

## Costs and Benefits? The Impact of Drug Imprisonment in New Jersey

By Vincent Schiraldi & Jason Ziedenberg

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Justice Policy Institute

4455 Connecticut Avenue NW

Suite B-500 Washington, DC 20008

v 202.363.7847

f 202.363.8677

[www.justicepolicy.org](http://www.justicepolicy.org)

## Table of Contents

<b>Introduction</b>	<b>4</b>
<b>Methodology</b>	<b>5</b>
<b>Significant Findings</b>	<b>6</b>
<b>Finding 1:</b> New Jersey has the highest known proportion of prisoners that are incarcerated for drug offenses in the country, and the highest drug prison admission rate in the country	6
<b>Finding 2:</b> The impact of the increasing use of prison for drug offenders in New Jersey has been borne disproportionately by communities of color	10
<b>Finding 3:</b> New Jersey’s sentencing structure, including laws that mandate imprisonment for drug offenses, have contributed significantly to New Jersey’s high proportion of drug offenders and its racially disparate use of incarceration	13
<b>Finding 4:</b> The financial impact of maintaining New Jersey’s prison population is large, both in direct costs, and costs to communities and the state’s economic and social fabric	15
<b>Finding 5:</b> While New Jersey has expanded drug treatment options, treatment needs are outstripping demand in and out of prison	21
<b>Finding 6:</b> Parole violators comprise a significant proportion of prison admissions in New Jersey	22
<b>Finding 7:</b> States like New Jersey that increased their use of prison for drug offenses at higher rates than other states did not experience less drug use than states that made more moderate use of prison for drug offenders	24
<b>Finding 8:</b> While the number of women imprisoned in New Jersey is small, women are being added to prison in New Jersey at a higher rate than men, and the impact of their incarceration on their families and communities is huge	28
<b>Finding 9:</b> New Jersey’s drug offenders face barriers getting jobs upon release from prison	30
<b>Finding 10:</b> Nearly one out of 10 African American voting age residents in New Jersey cannot vote because of their involvement in the criminal justice system.	32
<b>Conclusion</b>	<b>33</b>
<b>Endnotes</b>	<b>35</b>

**COVER GRAPHIC:** For source information refer to Figure 6 on page 20.

## About the Authors

Vincent Schiraldi and Jason Ziedenberg are, respectively, Executive Director and Director for Policy and Research of the Justice Policy Institute, a Washington DC-based public policy organization dedicated to ending society's reliance on incarceration by promoting effective and just solutions to social problems.

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## Introduction

**"IT IS INCUMBENT UPON THE NEW JERSEY DEPARTMENT OF CORRECTIONS TO PROVIDE SUBSTANCE ABUSE TREATMENT, PARENTING PROGRAMS AND EDUCATIONAL OPPORTUNITIES TO ENSURE THAT A SOBER, GAINFULLY EMPLOYED AND LOVING PARENT IS RELEASED BACK INTO SOCIETY.**

—New Jersey Department of Corrections Commissioner Devon Brown.<sup>1</sup>

Of the country's 2 million prisoners,<sup>2</sup> 450,000 are incarcerated in prison or jail for drug offenses<sup>3</sup>—more people than the European Union, an entity with a 100 million more people, has in prison for *all crimes combined*. The 450,000 figure underestimates the role the “war on drugs” plays in the use of incarceration in the country: studies have shown that about a third of America's prisoners tested positive for drugs or alcohol at the time of their offense.<sup>4</sup>

While the latest Justice Department report on prison populations indicates that there was a substantial growth in the nation's incarcerated population, there was some hopeful news: from 2001 to 2002 the number of people held in state prisons for drug offenses declined—even as the total number of persons incarcerated for drug offenses went up, because of the increase in drug offenders incarcerated in the federal system.<sup>5</sup>

Around the country, states are reforming their drug laws in a way that places a greater emphasis on harm reduction, alternatives to incarceration and crime prevention. According to a new report by the Drug Policy Alliance, there have been more than 150 changes in state legislation on a range of issues affecting drug offenders, including: advancing alternatives to incarceration, protecting medical marijuana patients and providers, expanding sterile syringe availability, and restoring benefits and voting rights to former drug offenders.<sup>6</sup> Of note, Republicans in Texas recently passed historic legislation diverting drug offenders to treatment, and California has seen a significant decline in its drug prisoner population because a voter initiative (Proposition 36) passed by nearly two-thirds of voters is diverting thousands of drug offenders from prison into treatment annually.

Despite this good news, states and the federal government continue to spend about \$10 billion a year imprisoning drug offenders, and billions more on the “war on drugs”<sup>7</sup>—and these costs do not include the impact incarceration has on the economic and social life of the country, of individual states and communities. Previous JPI studies in Maryland, Texas, and California have quantified the impact of drug imprisonment, and in our report, *Poor Prescription: The Costs of Imprisoning Drug Offenders*,<sup>8</sup> we found serious racial disparities in incarceration rates for drug offenders throughout the country, and no statistically significant relationship between drug use and drug incarceration.

In this study, JPI has attempted to quantify the impact of drug imprisonment in New Jersey—a state that is distinguished by having the highest known proportion of its prison population comprised of drug offenders in the country. The overall picture that emerges from New Jersey is similar to other states, if a bit more distinctive in terms of drug offenders: high rates of imprisonment of drug offenders in New Jersey has had a significant impact on the state’s economic and social life as well as on the people imprisoned, their families and communities. Additionally, the cost of imprisoning drug offenders is not necessarily producing the benefit in declining drug use state policymakers hope to realize.

New Jersey is also distinguished by having a thoughtful corrections department that acknowledges the deleterious impact of high incarceration rates, and has called for a change in its internal policies, and for state legislative reform to reduce the drug prisoner population. JPI’s analysis of the costs and impacts of drug imprisonment in New Jersey provides a context in which the state should consider, and enact, many of the reforms proposed by the Department of Corrections in their *Preliminary Strategic Planning Document*—a very promising set of initiatives that could repair the impact of drug imprisonment in New Jersey. The state should go further and emphasize policies that treat, rehabilitate and repair communities, and seek to lead the nation in rehabilitation, not drug incarceration.

## Methodology

This report was commissioned by the Drug Policy Alliance for deliberation at their Biennial national conference, held November 5<sup>th</sup> through 8<sup>th</sup> in East Rutherford, New Jersey. This policy brief summarizes and analyzes the data and findings from a variety of criminal justice agencies and research entities whose work is national in scope, including the U.S. Justice Department’s Bureau of Justice Statistics, the U.S. Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration, Human Rights Watch, The Foundation for National Progress (MotherJones.com/prisons) and previous studies by the Justice Policy Institute. This report contains original research by Justice Policy Institute analysts on the state’s drug prisoner admissions from the National Corrections Reporting Programs—a national repository of data on the characteristics of state corrections systems. The authors have also reviewed and summarized analyses from a number of sources in New Jersey, including data from the New Jersey Department of Corrections, New Jersey Policy Priorities, and analysis by researchers at Rutgers University. In particular, this report summarizes recent analysis and findings by Judith Greene of Justice Strategies on state’s correction system for Families Against Mandatory Minimums, and Nancy Fishman of the New Jersey Institute for Social Justice for New Jersey’s Re-entry Roundtable.

## Significant Findings

Finding 1: New Jersey has the highest known proportion of prisoners that are incarcerated for drug offenses in the country, and the highest drug prison admission rate in the country

**“NEW JERSEY INCARCERATED DRUG OFFENDERS AT A MUCH HIGHER RATE THAN NATIONAL AVERAGES. WHILE 36% OF NEW JERSEY’S INMATE POPULATION CONSISTS OF DRUG OFFENDERS, NATIONALLY DRUG OFFENDERS COMPRISE ONLY 20% OF THE INMATE POPULATION.”**

—New Jersey Department of Corrections, “Current Population Highlights” (July, 2002)

As was stated in the introduction, this report finds that the impact of imprisonment and drug imprisonment in New Jersey are consistent with what has been shown to be the impact in other states, and around the nation. From a policy perspective, it matters little that any given jurisdiction in the United States leads the country in imprisonment, or drug imprisonment, when this country as a whole leads the world in the use of incarceration for drug offenses, and all kinds of offenses. Nevertheless, as the Department of Corrections has noted, New Jersey is distinguished by having a significantly larger proportion of its prison population incarcerated for drug offenses.<sup>9</sup>

JPI surveyed the 50 state corrections departments to find what proportion of their prison populations were comprised of drug offenders (people’s whose current, most serious offense is a drug offense). **Figure 1** shows that, of the states that reported the latest year’s worth of data listing the most serious offense for which people were incarcerated, New Jersey holds the dubious distinction of leading the nation. The New Jersey Department of Corrections reports that 36% of its prisoners were incarcerated for a drug offense at mid-year, 2002. Nationally, drug offenders account for about 20% of the people incarcerated by states, rendering New Jersey’s rate 80% above the national average. Even these high figures underestimate the scope of the problem, as corrections department officials estimate that two-thirds of the state’s prisoners are in need of drug treatment, and 59% need treatment for alcohol abuse.<sup>10</sup>

**FIGURE 1: NEW JERSEY LEADS THE NATION—  
PROPORTION OF STATE PRISON POPULATIONS THAT ARE DRUG  
OFFENDERS (RANKED—TOP 10)**

<b>Proportion of State Prisoners Held for Drug Offenses (Latest Year Available)</b>	
<b>New Jersey</b>	<b>36%</b>
Louisiana	32%
Mississippi	32%
North Dakota	31%
Oklahoma	29%
New York	27%
Illinois	26%
Idaho	25%
District of Columbia	25%
Maryland	24%
National Average	20%

**Source:** “Proportion of State Prisoners Held for Drug Offenses” reported by state corrections department to Justice Policy Institute, July, 2003. All were for the latest year available (New Jersey, July, 2002, Illinois, 2002, North Dakota, 1999, and all others in the top ten were for 2003), and 48 out of the 50 states and DC reported. New Jersey data from, *Preliminary Population Data* (July, 2002). Trenton, New Jersey: Office of Policy and Planning, Policy Analysis and Planning.

