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Texas Tough?:

An Analysis of Incarceration and Crime Trends in the Lone Star State

POLICY REPORT



Texas Tough?: An Analysis of Incarceration and Crime Trends in The Lone Star State¹

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Introduction

The United States holds the dubious distinction of having the largest incarcerated population in the world, with 2 million people behind bars as of year-end 1999.² With only 5% of the world's population, the U.S. holds a quarter of the world's prisoners.³ In the 1990s alone, more persons were added to prisons and jails than in any other decade on record.⁴ While all states have increased their prison populations over the last two decades, the Justice Policy Institute (JPI) has conducted a series of studies analyzing the incarceration records of individual states to put the national numbers into context. Our reports have highlighted state-specific prison growth, the disproportionate impact incarceration policies have had on African American and Latino communities and youth, and have analyzed the role prison growth may have played on the changing crime rate. Some of JPI's recent findings include:

- In the state of California, nearly four in ten African American men in their twenties are under some form of criminal justice control. While African Americans make up 7% of California's population, and constitute 20% of felony arrests, 31% of the prison population and 43% of third "strike" defendants sent to state prison.⁵
- From 1992 to 1994, the Florida Department of Corrections received a \$450 million increase in funding. That is more than the state's university system received in the previous ten years.⁶

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- Florida prosecutors are sending as many children into the adult prison and jail system as judges do in the entire rest of the United States.⁷
- In New York State more than 90% of people doing time for a drug offense are African American or Latino. There are more blacks and Hispanics locked up in prisons than there are attending the state university system.⁸
- The District of Columbia literally has more prison and jail inmates than D.C. residents enrolled in its one public university. D.C.'s correction system experienced a 312% increase in funding from 1977 to 1993, compared to an 82% increase in university funding during that 16 year period.⁹
- While African Americans represent one out of every four (25%) Maryland residents, they represent over three out of four (77%) of the state's prisoners. Since 1990, 9 out of every 10 new inmates imprisoned in Maryland have been black.¹⁰

In a continued examination of those states that lead the national trend in increasing levels of incarceration, the Justice Policy Institute turns a focus on the state of Texas. The Lone Star State's criminal justice system is particularly worthy of scrutiny at this time, as the Bureau of Justice Statistics (BJS) reported in August, 2000 **that Texas, for the first time, leads the nation in imprisoning its citizens: Texas now has the nation's largest incarcerated population under the jurisdiction of its prison system.**¹¹ Since 1990, Texas has lead the nation's 50 states with an annual average growth rate of 11.8%, about twice the annual average growth rate of other state prison systems (6.1%). Even more important to the national context, since 1990, **nearly one in five new prisoners added to the nation's prisons (18%) was in Texas.**¹²

In this report, we examine to what extent the criminal justice population of Texas has grown in recent years, as well as what specific communities have been most impacted by this growth. This brief will also examine the effectiveness of such growth in decreasing the rate of victimization experienced by Texans by comparing changes in crime in Texas to other U.S. states.

Texas: The Toughest and the Biggest

As of August 2000, BJS reported that Texas pulled slightly ahead of California to earn the distinction of having the largest population of inmates under the jurisdiction of its prison system. But even before Texas became first in prisoners, the state held the questionable honor of having the largest criminal justice system in the United States, with an astonishing proportion of its population under criminal justice control.

As of year end 1999, there were **706,600**¹³ Texans in prison, jail, parole or probation on any given day. In a state with 14 million adults, this meant that 5% of adult Texans, or 1 out of every 20, are under some form of criminal justice supervision. The scale of what is happening in Texas is so huge, it is difficult to contrast the size of its criminal justice systems to the other states' systems it dwarfs:

- There are more Texans under criminal justice control than the entire populations of some states, including Vermont, Wyoming and Alaska.
- According to Bureau of Justice Statistics estimates, *one quarter of the nation's parole and probationers are in Texas*. California and Texas, together, comprise half the nation's parolees and probationers.¹⁴

Table 1: Texas has more people under criminal justice control than the entire population of Vermont, Washington D.C., Wyoming or Alaska.

