

time of their offense; handguns are the leading cause of death of children; and most homicides occur between people who know each other.¹² Reporters should investigate where weapons are obtained, how substance abuse contributes to an offense, and whether officials are taking any preventive actions using the particulars of local crime conditions.

II

Consequences:

Intended and Unintended

In July 1996, Andrew Sonner, the longtime prosecutor for Montgomery County, Maryland, just outside Washington, D.C., ignited a local controversy around county drug policy. Sonner announced that henceforth his office would prosecute fewer small-time drug offenders and, instead, would concentrate its resources on drug sellers who either engaged in violence, were repeat offenders, or operated in high-crime areas.

Sonner's proposal was immediately attacked by County Executive Douglas Duncan, a Democrat like Sonner, who charged that the "county has had a zero-tolerance policy for drugs for a long time, and we're not going to change that as long as I'm county executive."¹ A war of words and competing policy proposals ensued over the next several months. Sonner's fleshed-out strategy included diverting more lower-level offenders to drug courts or treatment; ultimately, both sides compromised.

Despite the heat and rhetoric, Sonner's call merely reflected the thinking of most criminal justice practitioners. His primary offense was in publicly announcing his policy and its rationale. Had he just implemented the strategy within his office, it is likely that there would have been little public scrutiny or discussion.

Given the fact that criminal justice resources are limited,

Sonner was astute enough to recognize that a law enforcement emphasis on one area of criminal activity will inevitably result in less attention to other areas, and that public policy decisions generate both intended and unintended consequences. These are lessons rarely acknowledged in political discourse.

DISPLACEMENT OF CRIMINAL JUSTICE RESOURCES

One of the primary areas in which we can see the tradeoffs in criminal justice policy is in the realm of drug law enforcement, where there is mounting evidence that the increased emphasis on apprehending drug offenders is harmful to overall crime control efforts.

Economists at Florida State University have examined shifts in policing in Illinois and Florida in order to assess the effects of displacement on law enforcement priorities—in other words, how police attention to one area of enforcement offsets resources in other areas. In Illinois, they found that a 47 percent increase in drug arrests from 1984 to 1989 coincided with a 22.5 percent decline in arrests for drunk driving. Since drunk driving arrests nationally fell by only 1 percent during this time, the researchers argue that much of the displacement of these arrests in Illinois may have been due to the stepped-up pace of drug arrests. Perhaps not coincidentally, the number of traffic fatalities in Illinois during this time rose at a far greater pace than the national average, by 4 percent compared to 0.8 percent nationally.²

The same research team found that in Florida the substantial increase in drug law enforcement in the 1980s appeared to result in reduced attention to property offenses, which rose during that period. The authors speculate that the increase in property offenses could have partly been the result of factors re-

lated to a reduced law enforcement focus. Offenders who committed property crimes on a regular basis were likely to be arrested less frequently. Thus, a burglar who averages one burglary a week and might "normally" be apprehended after 10 burglaries might commit 15 offenses before being caught.³

Displacement of criminal justice resources takes place at the level of sentencing and corrections policy as well. While overcrowded prisons have been the subject of much attention, probation and parole populations have also been rising substantially in recent years. From 1985 to 2000, while the prison population increased by 170 percent, the number of offenders on probation rose by 94 percent, and those on parole rose by 141 percent. The increases in the number of offenders on probation or parole have resulted in higher caseloads for those systems, often reaching well over 100 offenders per officer. Yet while probation and parole populations constitute 70 percent of all persons under criminal justice supervision, just 10 percent of corrections spending is devoted to these areas. As resources have been directed into prisons, the system's problems have been compounded for two reasons: prisons are far more expensive to operate than community supervision programs like probation and parole; and as the prison system drains ever-more resources from other parts of the system, it creates a greater reliance on incarceration.

The practical impact of this spiral appears in the courtroom on the day of sentencing. A judge is confronted with a nonviolent offender who has a prior conviction. The offender could be sentenced to community supervision with requirements for restitution, community service and alcohol treatment, or could receive a two-year prison term. Knowing that the local probation department averages caseloads of 125, the judge may understandably be reluctant to impose a nonincarcerative sentence on the grounds that little effective supervision would be

possible and that community safety might be compromised. So, the offender is sentenced to prison at far greater cost, thereby creating additional pressure to build even more prisons.

Spending on prisons also has repercussions beyond the criminal justice system, particularly at the level of state spending. As virtually every state has increased its share of tax dollars devoted to corrections, funding for higher education has either declined or failed to keep pace with need. In California, for example, the state's sweeping "three strikes and you're out" legislation has contributed to substantial shifts in spending allocations: more than 40,000 offenders are imprisoned under its provisions. With state Medicaid costs also rising and minimum levels of K-12 spending required by law, the most likely place for funding cuts is the higher education budget.