**New Jersey leads the nation in the proportion of its total prison population that it admits to prison for drug offenses.** Another way of measuring whether New Jersey’s use of incarceration for drug offenses is out of alignment with the national picture is to look at proportion of people entering the corrections system for a drug offense. The National Corrections Reporting Program—a national repository of data on the characteristics of state corrections systems—annually publishes comparable data on states and who they send to prison each year.<sup>11</sup> According to the latest available data (1999), of the 35 states that reported that year, New Jersey lead the nation in having the largest proportion of its prison admissions (48%) comprised of drug offenders—the same distinction the state carried in 1996, when JPI last looked at drug prisoners admissions in *Poor Prescription*. By contrast, drug offenders represented 27% of prison admissions nationally in 1999, putting New Jersey at 77% above the national average.<sup>12</sup>



**FIGURE 2: NEW JERSEY LEADS THE NATION:  
DRUG PRISONER ADMISSIONS AS A PERCENTAGE OF  
TOTAL PRISON ADMISSION, 1999.**

Percentage of Prison Admissions For Drug Offenses, 1999 (Top 10)	
<b>New Jersey</b>	<b>48%</b>
New York	45%
Maryland	42%
Illinois	38%
Louisiana	37%
California	37%
Washington	34%
Arkansas	32%
Mississippi	32%
Nevada	30%
National Average	27%

Source: JPI analysis of the National Correctional Reporting Program, Prison Admissions Data. Holman, Beatty and Ziedenberg, *Poor Prescription 2* (Forthcoming). Washington, DC: Justice Policy Institute. The national average is based on the 35 states that reported data to the National Corrections Reporting Program.

JPI analysts examined the change in drug prisoner admissions in New Jersey and elsewhere for the earliest available year (1986), and the latest available year (1999). The analysis shows that, over the 1980s and 1990s, the proportion of all prison admissions that were for drug offenses doubled, from 24% of all admissions to prison in 1986 to 48% in 1999. This change in prison admissions happened during a time in which the incarcerated drug population in New Jersey increased from 1,362 to 10,385 (see **Figure 3**). Along with the prison population decline in New Jersey, the number of people incarcerated for a drug offense has declined to 9,683 in 2001. Still, this means that there were more than seven times as many drug offenders in New Jersey’s prisons by the end of 2001 as there were 15 years earlier in 1986. *From 1980 to 2001, there was a 25-fold increase in the number of drug offenders incarcerated in New Jersey’s prisons (Figure 3).*

As the number of people imprisoned for drug offenses grew, the proportion of people incarcerated by the state for violent crimes has declined. The DOC noted recently that, “the department-wide percentage of violent offenders (40%) represents the lowest percentage of such offenders in the department’s history.<sup>13</sup>” This also means that there were nearly as many drug offenders incarcerated in New Jersey (9,683 in 2001) as violent offenders (11,513).



Using another method to measure the use of incarceration for drug offenses, the rate of admission for drug offenses—that is, the number of people admitted to prison for a drug offense, per 100,000 citizens—New Jersey also ranks poorly. Among 35 states reporting this data to the NCRP in 1999, New Jersey had the 7<sup>th</sup> highest drug prisoner *admission rate* for drug offenses in the country (90 per 100,000 citizens), 60% above the national average (56 per 100,000).<sup>14</sup>

As stated in the introduction, between 1996 and 2002, the Drug Policy Alliance reports that 150 drug policy reforms were enacted by state legislators and voters. DPA noted that, in 1999, the New Jersey legislature partially opted out of the federal welfare ban for former drug offenders, a federal policy that has been shown to have a particularly damaging affect on women ex-prisoners, their families and communities.

Elsewhere, legislators and voters have enacted broader drug policy reforms. California recently experienced significant declines in their prisoner populations and enacted policy innovations to reduce drug prisoner populations. Although California registered a modest 2% increase in its prison population during 2002, the state's drug prisoner population has been declining, continuing their downward trend since the passage of a watershed drug sentencing reform initiative, Proposition 36. As of June, 2003 there were 35,540 drug prisoners in California, 22% of the total prison population of 159,654. In June, 2000, just prior to the passage of Proposition 36, there were 45,439 drug prisoners, or 28% of the prison population.<sup>15</sup>

Texas' recent legislation is expected to reduce its prison population by 2,500 inmates over the next biennium. Texas prisons experienced a growth rate of zero in 2001-2002 (and a decline of 70 prisoners over the previous period), likely due to reforms of its parole system.

**Finding 2: The impact of the increasing use of prison for drug offenders in New Jersey has been borne disproportionately by communities of color**

**“WE MUST CONFRONT ANOTHER REALITY. NATIONWIDE, MORE THAN 40% OF THE PRISON POPULATION CONSISTS OF AFRICAN-AMERICAN INMATES. ABOUT 10% OF AFRICAN-AMERICAN MEN IN THEIR MID-TO-LATE 20S ARE BEHIND BARS. IN SOME CITIES, MORE THAN 50% OF YOUNG AFRICAN-AMERICAN MEN ARE UNDER THE SUPERVISION OF THE CRIMINAL JUSTICE SYSTEM...OUR RESOURCES ARE MISSPENT, OUR PUNISHMENTS TOO SEVERE, OUR SENTENCES TOO LONG.”**

—Justice Anthony Kennedy, speaking at the American Bar Association, August 2003.

The increasing imprisonment of drug offenders in New Jersey has had a more concentrated affect on communities of color, particularly the African American community. Any discussion about the impact of incarceration in this country must acknowledge that the policies that have led the United States to have the world’s largest prison population (2.1 million) and highest incarceration rate (701 per 100,000) have had a disproportionate impact on African Americans, Latinos and other communities defined as non-White. The most recent figures from the Justice Department’s correctional reporting agencies show that, in 2002, African Americans and Latinos comprised 68% of all prisoners, even though African Americans and Latinos make up 25% of the US population.<sup>16</sup> In August 2003, the Bureau of Justice Statistics reported that if incarceration rates continue at the 2001 level, one in 17 White men (5.9%), one in six Latino men (17%), and one in three African American men (32%) born in 2001 will serve time in prison at some point in their lifetime.<sup>17</sup>

These disparities are apparent in New Jersey, where African Americans and Latinos represent 27% of the state’s general population. At the beginning of 2002, eight out of ten prisoners in New Jersey were people of color. Sixty-three percent of state prisoners were African American and 18% were Hispanic.<sup>18</sup> As **Figure 4** shows, the proportion of White prisoners in New Jersey actually *declined* from 31% in 1982 to 18% by 2001 during a time when the prison population grew significantly.<sup>19</sup>

According to our analysis of New Jersey drug prisoner admissions, in 1986, 23% of all White admissions to prison were for drug offenses, and 21% of all African American admissions to prison were for drug offenses. By 1999, 34% of all White admissions to prison were for drug offenses, and 52% of all African American admissions to prison were for drug offenses. *Between 1986 and 1999, the percentage increase in the state’s drug admission rate for African Americans—defined as the number of people entering prison for a drug offense, per 100,000 citizens—was four times greater (475%) than the percentage increase in drug admissions for Whites (112%).*

**New Jersey’s increased use of incarceration for drug offenders has had a concentrated impact on young people, and again, and even more disproportionate impact on youth of color.** The drug prisoner admission rate for young people (age 15 to 29) grew by 466% from 1986 to 1999 (from 43 per 100,000 to 246 per 100,000). The African American youth drug imprisonment rate grew seven-fold over the 1980s and 1990s (from 147 to 1096 per 100,000 youth), while the White rate tripled (from 21 to 60 per 100,000 youth). Put another way, while New Jersey has increased its use of prison for young drug offenders, the rate of increase for African American youth (646%) towers over the increased rate for White youth (186%).