| | |
|---|---------|
| Texans under criminal justice supervision | 706,600 |
| Population of Alaska | 619,500 |
| Population of Vermont | 593,740 |
| Population of Washington, D.C. | 519,000 |
| Population of Wyoming | 479,600 |

Source: Justice Policy Institute analysis of data from Texas Department of Criminal Justice and Pastore, Ann and Maguire, Kathleen. *Sourcebook of Criminal Justice Statistics, 1998 (1999)*. Washington, D.C. U.S. Department of Justice, Bureau of Justice Statistics. *State Population Estimates: Annual Time Series* (July 1, 90 to July 1, 1999). (December 1999) Washington, D.C.: U.S. Census Bureau, Population Estimates Program, Population Division; *1999 Fiscal Year Statistical Report* (February 2000) Huntsville: Texas Department of Criminal Justice; *Correctional Populations in the United States, 1996* (April 1999). Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics; *Texas County Jail Population, September 1, 1999*. (September 1999) Austin: Texas Commission on Jail Standards.

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- The number of people incarcerated in Texas (in prison or jail) reached 207,526 in mid-year 1999. Only California, with 10 million more citizens, has more people in both prison and jail.
- Texas has a rate of 1,035 people behind bars for every 100,000 in the population,¹⁵ the second highest incarceration rate in the nation (second only to Louisiana). If Texas was a nation separate from the United States, it would have the world's highest incarceration rate—significantly higher than the United States (682), and Russia (685) which has 1 million prisoners, the world's third biggest prison system. Texas' incarceration rate is also higher than China (115), which has the world's second largest prison population (1.4 million prisoners).¹⁶
- If the US shared the incarceration rate of Texas, there would be nearly three million Americans behind bars (2,822,300)—instead of our current 2 million prisoners.
- The Texas prison population tripled since 1990, and rose 61.5% in the last five years of this decade alone. In 1994, there were 92, 669 prisoners in Texas. This number had increased to 149,684 by mid-year 1999.¹⁷
- The Texas correctional system has grown so large that in July 2000, corrections officials ran out of six digit numbers to assign inmates, and officially created prisoner number 1,000,000.¹⁸

Characteristics of Inmates

Contrary to the view that most of the people entering Texas prisons represent a threat to public safety, the majority of prisoners in the Lone Star State are serving sentences for non-violent offenses. When the composition of the prison population is examined, it appears that most are being incarcerated for low level crimes.

- In 1998, the Texas Department of Criminal Justice reported that of its then 130,000 prisoners, 54.8% were being held for a non-violent crime. If these offense proportions held true for the 1999 BJS prison counts, there would be 89,428 inmates held for non-violent crimes in Texas. Just by itself, Texas' non-violent prison population represents the second largest state prison population in the country (next to California). Texas' non-violent prisoner population is larger than the entire incarcerated population of the United Kingdom (73,545)—a country of 60 million people— and bigger than New York's prison system, our 3rd largest state.¹⁹

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- Of the almost 37,000 inmates entering the Texas prison system in 1998, more than *two out of every three entered prison on a parole or probation violation*. Of these, an estimated *half* were charged not with breaking the law by committing new crimes, but for committing technical violations, such as missing a meeting with a parole officer.²⁰
- Twenty one percent (21%) of the people in Texas prisons are there for drug related charges.²¹ While a large number on its own, the 21% figure understates the role drug incarceration policies have played in driving up the prison population totals, as it does not include people serving time for drug related crimes such as theft or burglary. Eighty-five percent of the prison population has a history of drug or alcohol abuse.

