years longer in prison than the 1987 release group (fifty-one months vs. seventeen months). The study concluded that the additional time spent in prison for the 9,000 offenders would cost taxpayers approximately \$515 million.

Similar findings have been documented regarding the relatively minor roles and criminal histories of drug offenders in state prisons. A study analyzing the 217,000 drug offenders in state prison as of 1997 found that only 4 percent reported any mid- or high-level drug operation engagement. Overall, nearly a quarter of the population had no history of violence, no gun involvement, no high-level drug trading, and no prior convictions for non-drug offenses.²⁶

An analysis by the Urban Institute further documents that the increased incarceration of drug offenders has contributed to a rise in the imprisonment of what has been termed "socially integrated offenders"—in other words, there has been a rise in the proportion of inmates who have ties to legitimate institutions such as families, education, and labor markets. Between 1979 and 1991, for example, the number of state prison inmates with some college education rose from 10,000 to 44,000, and the number employed prior to their incarceration increased from 192,000 to 476,000.²⁷ The Urban Institute authors contend that the incarceration of socially integrated offenders "may be unnecessary because prior experience has shown that socially integrated people are less likely to re-offend. Such people can, therefore, be punished by means other than incarceration with-

out putting the public at undue risk." Further, by reducing ties to legitimate institutions, incarceration may make these offenders "more prone to subsequent criminal involvement."²⁸

OPTIONS IN DRUG POLICY

Some political leaders and others contend that drug laws and the way they are implemented are unbiased, and that higher black rates of selling and using drugs are responsible for any discrepancies. Former Rep. Bill McCollum, Republican of Florida and the chair of the House Judiciary Committee, for example, has stated that "the [crack cocaine] mandatory sentences are the same for black and white people. More African Americans generally get caught up with crime and wind up doing things that put them in jail for longer periods of time. But that doesn't have anything to do with discrimination."²⁹

A more sophisticated critique is offered by law professor Randall Kennedy, who is particularly concerned about the harmful impact of crack and other drugs on the black community and the fact that law enforcement has traditionally underserved minority communities. Kennedy states that "the most lethal danger facing African-Americans in their day-to-day lives is not white, racist officials of the state, but private, violent criminals (typically black) who attack those most vulnerable to them without regard to racial identity."³⁰ Kennedy contends, therefore, that what is needed is not less but more law enforcement in black communities.

While Kennedy's assessment of the historic relationship of law enforcement to the black community is well taken, his proposed remedy is rather narrow in scope. Law professor David Cole responds, "Jobs, housing, and education have also been inequitably distributed to the detriment of the African-American community. Their adequate provision would seem to be at least as likely to reduce crime as massive extended in-

carceration and without the negative effects on the community identified above."³¹

The issue of race and drug policy comes down to a question of choices. Yes, most police and prosecutors are not consciously racist in pursuing the drug war. Many firmly believe that they are aiding beleaguered communities caught in a vicious cycle of drug abuse and lack of opportunity. When a mother calls 911 to report a crack house in the neighborhood, it is only natural and proper for the police to respond swiftly.

But would more job and educational opportunities alleviate some of these neighborhood problems? Would more income support for low-income families be helpful? Before dismissing these notions as "hopelessly liberal" let us recall that these are exactly the tools used by middle-class communities to prevent these problems from developing or escalating.

The relatively recent development of drug courts, for example, demonstrates that practical innovations can both address problems in a constructive way and gain public acceptance. The drug court movement, originating in Miami and Oakland in the early 1990s, involves establishing specialized courts that hear only drug cases with the goal of diverting appropriate cases to treatment. Preliminary evaluations of these programs demonstrate that addicts who complete the treatment program are less likely to become engaged in drug use or crime than comparable offenders who do not go through the program.

The cost-effectiveness of a treatment approach to substance abuse has been demonstrated in a number of recent studies. A 1994 study conducted by the California Department of Alcohol and Drug Programs, for example, found that every dollar invested in substance abuse treatment generated seven dollars in savings, primarily through reductions in crime and reduced hospitalizations.³² Similarly, the RAND Corporation analyzed the relative impact of harsher sentencing policies and expanded treatment on cocaine consumption. Their analysts concluded

that spending \$1 million to expand the use of mandatory sentencing to drug offenders would reduce consumption nationally by thirteen kilograms, that arresting and incarcerating more dealers would reduce consumption by twenty-seven kilograms, but that expanding treatment to more heavy drug users would result in a one hundred-kilogram reduction.³³

These and similar programs are not difficult to implement. They also hold the potential for long-term cost savings and represent a more humane approach to the problem of substance abuse than mandatory sentencing and long-term incarceration. In recent years, such programs have been implemented successfully in many communities around the country. Despite this, the drug war becomes more entrenched each day.

9

What's Class Got to Do with It?

The trial of O. J. Simpson, however unusual, taught the nation much about media, celebrity, and the racial divide. The trial also highlighted the intersection of issues of race and class, and how these categories play out in the criminal justice system.

Regardless of where one stands on the question of Simpson's guilt or innocence, few persons doubt that had he been a low-income African American male, rather than a wealthy star, his criminal trial would have had a very different outcome. Even if one believes that a black man charged with killing two white people suffers no disadvantages in the court system, the burdens involved in a criminal trial became painfully clear in the Simpson court proceedings—and, clearly, ones that no indigent defendant, or even a defendant of limited means, could overcome. The way in which a wealthy defendant's resources could purchase DNA expert testimony, pursue investigative leads regarding police misconduct, and assemble an all-star defense team—all perfectly legitimate in our court system—clearly proved to be critical in presenting a strong case to the jury.

So, when we speak about race and the criminal justice system, we are often in fact also talking about class. How to untangle these overlapping effects is a complex problem, but one that is critical to understanding the status of African Americans and the criminal justice system.

The criminal justice system in general and prison in particular have long served as the principal arena for responding to