**Latinos are incarcerated at higher rates than Whites in New Jersey.** Prison statistics often mask the representation of people of Hispanic or Latino origin, and we do not have the kind of historical data to allow us to portray the way in which the increased use of prison for drug offenders has affected this community. However, Human Rights Watch has shown that people defined as Hispanic in New Jersey are incarcerated at nearly five times the rate of Whites (175 per 100,000 Whites, 843 per 100,000 Hispanics).<sup>20</sup> Latino women were incarcerated at 3.2 times the rate of White women. Given that drug offenders represent more than a third of the state’s prison population, it is reasonable to assume that some of the disparity for all prisoners in New Jersey probably holds true for Latino drug offenders.

**National research shows that Whites and African Americans use drugs at similar rates.** While it is beyond the scope of this paper to show the use of drugs by specific communities in New Jersey, according to national data, Whites use drugs at similar rates to African Americans, and what disparity in use exists does not explain the level of overrepresentation seen in the prison system. According to the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), in 2002, 8.5% of Whites, and 9.7% of African Americans reported using illicit drugs in the preceding month, and Whites and African Americans reported to be dependent on a substance at virtually the same rate (9.5% of African Americans, and 9.3% of Whites). Among youth age 12 to 17, 10% of African American youth and 12.6% of White youth reported using illicit drugs within the preceding month.<sup>21</sup>

**FIGURE 3: GROWTH IN NEW JERSEY PRISON POPULATION SINCE 1980**

**New Jersey's Drug Prisoner Population Grew 25-fold since 1980**

<b>Year</b>	<b>Number of Drug Prisoners</b>	<b>Number of All Prisoners</b>	<b>Percentage of Drug Offenders</b>
1980	378	5,546	7%
1986	1,362	12,020	11%
1999	10,385	31,962	32%
2001	9,683	28,622	34%

Source: JPI analysis produced for the Foundation for National Progress (2000), and *“Offenders in New Jersey Correctional Institutions on January 8, 2001, By Base Offense”* Trenton, New Jersey: Department of Corrections. \*New Jersey’s 2001 drug imprisonment figure differs slightly from what was reported by the state’s Department of Corrections at mid-year 2002, when the proportion of the prison population that were drug offenders was 36%.

**Finding 3: New Jersey’s sentencing structure, including laws that mandate imprisonment for drug offenses, have contributed significantly to New Jersey’s high proportion of drug offenders and its racially disparate use of incarceration**

**“IT MAY BE TIME TO REVISIT AND REVISE SOME OF THESE LAWS. THE EQUITABILITY OR SIMPLE FAIRNESS OF SOME MANDATORY MINIMUM TERMS MAY JUSTIFY LAW REVISIONS.”**

—New Jersey Department of Corrections Preliminary Strategic Planning Document (2002).<sup>22</sup>

As the number of people serving mandatory minimums has increased, the prison population grew, and was increasingly populated by people of color and drug offenders. The American justice system traditionally permits judges to weigh all the facts of a case when determining an offender's sentence. But in the 1970s and 1980s, the U.S. Congress and many state legislatures passed laws that force judges to give fixed prison terms to those convicted of specific crimes, most often drug offenses. Lawmakers believed these harsh, inflexible sentencing laws would catch those at the top of the drug trade and deter others from entering it.<sup>23</sup> Mandatory minimum sentences generally lengthen the time served in prison by offenders and increase the chances that low level offenders will serve prison time by reducing the discretion of judges and the courts to determine the length of a sentence and eliminating judicial discretion to place defendants on probation. In other states, and especially on the federal level, mandatory minimums have had a disproportionate impact on people of color. For example, in 1999, 39% of those receiving mandatory sentences federally were Latino, 38% were African American, and 23% were White.<sup>24</sup>

This national trend holds true in New Jersey as well. The state’s Department of Corrections reports that “inmates with mandatory minimum terms serve approximately twice as much time as inmates without mandatory minimums.”<sup>25</sup>

As **Figure 4** shows, as the proportion of the correctional population serving sentences for mandatory minimums grew (from 11% in 1982, to 61% in 2001) the proportion of the state prison population serving time for drug offenses also grew (from 12% in 1982, to 34% in 2001). During the same period, the proportion of the state’s growing prison population that were White **declined**, and the proportion of prisoners that were African American and Latino grew. *So, over the last two decades, the states’ prison population more than tripled; the drug prisoner population grew to account for a third of New Jersey’s prisoners, and as the system grew bigger, people of color fueled prison growth.*

**FIGURE 4: CHANGE IN PRISON POPULATION, 1982-2001**

**As the Proportion of Prisoners Serving Sentences for Mandatory Minimums Increased, the Prison System Became “Less White,” and Contained More Drug Offenders**

Year	Prison Population	Percent of Prisoners Serving Mandatory Minimums	Percent of Drug Offenders	Percent of White Prisoners
1982	7,990	11%	12%	31%
1987	15,969	41%	13%	NA
2001	28,622	61%	34%*	18%

Source: Analysis of DOC statistics by Greene, Judith, “Smart on Crime Briefing Book: New Jersey.” (2003) Washington, D.C.: Families Against Mandatory Minimums, www.smartoncrime.org. Race and Ethnicity of Prisoners, JPI analysis produced for the Foundation for National Progress (2000), and year 1980 figure was used for 1982, and 2000 figure was used for 2001. \*New Jersey’s 2001 drug imprisonment figure differs slightly from what was reported by the state’s Department of Corrections at mid-year 2002, when the proportion of the prison population that were drug offenders was 36%.

Specific sentencing policies that the state has enacted have likely resulted in the racial disparity in the use of imprisonment. The Department of Corrections attributes the declining representation of White prisoners in New Jersey to the impact of the Comprehensive Drug Reform Act which, in 1986, toughened the state’s statutes covering drug crimes, where most drug offenses carry a mandatory minimum sentence of incarceration.<sup>26</sup>

A particularly evocative example of the impact of mandatory minimums on the racial and ethnic composition of the prison population is seen in the use of the state’s ‘*drug free school zone law*.’ In New Jersey, distributing, dispensing or possessing drugs with intent to distribute (which may involve a discretionary decision of whether to charge for simple possession) carries a three-year mandatory minimum sentence, and depending on the amount of drugs, more serious charges may accrue. Since authorities have used a wide definition of “schools” to include daycare centers, vocational training centers and so forth, in New Jersey’s poorest urban centers, minority offenders find themselves blanketed in drug free zones. *The Hudson County Public Defender, for example, suggests that except for a small area near the Holland Tunnel, all of her county is in a drug free school zone.*<sup>27</sup> A more suburban county, with fewer African American and Latino residents and a less dense distribution of “schools” might experience less enforcement of school-zone laws, placing fewer Whites at risk of arrest and imprisonment. The Department of Corrections has reported, “*Drug-free school zone laws impact the minority population greatly as such ‘zones’ cover most inner-city neighborhoods but little of suburbia.*”<sup>28</sup>

#### **Finding 4: The financial impact of maintaining New Jersey’s prison population is large, both in *direct costs*, and costs to communities and the state’s economic and social fabric**

Prison budgets now consume one out of every 14 general fund dollars spent by the states,<sup>29</sup> and from 1977 to 1999, total state and local expenditures on corrections rose by 946 percent—about 2.5 times the increase in spending on all levels of education (370 percent).<sup>30</sup> The nearly \$10 billion spent in direct costs to maintain the nation’s incarcerated drug offender population is significant in its own right, but even these figures do include the larger costs to communities when resources are spent on prisons rather than other local social services. In this section, JPI attempts to quantify the direct and larger real costs of drug incarceration in a number of different ways, to provide a context for reviewing whether what the state spends on drug imprisonment is worth the fiscal and social cost.

**New Jersey spends more to incarcerate drug offenders than a third of the states spend on their entire corrections system.** In a corrections system as large and complicated as New Jersey’s, where prisoners under the jurisdiction of the DOC are held in local jails and incarcerated in community corrections facilities it is difficult to get a precise fix on the annual direct costs of the state’s use of prison for drug offenses. However, since the DOC reports that it costs New Jersey \$28,000<sup>31</sup> to incarcerate someone for a year, and since there were approximately 9,500 people under the department’s “jurisdiction” for drug offenses in 2001, *it is reasonable to estimate that the state spends \$266 million a year in direct costs to maintain its drug prisoner population.*<sup>32</sup>



**FIGURE 5: SPENDING ON DEPARTMENT OF CORRECTIONS BY STATE, 2001**

**The cost of incarcerating New Jersey drug offenders is greater than what one third of the states spend on their entire corrections system**

<b>Estimate of Amount Spent Only on Drug Offenders in 2001 (In Millions)</b>	
<b>New Jersey</b>	<b>\$266</b>
<b>Total Amount Spent on Corrections in 2001 (In Millions)</b>	
Mississippi	\$259
Arkansas	\$207
Delaware	\$203
New Mexico	\$202
Alaska	\$180
Nevada	\$177
Idaho	\$163
Rhode Island	\$161
Hawaii	\$146
West Virginia	\$102
Montana	\$102
New Hampshire	\$76
Vermont	\$72
Wyoming	\$69
South Dakota	\$59
North Dakota	\$45

Source: *State Expenditure Reports, 2001* (2002). Washington, DC: National Association of State Budget Officers. Alaska Department of Corrections reported separately.