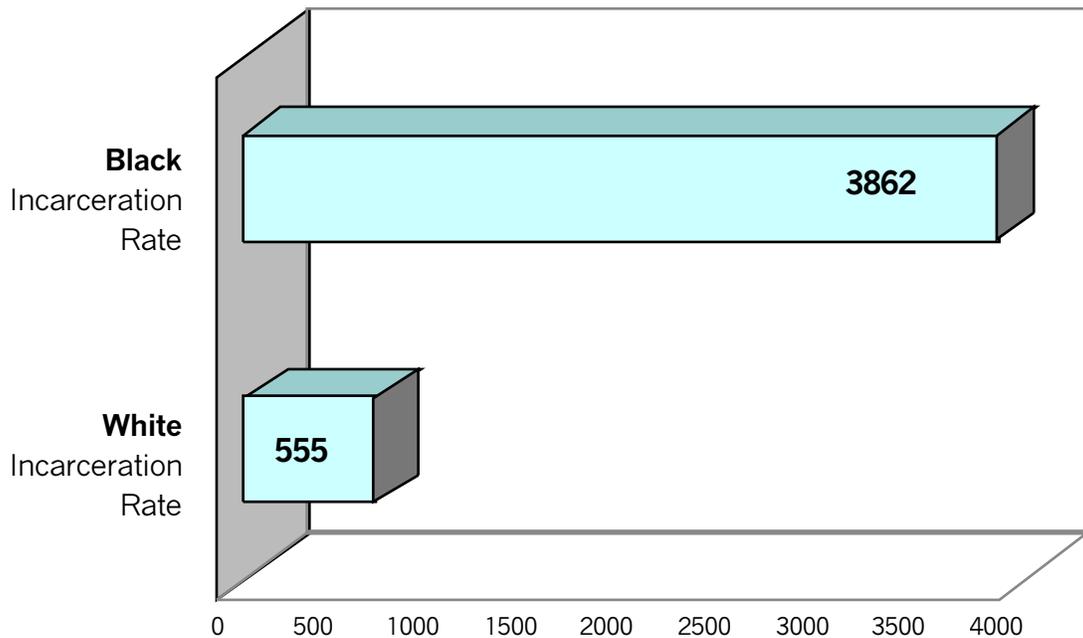
Tough on Whom?: Disparate Impact Upon Communities of Color

While Texas' punitive criminal justice policies have affected all communities within the state, the African American community has disproportionately borne the brunt of the state's high incarceration policies:

- While one out of every 20 Texas adults is under some form of criminal justice control, *one out of 3 young black men (29% of the black male population between 21 and 29) are in prison, jail, parole or probation on any given day.*²²
- One out of every four adult black men in Texas is under some form of criminal justice supervision.²³
- *Blacks in Texas are incarcerated at a rate seven times greater than whites.* While there are 555 whites behind bars for every 100,000 in the Texas population, there are an astonishing 3862 African Americans behind bars for every 100,000 in the state. This is nearly 63% higher than the national incarceration rate for blacks of 2366 per 100,000.
- If Texas' black incarceration rate was applied to the United States, the number of blacks behind bars on a national level would increase by half a million. There are currently an estimated 824,900 African Americans in prison and jail in the U.S. The new figure, 1,346,370, would increase the number of African Americans incarcerated in the U.S. by 63%.

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Graph 1: The African American Incarceration Rate in Texas is 7 times higher than that of whites.

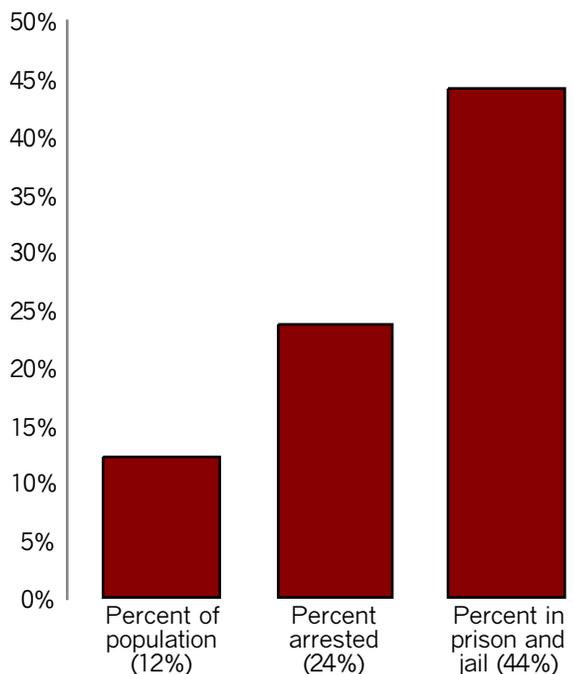


Source: Justice Policy Institute analysis of Texas Department of Criminal Justice and U.S. Bureau of Justice Statistics Data. *1999 Fiscal Year Statistical Report* (February 2000). Huntsville: Texas Department of Criminal Justice; *Texas County Jail Population, September 1, 1999*. (September 1999). Austin: Texas Commission on Jail Standards; *Population of Texas by age, sex and race, 1998*. (September, 1999). College Station, Texas: Texas State Data Center; *Sourcebook, 1998* (1999); Beck, 1999.