The impact of these tradeoffs, both on a state's overall economy and on crime, may turn out to be quite dramatic, as described by University of California criminologist Joan Petersilia:

Persons who fail to become educated in an ever more technologically sophisticated economy are being squeezed out and are unable to compete in a more competitive job market. They face higher unemployment rates and downward mobility, which, in turn, are associated with poverty, substance abuse, female-headed households, and homelessness—all factors related to increased crime.⁵

These tradeoffs are rarely discussed in the world of public policy. Legislators do not pass an appropriations bill that states that funding for new prisons will be taken from state colleges, nor are parents of state college students informed that tuition increases are due to budget cutbacks caused by increased prison spending. But these are often exactly the repercussions of many public policy decisions.

THE HIDDEN IMPACT OF INCARCERATION

The prison experience as a whole has a set of negative consequences for many of those who go through it. One of the most significant effects is the impact of a prison record on employment prospects. The stigma of incarceration is clearly an obstacle with most potential employers, despite the fact that we traditionally have expected that once people "pay their debt to society," they are free to reenter the community. In most states, there is also a patchwork of restrictions prohibiting ex-offenders from gaining employment or licensing. Some of these are motivated by public safety concerns, such as restrictions on sex offenders working in daycare centers. But many—such as barriers to licensing as a barber or working in asbestos removal—have no discernible crime control objective.

The stigma of a felony conviction is also compounded by the racial dynamics of imprisonment and racist employment practices. Sociologist Devah Pager conducted a study of hiring practices in Milwaukee in which she matched black-white pairs of job applicants who applied for a variety of positions.⁶ Some indicated they had a criminal conviction, others not. Remarkably, whites with a felony conviction were called back for interviews at the same rate as blacks with comparable credentials and *no* criminal record. Thus, black men are essentially born with the stigma of a felony conviction.

In the era of mass incarceration, barriers to reentry in the community have now been exacerbated through a number of policy initiatives. First, the increasing scale of imprisonment has resulted in declining proportions of inmates having access to programming in prison. As prisons expand, and costs rise, legislative bodies rarely provide levels of funding for education and vocational services proportional to the population increase. So a person in prison today is less likely to be participating in

drug treatment or educational programming than a similar offender in 1990.

A series of actions by federal legislators have also removed key services and erected significant barriers for ex-offenders. In 1994, Congress prohibited inmates from receiving Pell grants for higher-education courses. Prior to that, prisoners with high school degrees were able to enroll in college courses held inside prisons, generally paying tuition through Pell grants. At the time, prisoners received less than one percent of all Pell grant funds nationally, but in a feat of political grandstanding, members of Congress argued that such distributions came at the expense of "deserving" students in the outside world. The fact that research has documented that education lowers rates of recidivism was of little concern to legislators.

As an outgrowth of the "war on drugs," a series of initiatives has also restricted opportunities for people with a felony drug conviction, even if they are not sentenced to prison. Federal law now places significant restrictions on access to welfare benefits, public housing, and financial aid for higher education for such offenders. Oddly, these restrictions apply *solely* to drug offenses. So, an ex-offender with a drug conviction who is laid off from her job is ineligible for welfare benefits, while a coworker convicted of armed robbery can qualify.

Large-scale incarceration also results in negative health consequences for people cycling through prison. During the 1990s, this led to the rapid spread of tuberculosis and HIV infection among many inmates.

In New York City, for example, a major multidrug-resistant form of tuberculosis emerged in 1989, with 80 percent of all cases being traced to jails and prisons.⁷ By 1991, the Rikers Island jail had one of the highest TB rates in the nation. The deadly combination of jail overcrowding, inadequate ventilation, and an ill-prepared medical system contributed to rates of infection not seen in decades.

HIV prevalence among prisoners has similarly exploded in recent years, with the rate of infection nearly thirteen times that of the non-prison population.⁸ The primary causal factor in this regard is the dramatic escalation in the incarceration of drug offenders, many of whom engage in intravenous drug use, share needles, and/or trade sex for drugs.

Because inmates as a group often have relatively marginal relationships to legitimate employment to begin with, a stay in prison can seriously affect one's future earnings prospects. One economist's study of the impact of imprisonment on future wages concluded that among a sample of youth incarcerated in 1979 there was a 25 percent reduction in the number of hours worked over the next eight years.⁹ Some of this reduction was attributed to recidivism and subsequent incarceration, and some to the negative effects of incarceration, such as failure to attain relevant work experience.