Given that the National Association State Budget Officers reports that the state's corrections budget was \$1.269 billion in 2001, and given that 34% of prisoners in 2001 were drug offenders, \$266 million can be considered a conservative estimate of the direct costs associated with imprisoning drug offenders in the DOC. The \$266 million figure estimate also does not include those incarcerated in New Jersey who were not categorized by the state as drug offenders, but whose crime may be related to the drug trade or their drug use, or who were returned to prison for a parole violation arising from their drug use.

To provide a context for understanding what New Jersey spends to imprison drug offenders, JPI compared what several states report to National Association of State Budget Officers as what they spend in total on their entire corrections systems. *What is learned—something that should give policymakers pause—is that the cost of incarcerating drug offenders in New Jersey is greater than what a third of the states spend on their entire corrections system.*<sup>33</sup>

**New Jersey has limited growth in the public sector jobs that educate, enrich and build communities, and has instead shifted resources to employment that arrests, detains and incarcerates.** According to the Department of Corrections, the department has nearly 10,000 full-time employees. As the state built and staffed prisons and police stations to handle its drug offender population, New Jersey, like other states, has limited growth in public sector employment to educate, enrich and build communities, and has instead shifted resources to employment that arrests, detains and incarcerates. Measuring correctional employment by full-time equivalents (FTEs)—a standardized measure for comparing employment between state departments—researchers at Princeton have shown that New Jersey had four times as many correctional employees in 2000 as in 1980. During that period, the state experienced double the rate of growth in police and correctional employment (494%) as in higher education (201%) and public welfare (241%) employment.<sup>34</sup> *Put another way, jobs in arresting and imprisoning New Jersey's citizens grew at 2.5 times the rate of jobs to educate the state's citizenry, and twice the rate of social service employment to treat people outside the justice system.*<sup>35</sup>

**As the state struggles to reduce its budget shortfall and makes cuts to other government services, the costs of maintaining New Jersey's corrections system looms large on the fiscal horizon.** This legislative session, New Jersey joined the rest of the states in wrestling with the worst budget shortfalls since World War II. According to the National Association of State Budget Officers, the last time states faced budget shortfalls was during the early 1990s when corrections was a much smaller item on fiscal ledger.<sup>36</sup> Even then, the budget shortfalls states were facing were mild by comparison to today's fiscal crisis; in 1991, for example, the last time NASBO reported a collective state budget gap, the shortfall was \$7.6 billion. By comparison, over the past two years, states have had to meet a collective \$200 million in budget gaps.<sup>37</sup>

New Jersey closed a \$4 billion dollar budget shortfall for fiscal year 2004 by making cuts in several areas, including higher education and K-12 education spending. While many things are responsible for the state's poor finances, including changes to the tax system enacted during the 1990s, and rising health care and education costs, New Jersey appropriated new funds for prisons as its incarcerated population grew. Between 1985 and 2001, New Jersey's spending on corrections nearly tripled from \$444.2 million to \$1.269 billion. As such, the \$825 million increase in corrections spending represented more than 20% of the budget shortfall that the state was grappling with earlier this year—when cuts were made to education, health care and social services.

To be clear, while prisons are not wholly responsible for the state's fiscal woes, the increase in prison spending represents large new annual costs that force the state to choose between classrooms and cellblocks, particularly in tough economic times.<sup>38</sup> Over \$50 million was cut this year from four year state colleges, resulting in a 9% tuition increase. In the summer, a highly publicized appeal was made to the New Jersey Supreme Court to postpone court-ordered funding of educational needs in the state's thirty poorest districts, while significant cuts were not made in funding to corrections. A previous report by the Justice Policy Institute showed that, during the 1980s and 1990s, general fund corrections spending in New Jersey rose at three times the rate of spending on higher education (a 44% increase in higher education from 1985 to 2000, versus 137% increase for corrections).<sup>39</sup>

**New Jersey's prison policies remove resources, treatment dollars and people from communities, and concentrate spending in prisons far from offenders' communities.** New Jersey, like other states, has tended to build prisons in counties and communities outside the neighborhoods and cities where most prisoners are from, and this may be seen as an economic distortion on the geographical landscape of the state.

According to the Department of Corrections, just two counties, Essex, and Camden account for approximately a third of state's total prison commitments. People imprisoned from just four counties (Camden, Essex, Hudson and Union) comprise about half (49%) of all the people incarcerated by the DOC, and 52% of all the imprisoned men in New Jersey.<sup>40</sup> These counties, clustered around Newark, Jersey City and across the river from Philadelphia, feed into a prison system that has tended to site its facilities in the less urban, Western and Southern parts of the state. While some of the state's drug offender population are incarcerated in community corrections facilities and local jails, the \$28,000 annual prison costs per inmate flowing into these institutions can be seen as taking treatment and rehabilitation dollars, and the employment and economic spin-offs that could flow from those expenditures, out of troubled communities that could use an economic and employment influx the most.

For example:

While Northern State Prison is in Newark, and the East Jersey State Prison and the Adult Diagnostic Treatment Center are close by, these three facilities house 39% of the men imprisoned from Essex County. The other 61% of male prisoners from Newark, Irvington and East Orange (or roughly 2,000 male prisoners from that county) are scattered throughout the nine other correctional facilities for men throughout the state. (See **Figure 6**).

Of the 1,100 women incarcerated in the state's one prison for women in 2001, 41% are from four counties (Camden, 136, Essex, 121 Hudson, 71 and Union, 114), but are imprisoned in Hunterdon County, in the Western part of the state.

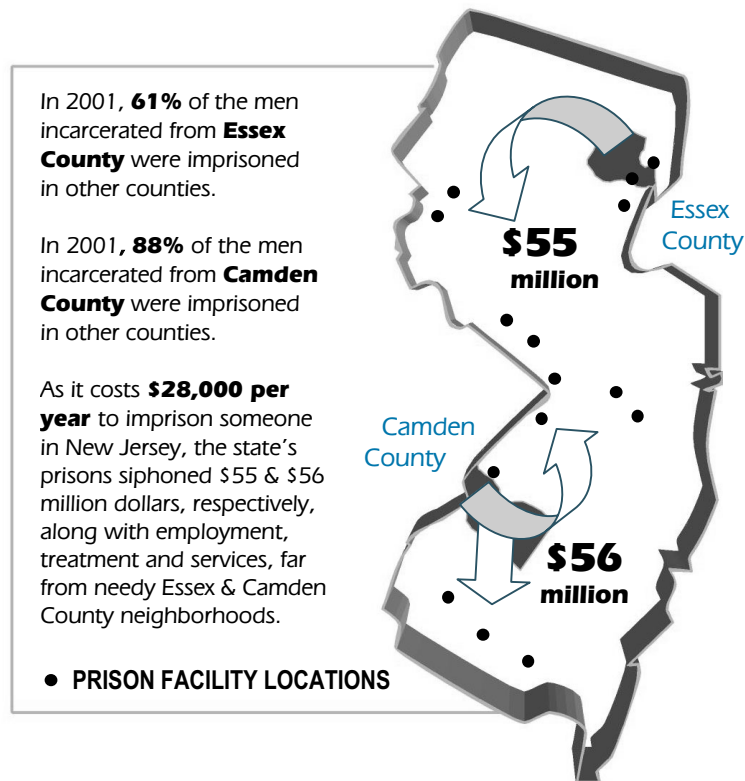
According to the Department of Corrections, 2269 of the people imprisoned in New Jersey were from Camden in 2001. Of those, only 12% (271) were imprisoned in the Riverfront prison in Camden, and the other 88% (1998) were imprisoned in facilities around the state.

In 2001, 15% of the states 9,683 drug offenders under the jurisdiction of the corrections system were incarcerated in halfway houses or under electronic monitoring control, where they would be more likely to be closer to home. Twelve percent were incarcerated in county jails. The Department of Corrections has recommended incarcerating more of its correctional population in halfway houses and community corrections facilities.

Even in the places that do incarcerate significant numbers of people locally, incarcerating someone in a local jail is a poor substitute for targeted treatment, economic development and rehabilitative services in the places people are from. This is especially true if the institutions—be they jails, prisons or halfway houses—are distant from the streets and neighborhoods that contribute most to the state's inmate population, even though these facilities may be cited in the same county.

## FIGURE 6: LOCATION OF NEW JERSEY'S PRISONS AND COUNTIES OF COMMITMENT

**New Jersey's prisons concentrate corrections' dollars, employment, treatment and services far from the neighborhoods from which prisoners originate**



Source: "Prison Complex Offenders on January 1, 2001, by County of Commitment." (2003) Trenton, New Jersey: New Jersey Department of Corrections.