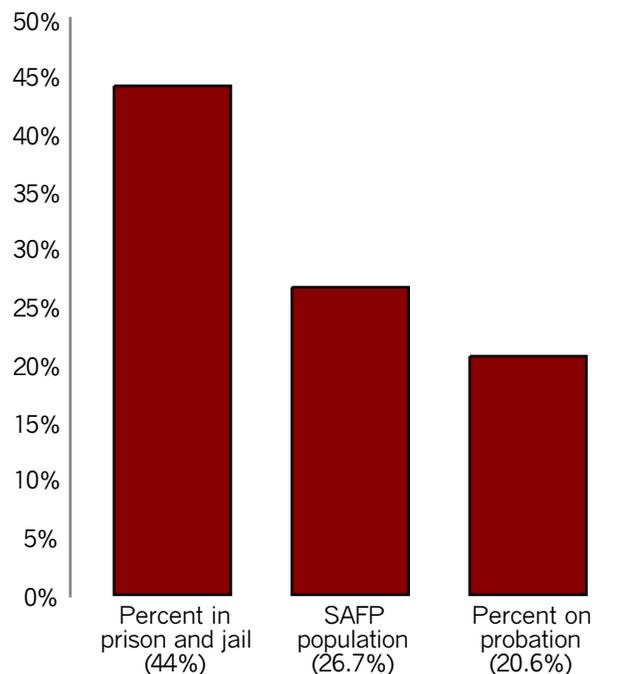
Within the criminal justice population in Texas, blacks are underrepresented within the ranks of those receiving less punitive sentences.

- Although blacks represent 12% of the Texas population, they comprise 44% of the total prison and jail population. While whites comprise 58% of Texas' population, they represent only 30% of the prison and jail population.
- Probation is often given in lieu of incarceration as a less severe form of punishment. The percentage of blacks on probation falls to 20.6% of the total probation caseload, as compared to a 44.9% representation by whites.²⁴
- Blacks form only 26.7% of the Substance Abuse and Felony Prevention Program (SAFP), a drug treatment program that can be court mandated by judges for convicted felons instead of prison. Whites represent 43.1% of the SAFP population.²⁵

Graph 2: African Americans are overrepresented in prison and jail.



Graph 3: African Americans are underrepresented in alternatives to prison.



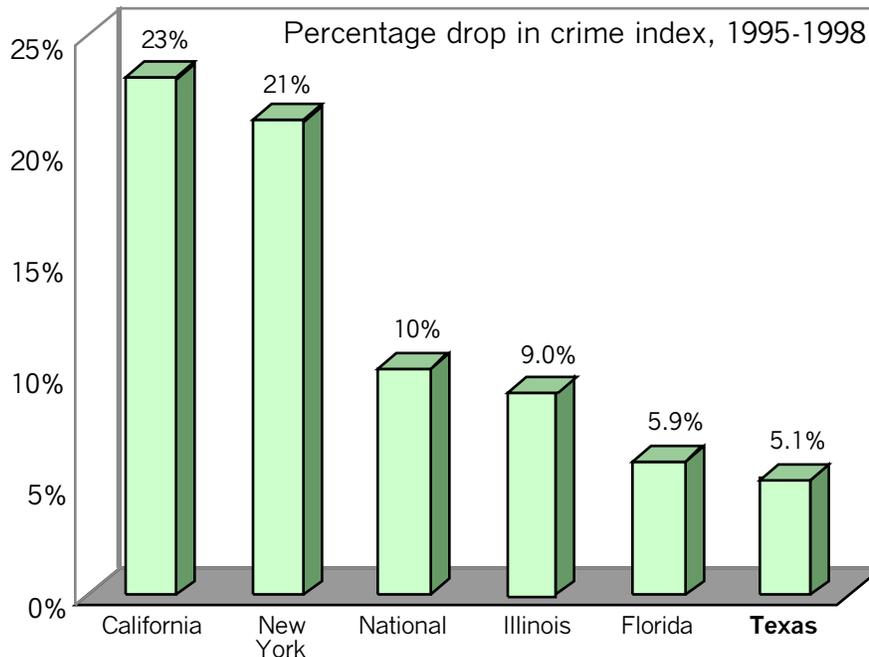
Source: Justice Policy Institute analysis of data from *Crime in Texas, 1999* (Forthcoming). Austin: Texas Department of Public Safety. *1999 Fiscal Year Statistical Report* (February 2000). Huntsville: Texas Department of Criminal Justice; *Texas County Jail Population, September 1, 1999*. (September 1999) Austin: Texas Commission on Jail Standards; *Population of Texas by age, sex and race, 1998*. (September, 1999) College Station, Texas: Texas State Data Center.