The scale of current imprisonment rates may also undermine the deterrent value of incarceration. Certainly prison has some deterrent value—but what happens to that deterrent effect as the experience of prison becomes pervasive in some communities? Some criminologists speculate that the impact of deterrence is in part related to the "mystery" of the prison experience. "People imagine a harsh and forbidding environment in which brutal and victimizing experience is common-place," writes criminologist Todd Clear. "They also imagine the shame and humiliation that follows others learning of their prison history."¹⁰ As imprisonment becomes a more routine experience in many African American neighborhoods, that sense of shame may decline. This is not to suggest that prison does not fundamentally remain an experience of brutality or humiliation; rather, as people survive the experience, the forbidding nature of the institution may be lessened in the eyes of the larger community. In addition, increasing the number of lower-level offenders who are locked up may contribute to a lessening of

respect for the justice system if it is perceived as a system that is unjustly expanding the use of imprisonment.

There are also a set of consequences for the families and communities of offenders which vary depending on the individual and the offense. Removal of a violent offender who routinely terrorizes a neighborhood brings some level of public safety to the community, and this is obviously desirable, even if the individual's family experiences a loss. But what about the removal of large numbers of property or drug offenders? Some modest reductions in crime may be achieved this way, but negative consequences often ensue as well.

The degree to which these effects are prevalent is very much a function of the demographics of the affected community as well. In most communities, the number of offenders sentenced to prison at any given moment will be relatively modest and, therefore, any impact on the community fabric is likely to be modest. But in communities where substantial numbers of people are incarcerated, particularly low-income African American neighborhoods, a certain threshold may be reached whereby the compounding effects of incarceration become quite substantial.

Within the African American community, the sheer number of adult males locked up now is quite staggering: as of 2003, nearly 8 percent, or one in thirteen, of all adult black males were incarcerated in a prison or jail on any given day. For black males in their late twenties, the figure is one in eight. Due to the cycling of offenders in and out of the system, over a period of time, incarceration affects a substantially greater share of the population than is in prison or jail at any given moment.

One effect of these trends is to contribute to the declining number of marriageable men in the African American community. Along with high rates of homicide, AIDS-related deaths, and other factors, this has resulted in a substantial imbalance in the male-female ratio among African Americans.

Whereas gender ratios for African Americans at birth are about 102-103 males for every 100 females compared to a ratio of 105-106 per 100 for whites, by ages 20-24 the black gender ratio is 97 and the white 105. In the age range 40-44 the black ratio declines to 86 and the white to 100.¹¹ Further, men who have been imprisoned or are likely to be often have very limited financial resources or potential, and are hardly strong marriage prospects.

Some might surmise that a lower number of males would lead to a lower crime rate, given that males account for a disproportionate share of crime; but, as health sciences professor David Courtwright argues, whatever gains are achieved by having fewer males in a community are offset by men having greater "sexual bargaining power and hence the likelihood of illegitimacy and single-parent families."¹² One analysis of census data from 171 cities finds that these gender ratios are a very strong predictor of family disruption, and goes on to suggest that this leads to a greater likelihood of violence.¹³ Thus, family disruption increases crime, which leads to greater numbers of prisoners, which leads to more family disruption, and so on—a vicious cycle for all concerned.

Much of the impact of increasing incarceration on crime control also relates to what can be described as the informal mechanisms of control that exist in varying degrees in all communities. The formal mechanisms of police and courts provide some measure of public safety, but families, schools, religious bodies, and other institutions also serve to transmit values and promote positive role models. William Julius Wilson describes how crime and unemployment may be linked in many low-income communities through their impact on these mechanisms:

Neighborhoods in which adults are able to interact in terms of obligations, expectations, and relationships are in a better posi-

tion to supervise and control the activities and behavior of children. In neighborhoods with high levels of social organization, adults are empowered to act to improve the quality of neighborhood life—for example, by breaking up congregations of youths on street corners and by supervising the leisure activities of youngsters. Neighborhoods plagued by high levels of joblessness are more likely to experience low levels of social organization: the two go hand in hand. High rates of joblessness trigger other neighborhood problems that undermine social organization, ranging from crime, gang violence, and drug trafficking to family breakups and problems in the organization of family life.¹⁴

In fact, research in Tallahassee, Florida, demonstrates these dynamics, focusing on the destabilizing effect of high levels of prison admissions and releases.¹⁵ At modest levels of prison admissions, the researchers found some crime-reducing effects. But as the rate of imprisonment increased, crime rates in the affected neighborhoods increased as well.

One way that these negative consequences may play out is through the effects of high rates of incarceration on children.

Children whose parents are imprisoned are likely to experience feelings of shame, humiliation, and a loss of social status.¹⁶ They begin to act out in school or distrust authority figures, who represent the people who removed the parent from the home. Lowered economic circumstances in families experiencing imprisonment also lead to greater housing relocation, resulting in less cohesive neighborhoods. In far too many cases, these children come to represent the next generation of offenders.