### **Finding 5: While New Jersey has expanded drug treatment options, treatment needs are outstripping demand in and out of prison**

According to the latest national surveys of the prison population done in the late 1990s, 27% of the nation's incarcerated population participated in a drug or alcohol program while incarcerated, and only 41% of people who were under the influence of alcohol or drugs at the time of their offense received substance abuse treatment since their admission.<sup>41</sup>

While New Jersey has recently expanded drug treatment services to its incarcerated population, demand for high quality treatment is outstripping supply. The state's Sentencing Policy Study Commission surveyed prisoners in 1993 and found that half of all prisoners were incarcerated for drug offenses or for crimes committed in order to get money to support their drug habit, but one third of those reported unsuccessfully seeking treatment in prison.<sup>42</sup> In 2001, there were 1,359 therapeutic community beds in six different prisons, up from 329 as recently as 1998. Still, the state had 7,300 drug prison admissions in 1999, and the DOC reports that there are 200 to 500 prisoners on waiting lists for drug treatment slots at any point in time.<sup>43</sup>

New Jersey treatment providers note that there is no consistent continuum of care for those transitioning from prison to halfway houses back to the community, which places returning addicts at high risk.<sup>44</sup> The Department of Corrections has recommended strengthening its continuum of care, including more treatment for people leaving prison to their communities.<sup>45</sup>

## Finding 6: Parole violators comprise a significant proportion of prison admissions in New Jersey

**“WE KNOW VERY LITTLE ABOUT HOW THIS SYSTEM OF PAROLE REVOCATION ACTUALLY WORKS. THERE IS SHAMEFULLY LITTLE RESEARCH ON THE TOPIC, A DISTURBING FACT GIVEN THE EXTENSIVE DEPRIVATION OF LIBERTY, THE STAGGERING COSTS OF HOUSING THESE PAROLE VIOLATORS IN OUR PRISONS, AND THE UNTESTED ASSERTIONS THAT THIS SYSTEM OF MASSIVE PAROLE REVOCATION IS GOOD FOR THE SAFETY OF THE PUBLIC.”**

—Jeremy Travis, Senior Fellow, The Urban Institute, speaking before the Association of Paroling Authorities<sup>46</sup>

**“THE TECHNICAL PAROLE VIOLATIONS PRECIPITATING THESE RETURNS TO CUSTODY CAN RANGE FROM MINOR TO SERIOUS VIOLATIONS OF PAROLE CONDITIONS, AS WELL AS NEW PENDING INDICTABLE CHARGES. THERE IS A NEED FOR THE ESTABLISHMENT OF A CURRENT, CLEARLY DEFINED REVIEW CRITERIA IN ORDER TO AVOID THE RE-INCARCERATION OF MARGINAL PAROLE VIOLATORS.”**

—New Jersey Department of Corrections Preliminary Strategic Planning Document (2002).<sup>47</sup>

According to the Urban Institute, the number of parole violators returned to prison nationally has increased sevenfold since 1977. In 1980, state prisons admitted approximately 27,000 parole violators. In 2000, those same states admitted approximately 203,000 parole violators, more than the total number of state prison admissions in 1980. Another way of looking at this phenomenon, in 1980, only 17 percent of prisoners admitted to state prisons were parole violators—by the turn of the century, that percentage had grown to 35 percent, twice the rate of two decades earlier. In nearly one-third of these cases, the parole violation occurs because the parolee was convicted of a new crime; the remaining two-thirds are for “technical” violations.<sup>48</sup>

The Urban Institute and the New Jersey Department of Corrections have identified admissions for technical parole violations as something which contributes unnecessarily to prison growth. Approximately 14,000 people are admitted to prison in New Jersey each year. Of those, one-third (4,600) are technical parole violators—nearly four times the number that were admitted to prison for *all* parole violations (1,253) in 1980. According to the Department of Corrections, technical violators represent two-thirds of the state’s total parole violators.<sup>49</sup>



While it is not clear what proportion of the state's 4,600 technical parole violators are being sent back for simple drug use, it is clear that the Department of Corrections is concerned about the problem of low level offenders having their safe return to crime-free lives scuttled by a minor positive drug test.

Around the country, state corrections systems are dealing with the strain of zero-tolerance policies for parolees who test positive for some kind of drug use: Some jurisdictions, including Ohio and Texas have reformed their parole systems so that parolees are not immediately returned to jail or prison if they test positive for drugs, and instead, emphasize treatment, training and other sanctions instead of return to an expensive prison cell.

## Finding 7: States like New Jersey that increased their use of prison for drug offenses at higher rates than other states did not experience less drug use than states that made more moderate use of prison for drug offenders

Academics, politicians and community members are re-examining the choice of focusing so many resources on prisons and the criminal justice system as a means to reduce crime. In particular, the efficacy of incarceration as a crime control measure has come under scrutiny. In the last few years, the following critiques of the utilization of prison to reduce crime have been issued:

*A University of Texas researcher found that 79 to 96 % of the violent crime drop of the 1990's cannot be explained by prison expansion. About 25 % of the total drop in crime is due to prison expansion, and further prison expansion will have far less return in reducing crime.<sup>50</sup>*

*A University of Missouri-St. Louis researcher showed that only about one-fourth of the drop in homicides nationally is attributable to incarceration. Changes in living arrangements among young adults and falling marriage rates were shown to be contributing factors to the drop in homicides.<sup>51</sup>*

*A John Jay College of Criminal Justice researcher showed that incarceration may drive up crime rates in places where a "tipping point" of more than 1 to 1.5 % of a community is incarcerated.<sup>52</sup>*

Similar questions can be asked about the relationship between drug incarceration, drug use and abuse. Since it costs New Jersey at least \$266 million annually to manage the state's incarcerated drug offender population and prison costs have a huge impact on specific communities, both geographically and in a racially disparate way, it is reasonable to inquire whether the cost is worth the benefit in terms of declining drug use. The Justice Policy Institute compared drug use with the drug prison admissions in New Jersey and 21 other states to evaluate whether more incarceration for drug offenses correlates with less drug use, as policymakers surely hope.

On a semi-annual basis, the Substance Abuse and Mental Health Services Administration (SAMSHA) produces estimates of state-by-state drug use in 26 states (measured by the annualized average of the percent of people twelve and older in each state who reported using drugs in the previous month). Of those, 22 corresponded to states whose incarceration data are available through the National Corrections Reporting Program—the program we have used for our analysis of New Jersey and national drug prison admissions. Using the drug prison admission data for the closest years (1991 and 1999), and drug use data for the closest comparable year (a 1991-3 three year average, and 1999) we calculated the change in the rate of drug admissions to prison in the twenty-two corresponding states, and compared that to the change in the percentage of self-reported drug use.<sup>53</sup>

As **Figure 7** shows, during the 1990s, New Jersey's drug prisoner admission rate rose by 29%, and the percentage of the state citizens using drugs rose by 33% (from 5.4% to 7.2%, or a rise of 1.8). By contrast, North Carolina saw a 4.9% decrease in drug prisoner admissions, and the percentage of state residents reporting to have used drugs decreased by about 2% (from 5.9% to 5.8%). During the 1990s, Georgia experienced a modest increase in drug imprisonment (6.94% over the 1990s), and also saw a 2% decline in drug use during the 1990s. Of the 22 states for which we had comparable data, New Jersey had the 3<sup>rd</sup> highest increase in drug use (behind Washington and Wisconsin), and the 9<sup>th</sup> highest increase in its drug imprisonment rate over the 1990s.

**FIGURE 7: INCREASE IN MONTHLY DRUG USE VERSUS INCREASE IN RATE OF PRISON ADMISSION FOR DRUG OFFENSES, 1991-1999**

**While the number of people admitted to prison for drug offenses rose during the 1990s, so did drug use in New Jersey, and some states which reduced the use of prison for drug offenses saw declining drug use. (Ranked by Use)**

<b>State</b>	<b>Change in Percentage of Monthly Drug Use, 1991/3-1999</b>	<b>Change in the Rate of Prison Admission for Drug Offenses, 1991-1999</b>
Wisconsin	2.2	73.63
Washington	2.2	1.36
<b>New Jersey</b>	<b>1.8</b>	<b>29.11</b>
Illinois	1.7	83.87
Michigan	1.6	-22.04
Minnesota	1.5	55.72
Florida	1.2	NA
Pennsylvania	1.2	20.76
Montana	1.2	92.00
Kentucky	1.1	76.91
Louisiana	1	2253.91
Tennessee	0.7	21.50
Ohio	0.6	-9.69
West Virginia	0.6	-53.19
Oregon	0.3	156.47
New York	0.2	-7.15
South Carolina	0.1	1.75
Georgia	-0.1	6.94
North Carolina	-0.1	-4.69
California	-0.4	35.42
Texas	-0.5	-15.92
Virginia	-1.1	-25.89
Oklahoma	-1.9	-21.34

**Source:** JPI Analysis of National Correctional Reporting Program Data and Substance Abuse and Mental Health Services Administration for 1999, Holman, Beatty and Ziedenberg, *Poor Prescription 2*. (Forthcoming) Washington, DC: Justice Policy Institute; and 1991-1993, Human Rights Watch, June 2000 as cited by Holman, Beatty and Schiraldi in *Poor Prescription* (2000). Washington, DC: The Justice Policy Institute.

**Are states that incarcerate more drug offenders deterring others in their state from using drugs?** Using the prison admission data and the monthly drug use rates, JPI researchers tested whether states with high rates of incarceration for drug offenses experienced a statistically significant decrease in drug use. In the analysis the researchers originally did in a JPI report entitled *Poor Prescription*<sup>54</sup> (which looked at prison admissions from 1986 to 1996) the researchers found a significant positive correlation between states with high drug incarceration rates and drug use within the same three year period, 1991-93. In other words, more incarceration was associated with more, not less, drug use.

This correlation analysis, however, does not tell us whether or not incarceration deters drug use. To explore that we checked for a lag effect by correlating the 1991 drug incarceration rate to the change in drug use for the period 1991-1993. The results were statistically significant ( $p=.05$ ) but, again, not in the desired direction. *The data showed that states with higher levels of drug incarceration experienced higher levels of drug use over the subsequent three years.*<sup>55</sup>

The Justice Policy Institute replicated this analysis using the latest prison admission and drug use data that were available. Using 1996 as our baseline for drug incarceration and 1999 for drug use we again found that higher prison admissions for drug offenses correlated with higher subsequent drug use rates (.342). Largely because of the small number of states in our sample the result was not significant at the .05 level ( $p=.12$ ). *Still, the results show there is no statistically significant basis for believing that increasing prison admissions for drug offenses deters drug use.*

### **Finding 8: While the number of women imprisoned in New Jersey is small, women are being added to prison in New Jersey at a higher rate than men, and the impact of their incarceration on their families and communities is huge**

Since men represent more than 93% of the country's prisoners, the discussion of the impact of rising incarceration rates has often centered on men. But as researchers Meda-Chesney-Lind and Judith Greene recently summarized, *while the economic impact of her crime is typically small, the economic impact of the prison term typically meted out to a woman is huge.*<sup>56</sup>

While more than half of all prisoners have minor children whose lives may be affected by the incarceration of a parent, women are far more likely than men to have been living with dependent children when they were arrested (64 %, compared with 44 %). Almost all prison fathers (90%) report that their children reside with their other parent while they are imprisoned—but just 28 % of mothers report this to be the case. Most women prisoners' children are displaced—living with extended family members or friends—while they are incarcerated. At least 10% of the children of prisoners are placed in non-kin foster care.<sup>57</sup>

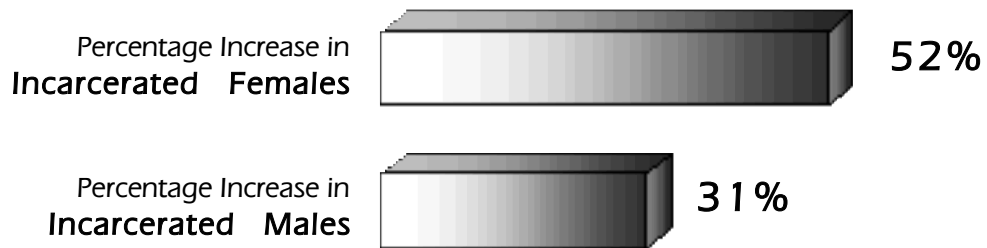
Susan George, a principal researcher for a *University of Chicago* research project on women offenders estimates the cost of jailing and processing a woman prisoner from her arrest to her entry to prison totals \$31,000 in Illinois. George calculates that another \$20-25,000 is spent to keep her in prison for a year. The amortized capital cost of the prison bed she occupies adds another \$7,500. And since one in ten children of women prisoners is placed in foster care (estimated to cost \$25,000 per year) another \$2,500 is averaged in, for a total estimated average annual cost of \$65,000.<sup>58</sup>

Nationally, during the 1990s, women were added to prison at a rate 39% higher than men (111% growth for women, compared with 80% for men).<sup>59</sup> Women were similarly a rapidly growing component of New Jersey's prison population during the 1990s. Between 1990 and 2002, the number of women incarcerated in the state's corrections system grew at a rate 67% greater than the increase for men (52% vs. 31%).<sup>60</sup>

Of note, a higher proportion of women (40%) incarcerated in prisons in New Jersey are there for drug offenses than for men.<sup>61</sup> Most of the women incarcerated in the state are at the Edna Mahan Prison for Women in Hunterdon County, in Western New Jersey, even though, as was shown above, 41% are from four urban counties. *So, women in New Jersey are a fast growing segment of the prison population, they are more likely to be incarcerated for the least violent offenses, and the costs of incarcerating them to neighborhoods, families and communities are huge.*

**FIGURE 8: PERCENT CHANGE IN INCARCERATED POPULATION,  
BY GENDER, 1990-2002**

**Women were added to prison in New Jersey at a higher rate than men over the 1990s. While their crimes are generally less serious, the cost of their incarceration is substantially higher**



Source: 2002 figures are from Table 3 and 8, Beck, Allen and Harrison, Paige. *Prisoners in 2002* (2003). Office of Justice Programs, Bureau of Justice Statistics, and 1990 figures are from *Correctional Populations in the United States*, Bureau of Justice Statistics (1991). Office of Justice Programs, Bureau of Justice Statistics.



## Finding 9: New Jersey’s drug offenders will face barriers getting jobs upon release from prison

**“RETURNING PRISONERS ALSO ENTER A COMPETITIVE LABOR MARKET SADDLED WITH A COMBINATION OF LITERACY PROBLEMS, LIMITED SKILLS, AND LIMITED WORK EXPERIENCE. THESE INDIVIDUALS THEREFORE HAVE COMPARATIVELY LIMITED ACCESS TO JOBS OFFERING CAREER LADDERS, MOBILITY, TRAINING, OR JOB SECURITY... WHILE THESE INDIVIDUALS CAN FIND EMPLOYMENT IN CHURNING ENTRY-LEVEL, LOW-WAGE JOBS, THEY STILL MUST COMPETE WITH FORMER WELFARE RECIPIENTS, STUDENTS, AND SOME OVER-QUALIFIED APPLICANTS FOR THOSE JOBS AS THE ECONOMY SLUMPS. THE REENTERING PRISONER FACES ADDITIONAL BARRIERS THAT INCLUDE THE NEED FOR ONGOING TRAINING AND EDUCATION, CHILDCARE, TRANSPORTATION SERVICES, AND THE DISTANCE BETWEEN BETTER JOBS AND THE LOW-INCOME NEIGHBORHOODS WHERE MOST WILL LIVE.”**

–Robin Gwathney, the John J. Heldrich Center for Workforce Development, Rutgers University, 2003.<sup>62</sup>

Former prisoners are often punished for life through a variety of consequences that affect the 13 million people who have felony convictions in this country.<sup>63</sup> Depending on the state or jurisdiction, ex-prisoners and people once convicted of a felony can be subjected to bans on receiving public assistance, and the ability to live in public housing. They are prohibited from receiving financial aid for college, and in many states, are prohibited from working in a wide spectrum of public sector jobs.<sup>64</sup> As a “collateral consequence” of incarceration, *prison time can hobble people’s chances of staying in the labor market and earning good wages.*

In his study of youth (16-24) jailed prior to 1980, Richard Freeman of the London School of Economics found that jail reduced work time over the next decade by 25-30% when compared with arrested youths who were not incarcerated. Meanwhile youth who were convicted or charged with a crime but not jailed did not experience the “massive long-term effects on employment” of incarceration. For those who were incarcerated, two-thirds of their future unemployment is a result of having been locked up. According to Freeman, “Having been in jail is the single most important deterrent to employment” with “the effect of incarceration on employment years later being substantial and significant.”<sup>65</sup>

Using the National Longitudinal Survey of Youth, a survey tracking the life course of a nationally representative sample of 9,000 youth aged 14 to 21 in 1979, Princeton University's Bruce Western and Katherine Beckett compared the annual joblessness of youth who were incarcerated in order to estimate the impact of incarceration on future joblessness.<sup>66</sup> The authors found that, on average, youth who spent some time incarcerated experienced three weeks less work a year as compared to youth who had no history of incarceration. The effect was larger for African Americans, who experienced five weeks less work a year than those African Americans that experienced no juvenile jail time.<sup>67</sup>

**Ex-Prisoners in New Jersey May Be Barred from Various Kinds of Employment.** According to an analysis from the New Jersey Institute for Social Justice, there are 22 categories of jobs for which certain criminal convictions serve as an absolute bar in New Jersey, most under state law, some under federal law. With a few exceptions, these are lifetime prohibitions. The convictions from which the statutory bars arise are specified in some cases, but are in many cases grouped under the broad heading of "crimes of moral turpitude," which can include drug offenses. *Some of the job categories include: aircraft/airport employees; paid public school employees, school bus drivers and school crossing guards; bank employees; bartenders and waiters in establishments where liquor is served; housing authority and municipal police and parking enforcement officers; New Jersey Turnpike Authority employees; liquor retail, wholesale, manufacturing or distributing employees; paid firefighters; child care center employees; community residences for individuals with developmental disabilities.*<sup>68</sup>

**Drugs offenses and driver's license suspensions: a barrier to work.** In New Jersey, there are 350 grounds for driver's license suspension, most of which are imposed for economic reasons and not for conduct implicating public safety. But in New Jersey, you can lose your driver's license if you are convicted of any kind of drug related charge for up to 6 to 24 months. In a suburban state such as New Jersey, having a valid driver's license can be critical to obtaining and keeping a job. Many of the employment sectors providing good opportunities for entry-level positions either require a license or are inaccessible to public transportation. Driver's license suspension, therefore, can be a major barrier to employment, and the laws and regulations affecting suspension will greatly impact the ability of returning prisoners to work.<sup>69</sup>

**Finding 10: Nearly one out of 10 African American voting age residents in New Jersey cannot vote because of their involvement in the criminal justice system.**

Felony disenfranchisement, where people under criminal justice control for a felony offense (or people who once were convicted of a felony offense and have completed their sentence) lose their right to vote, is emblematic of the various collateral consequences that researchers and advocates are only now beginning to quantify as the extended impact of the nation's prison expansion. Forty-eight of the 50 states bar people under criminal justice control for a felony offense—including, in most cases, those people on probation and parole—from voting.