The impact of rising incarceration on the next generation of children has been exacerbated in recent years by the growing number of women who are sentenced to prison. From 1980 to 2003, the number of women in prison increased eight-fold, from 12,300 to 101,000, a rate of increase nearly double that for

men. As we have seen, women are increasingly being locked up for drug offenses, also at greater rates than for men. As of 2001, one third of female state prison inmates were incarcerated for a drug offense, compared to one fifth of male inmates.

Three fourths of the women in prison are mothers, and two thirds have children under the age of 18. Many of these women are single parents: their incarceration means their children are being cared for by grandparents or other relatives, or being placed in foster care. Altogether, an estimated 1.5 million children have parents in prison.

The effects of the incarceration of women on children were demonstrated in a nine-state survey conducted by the National Council on Crime and Delinquency.¹⁷ Researchers found that over half the women inmates had never received a visit from their children since their admission to prison. The most common reason for this was the distance from the children's home to the prison, more than 100 miles on average.

The impact of the criminal justice system on communities goes beyond issues of economic well-being and family stabilization. It also includes issues of democratic participation and political influence. One of the most dramatic ways in which this emerges is voting rights. Almost all states have laws restricting the right to vote for convicted felons. Forty-eight states deny the right to vote to anyone who is imprisoned, thirty-six restrict voting privileges of offenders on probation and/or parole, and in thirteen states some or all persons convicted of a felony can lose the right to vote for life. For example, an 18-year-old first offender convicted of writing a bad check in Kentucky or Virginia who successfully completes a sentence to probation loses the right to vote for life. The only means by which voting rights can be regained in such instances is through gubernatorial action, a cumbersome and bureaucratic process few offenders are able to negotiate.

Recent estimates place the number of Americans who are

either currently or permanently disenfranchised at more than five million, or one in every forty-one adults.¹⁸ But due to the racial dynamics of the criminal justice system, the figures for African Americans are considerably higher, with one of every twelve ineligible to vote. And in the states that disenfranchise ex-felons, the impact on black males in particular is quite shocking, with one in four black men disenfranchised in states such as Alabama, Florida, Mississippi, Virginia, and Wyoming.¹⁹ Given that the current generation of children has a higher rate of contact with the criminal justice system, it is likely that as many as 30–40 percent of African American men will lose the right to vote for some or all of their adult lives. Thus, not only are criminal justice policies resulting in the disproportionate incarceration of African Americans; imprisonment itself reduces black political ability to influence these policies.

While the issue of felon disenfranchisement should be one of significant concern for a democratic society, its practical impact was relatively modest during most of American history. But the dramatic rise in imprisonment is now likely to be affecting electoral outcomes. The most direct manifestation of this occurred during the historic 2000 presidential election, and particularly the much disputed Florida vote count. In an election decided by a margin of just 537 votes, an estimated 600,000 former offenders in Florida were ineligible to vote as a result of a prior felony conviction, meaning a national election may have been decided based on this policy.

When the United States was founded, the franchise was restricted to a self-selected group of wealthy white men who excluded other groups such as women, blacks, felons, and the poor. After the Civil War and Reconstruction, restrictions were added, such as the poll tax and literacy requirements, specifically designed to disenfranchise blacks. Statutes were tailored to punish with disenfranchisement those offenses that blacks supposedly committed more frequently than whites. In South

Carolina, for example, "among the disqualifying crimes were those to which [the Negro] was especially prone: thievery, adultery, arson, wife-beating, housebreaking, and attempted rape. Such crimes as murder and fighting, to which the white man was as disposed as the Negro, were significantly omitted from the list."²⁰

Over time the poll tax, literacy requirements, and other restrictions have been erased—but not the exclusion of felons and ex-offenders. U.S. policies in regard to ex-offenders remain far out of line with international norms; no other democratic nation bars ex-offenders from voting for life or keeps such a significant proportion of its citizens from voting as a result of a felony conviction.

Many European nations permit all persons with a felony conviction to vote, including those serving time in prison. And in recent years, constitutional courts in Canada, Israel, and South Africa, as well as the European Court of Human Rights, have upheld the right of prisoners to vote.

None of the preceding suggests, of course, that criminal behavior should be condoned or not have consequences. Indeed, removal of certain serious offenders from a community clearly has beneficial consequences for the community for the period of time that the offender is incarcerated. But any calculation of the impact of imprisonment that fails to take into account both the short-term and long-term consequences of massive incarceration is a deeply flawed analysis. Whether the objective is to produce community safety or a more inclusive society, the expansion of the prison system creates a more troubling set of consequences each day.