In New Jersey, the state's felony disenfranchisement law bars anyone from voting "who is serving a sentence or is on parole or probation as the result of a conviction of any indictable offense under the laws of this state or another state or the United States" (19:4-1 of the New Jersey statutes).<sup>70</sup> New Jersey is one of 14 states that bar voting by anyone sentenced to prison, on parole, or on probation.

An analysis by criminologists from the University of Minnesota showed that, of New Jersey's 6.24 million voting age residents in 2000, 143,000 people (or 2.3%) of the electorate could not vote due to felony disenfranchisement. Seventy-eight thousand of these were African Americans, representing 9.2% of all African American voting age residents.<sup>71</sup> In a "competitive" state like New Jersey—where gubernatorial and senatorial elections are frequently decided by a narrow margin of a few thousand votes—the fact that 143,000 people, and nearly 1 out of 10 African American voters (78,920 people) have been disenfranchised may play a significant role in the outcome of the state's contests, particularly diluting the voting power of minority communities.

## Conclusion

**Legislators should heed the call of the Department of Corrections to reform the state's drug laws and mandatory minimums, and help New Jersey lead the nation in treatment, not drug imprisonment**

New Jersey is poised to join states from Washington to Texas, from California to Connecticut and from Kansas to Arizona which have made concerted efforts over the last several years to divert non-violent offenders and drug offenders out of incarceration and into treatment. Michigan, Louisiana, Alabama and North Dakota have reformed their mandatory sentencing laws by returning discretion to judges for non-violent offenders. Ohio and Texas streamlined and modernized their parole practices by using objective criteria and creating alternatives to re-incarceration for offenders who violate technical (non-criminal) conditions of parole.

Legislators in these states may have been swayed by the high costs of incarceration, the damaging impacts of imprisonment, or by the sea change occurring in public opinion concerning the use of incarceration. According to a poll released in February, 2002 by Hart Research Associates, three-quarters of Americans approved of sentencing nonviolent offenders to probation instead of imprisonment, and a substantial majority of the public supports eliminating mandatory sentencing laws and returning sentencing discretion to judges. Likewise, separate public opinion polls conducted by Parade Magazine and ABC News released in February and March, 2002, respectively, found that three quarters of Americans favored sentencing nonviolent offenders to alternatives to incarceration like probation and drug treatment rather than prison.

The Department of Corrections' *Preliminary Strategic Planning Document* listed a variety of policy reforms which, if enacted, would ameliorate some of the impacts highlighted in this report. Some of these recommendations include:

Maintaining a greater proportion of the incarcerated population in halfway houses and strengthening the continuum of care for ex-prisoners and low level offenders sentenced to halfway houses.

Research on the impact of, and revisit policies on technical parole violations.

Proposing legislative reforms to the state's mandatory minimums by establishing a sentencing commission to examine mandatory minimum sentences.

Expanding prisoner education and vocational services, as well as work opportunities.

The state should also change the whole emphasis of policies for dealing with drug offenders away from one that arrests, convicts, detains and incarcerates, to one that treats, teaches and heals the communities most impacted by the war on drugs and drug abuse. Not only would this help reduce the glaring racial disparities revealed in this report, but there is increasing evidence that it would also produce better public safety outcomes than a system that relies so heavily on incarceration. National studies by the National Center on Addiction and Substance Abuse, the RAND corporation, the Little Hoover Commission, as well as studies within states have shown that it is cheaper and more effective to provide drug treatment than to incarcerate: That should be the emphasis of the state's correctional policies with respect to drug offenders. New Jersey should aim to lead the nation in drug treatment, rather than in incarcerating drug offenders.

## Endnotes

- <sup>1</sup> Dee, Joseph. "Report Offers Sweeping Plan," *The New York Times*, November 18, 2002.
- <sup>2</sup> In this report, we use the U.S. Justice Department's definition of prisoners as "prisoners under jurisdiction," which includes anyone under a state's jurisdiction who may be in the custody of a local jail, another state's prison, or other correctional facility." See [www.ojp.usdoj.gov/bjs/abstract/p02.htm](http://www.ojp.usdoj.gov/bjs/abstract/p02.htm)
- <sup>3</sup> Holman, Barry, Beatty, Phillip, Schiraldi, Vincent. *Poor Prescription: The Costs of Imprisoning Drug Offenders*. (2000). Washington, DC: Justice Policy Institute.
- <sup>4</sup> *Substance Abuse and Treatment, State and Federal Prisoners, 1997*. (1999) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.
- <sup>5</sup> According to the Bureau of Justice Statistics series, *Prisoners in 2001*, and the subsequent series, *Prisoners in 2002*, the number of people imprisoned by states for drug offenses declined from 251,000 in 2000, to 246,000 in 2001. The same studies show that the drug prisoner population in the federal system grew 10,000, from 68,360 in 1999 to 78,000 in 2001. Beck, Allen, and Harrison, Paige. *Prisoners in 2001 [2002]*. (2002; 2003). Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.
- <sup>6</sup> Piper, Bill, Huffman, Katherine, Conk, Rebecca-Lubot and Briggs, Mathew. *State of the States: Drug Policy Reforms, 1996-2002*. (2003) New York, New York: Drug Policy Alliance
- <sup>7</sup> According to the US Office of National Drug Control Policy, federal spending on the drug war in 2001 totaled \$18.095 billion, rising to \$18.822 billion in 2002 and \$19.179 billion for 2003. "National Drug Control Strategy: FY 2003 Budget Summary." (February 2002) Washington, DC: Office of National Drug Control Policy, Office of the President, Table 2, p. 6.
- <sup>8</sup> Holman, Beatty and Schiraldi, 2000.
- <sup>9</sup> *Preliminary Population Data*. (July, 2002) Trenton, New Jersey: Office of Policy and Planning, Policy Analysis and Planning, New Jersey Department of Corrections.
- <sup>10</sup> Greene, Judith, "Smart on Crime Briefing Book: New Jersey." Washington, DC: Families Against Mandatory Minimums, [www.smartoncrime.org](http://www.smartoncrime.org), 2003.
- <sup>11</sup> The NCRP defines a prison admission as anyone admitted while under the physical custody of state correctional authorities, and each admission constitutes someone who occupied a state prison bed, or in some cases, a jail cell at some point in the year they were said to have been admitted to the system.
- <sup>12</sup> Holman, Barry, Beatty, Philip, and Ziedenberg, Jason. *Poor Prescription 2*. (Forthcoming, 2004). Washington, DC: Justice Policy Institute.
- <sup>13</sup> "Offenders in New Jersey Correctional Institutions on January 8, 2001, By Base Offense." (2003) Trenton, New Jersey: New Jersey Department of Corrections.
- <sup>14</sup> The six highest ranked states were California (145), Louisiana (141), Maryland (101), Arkansas (100), Georgia (93), and Mississippi (90).
- <sup>15</sup> *Prisoner Census Data* (June 30, 2003; June 30, 2000). Sacramento, California: Data Analysis Unit Department of Corrections; Estimates and Statistical Analysis Section State of California Offender Information Services Branch.
- <sup>16</sup> Beck and Harrison, 2003.
- <sup>17</sup> Bonczar, Thomas. *Prevalence of Imprisonment in the U.S. Population, 1974-2001*. (2003) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.

- <sup>18</sup> Greene, 2003.
- <sup>19</sup> Race and ethnic representation in prison from a JPI analysis produced for the Foundation for National Progress ([www.motherjones.com/prisons](http://www.motherjones.com/prisons)), as reported in July, 2001.
- <sup>20</sup> *Race and Incarceration in the United States Human Rights Watch Press Backgrounder*. (2002). New York, New York: Human Rights Watch.
- <sup>21</sup> Substance Abuse and Mental Health Services Administration. (2003). *Results from the 2002 National Survey on Drug Use and Health: National Findings* (Office of Applied Studies, NHSDA Series H-22, DHHS Publication No. SMA 03–3836). Rockville, MD.
- <sup>22</sup> *Preliminary Strategic Planning Document*. (October, 2002) Trenton, New Jersey: Division of Administration, Office of Policy and Planning.
- <sup>23</sup> “Sentencing Issues: Federal.” Washington, DC: Families Against Mandatory Minimums.
- <sup>24</sup> Testimony of John Steer, vice chair, U.S. Sentencing Commission, before the House Governmental Reform Subcommittee on Criminal Justice, Drug Policy and Human Resources, May 11, 2000
- <sup>25</sup> *Preliminary Strategic Planning Document*. (October, 2002).
- <sup>26</sup> Greene, 2003.
- <sup>27</sup> *Id.*
- <sup>28</sup> *Preliminary Strategic Planning Document*. (October, 2002).
- <sup>29</sup> Greene, Judith and Schiraldi, Vincent. (February, 2002) *Cutting Correctly: New Prison Policies for Times of Fiscal Crisis*. Washington, DC: Justice Policy Institute.
- <sup>30</sup> Western, Bruce, Schiraldi, Vincent, Ziedenberg, Jason. *Education and Incarceration*. (August, 2003) Washington, DC: Justice Policy Institute.
- <sup>31</sup> From “Frequently Asked Questions,” the New Jersey Department of Corrections website, <http://www.state.nj.us/corrections/freqntlyasked.html>.
- <sup>32</sup> We choose 2001 as our base year, because that was the latest year in which we had comparable fiscal data for the states. The National Association of Budget Officers reported that, in 2001, the state spent \$1.269 billion on corrections, 34% of which would be \$431 million.
- <sup>33</sup> *State Expenditure Reports, 2001* (2002). Washington, DC: National Association of State Budget Officers, and Alaska Department of Corrections.
- <sup>34</sup> Change in Full-Time Equivalent Employment from Western, Bruce and Guetzkow, Josh. (August 2002) *Punitive Policy and Neoliberalism in the U.S. Labor Market*. Presented at annual meeting of the American Sociological Association. Princeton, New Jersey: Princeton University.
- <sup>35</sup> Western and Guetzkow showed that nationally, police and corrections spending grew at 4 times the rate of higher education employment, 1.6 times the rate of public welfare employment, and 1.6 times the rate of employment in all state functions.
- <sup>36</sup> *National Association of State Budget Officers*. (2001). “The Fiscal Survey of States.” Washington, DC.
- <sup>37</sup> *National Conference of State Legislators News*, April 24, 2003. “Three Years Later, State Budget Gaps Linger.” National Conference of State Legislators. <http://www.ncsl.org/programs/press/2003/030424.htm>.
- <sup>38</sup> *State Expenditure Reports, 1985; [2001]; (1986; 2002)* Washington, DC: National Association of State Budget Officers; *State Budget Deficits are Huge and Growing* (January, 2003) Washington, DC: Center



for Budget and Planning Priorities. Note, New Jersey corrections spending figures for 1985 were adjusted for inflation to reflect real dollar spending changes.

<sup>39</sup> Schiraldi, Vincent and Ziedenberg, Jason. *Cellblocks or Classrooms: The Funding of Higher Education and Corrections and Its Impact on African American Men*. (2002). Washington, DC: Justice Policy Institute.

<sup>40</sup> All statistics on where New Jersey's prisoners come from are derived from, *Prison Complex Offenders on January 1, 2001, by County of Commitment*. (2003) Trenton, New Jersey: New Jersey Department of Corrections.

<sup>41</sup> *Substance Abuse and Treatment, State and Federal Prisoners, 1997*. (1999) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.

<sup>42</sup> From the *Final Report of the New Jersey Sentencing Policy Study Commission*, Jan. 1994, as cited by Fishman, Nancy. *Briefing Paper: An Overview of Prisoner Reentry in New Jersey* (2002) Newark: Institute for Social Justice.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Preliminary Strategic Planning Document*, (October, 2002).

<sup>46</sup> *Reflections on Parole: Meeting the Challenges of Today—Keynote speech for the Association of Paroling Authorities International Annual Conference* (April, 2003). Washington, DC: The Urban Institute.

<sup>47</sup> *Preliminary Strategic Planning Document*. (October, 2002).

<sup>48</sup> *Id.*

<sup>49</sup> *Preliminary Strategic Planning Document*. (October, 2002); 2002; Sourcebook of Criminal Justice Statistics, 1981. (1982) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.

<sup>50</sup> Spelling, William (2000). "The Limited Importance of Prison Expansion." In *The American Crime Drop*, ed. Blumstein, Alfred and Wallman, Joel. Boston: Cambridge University Press, 2000.

<sup>51</sup> Rosenfeld, Richard (2000). "Patterns in Adult Homicide: 1980-1995." In *The American Crime Drop*, ed. Blumstein, Alfred and Wallman, Joel. Boston: Cambridge University Press, 2000.

<sup>52</sup> Clear, Todd R. "The Problem with 'Addition by Subtraction': The Prison-Crime Relationship in Low Income Communities," in *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*, NY: The New Press, (2003), pp 181-194.

<sup>53</sup> Holman, Barry, Beatty, Philip, and Ziedenberg, Jason (Forthcoming, 2004).

<sup>54</sup> Holman, Beatty and Schiraldi, 2000.

<sup>55</sup> Holman, Beatty and Schiraldi, 2000.

<sup>56</sup> For a more in-depth discussion of the consequences of incarceration on an ex-offender's life course, see *Collateral Damage: The Social Cost of Mass Incarceration*. (2002) ed. Chesney-Lind, Meda and Mauer, Marc. New York: Free Press.

<sup>57</sup> Mumola, Christopher (2000). *Incarcerated Children and their Parents*. Washington, DC: Bureau of Justice Statistics.

<sup>58</sup> LaLonde, Robert J. and Susan George (2002). *Characteristics of Women Entering and Exiting State Prison in Illinois*. Unpublished paper. Chicago, IL: University of Chicago Center for Human Potential and Public Policy. 2001.

- <sup>59</sup> Ziedenberg, Jason. *Deep Impact: Quantifying the Effect of Prison Expansion in the South*. (2003) Washington, DC: Justice Policy Institute.
- <sup>60</sup> 2001 figures are from Table 3 and 8, Beck, Allen and Paige, Harrison. *Prisoners in 2002*. (2003) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics, and 1990 figures are from *Correctional Populations in the United States, 1990*. (1991) Office of Justice Programs, Bureau of Justice Statistics.
- <sup>61</sup> Of the state's "imprisoned men" (people only incarcerated in a prison, and excluding other facilities), 27% were imprisoned for drug offenses, while 40% of imprisoned females were imprisoned for drug offenses *Offenders in New Jersey Correctional Institutions on January 8, 2001, By Base Offense*. (2003) Trenton, New Jersey: New Jersey Department of Corrections.
- <sup>62</sup> Gathney, Robin. *Employment Opportunities for Ex-Offenders in New Jersey*. (2003) Newark, New Jersey: Institute for Social Justice.
- <sup>63</sup> Uggen, Christopher, Manza, Jeff and Thompson, Melissa. (2000). *Crime, Class and Reintegration: The Socioeconomic, Familia, and Civic Lives of Offenders*. November 18, 2000, American Society of Criminology Meeting, San Francisco.
- <sup>64</sup> For a more in-depth discussion of the consequences of incarceration on an ex-offender's life course, see *Collateral Damage: The Social Cost of Mass Incarceration*. (2002) ed. Chesney-Lind, Meda and Mauer, Marc. New York: Free Press.
- <sup>65</sup> Freeman, R.B. (1991) *Crime and the Employment Disadvantage of Youths*. Cambridge, MA: National Bureau of Economic Research.
- <sup>66</sup> Western, Bruce and Beckett, Katherine. "How Unregulated Is the U.S. Labor Market?: The Penal System as a Labor Market Institution." *The American Journal of Sociology*, 104: 1030-1060.
- <sup>67</sup> Id.
- <sup>68</sup> Fishman, Nancy. *Legal Barriers to Prison Re-Entry in New Jersey*, Institute for Social Justice, April, 2003.
- <sup>69</sup> Id.
- <sup>70</sup> Shure, John and MacMurray, Rashida. *Restoring the Right to Vote: Isn't it Time?* (October 2000), Trenton: New Jersey Policy Perspectives.
- <sup>71</sup> Uggen, Chistopher and Manza, Jeff. Democratic Contraction: Political Consequences of Felon Disenfranchisement in the United States. (December 2002). *American Sociological Review*.

## Justice Policy Institute

4455 Connecticut Avenue NW Suite B-500

Washington DC 20008

v 202-363-7847

f 202-363-8677

[info@justicepolicy.org](mailto:info@justicepolicy.org)

[www.justicepolicy.org](http://www.justicepolicy.org)