Tough, but not smart, on Crime?: The Impact on Crime Rates

Despite the simplistic connection drawn by some that harsher crime policies lead to safer communities, there is little evidence that Texas' severe correctional system is responsible for the drop in crime. In 1980, when Texas had a prison population of 30,000, the state's crime rate was 10% above the national average. Eighteen-years, and 130,000 prisoners later, the Lone Star State's crime rate was 11% above the national average. So, after 18 years, and a monumental growth in imprisonment, Texas' crime rate is not just higher, but increasingly higher, than the national average.

While crime has dropped in Texas in recent years, as it has done all over the country, a state-by-state comparison shows the Lone Star State to be lagging behind other jurisdictions which have not increased their prison systems as dramatically. Between

Graph 4: Texas Crime Drops Lag Behind Biggest States



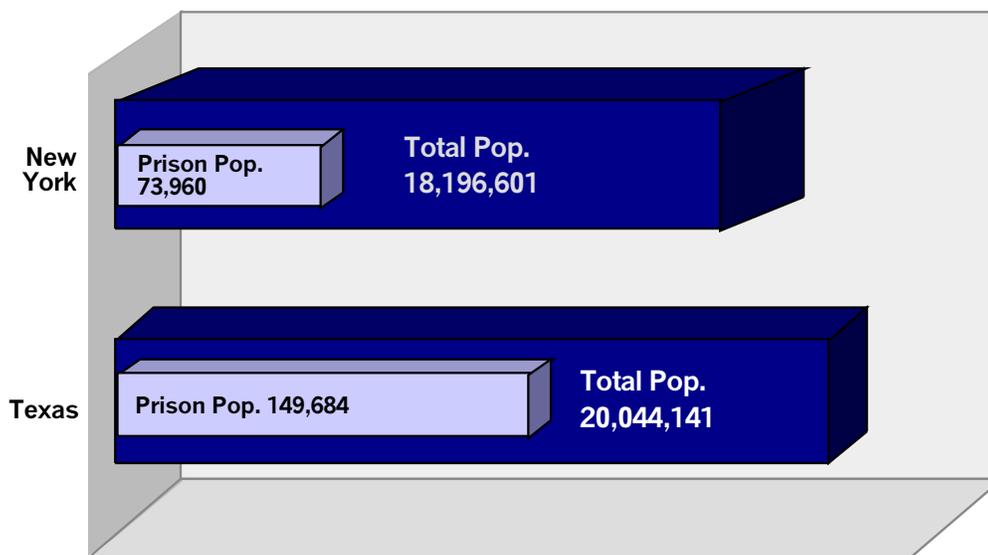
Source: *Crime in the United States: Uniform Crime Reports, 1998; 1995 (1999; 1996)*. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation.

1995 and 1998 – the last year for which data is available – the percentage drop in the overall number of index crimes in Texas was half the percentage drop in the number of index crimes nationally, and the lowest of the five largest states (See Graph 4). The Texas crime rate also experienced a slightly lower percentage decline than the national average and was again lowest among the five states (California - 25.5%; New York - 21.3%; National - 11.7%; Illinois - 10.7%; Florida - 10.6%; Texas - 10.1%).

The comparison between Texas and New York is particularly noteworthy, as their state populations are relatively matched. While Texas had the fastest growing prison system in the country during the 1990s, New York had the third slowest growing prison population in the U.S.(26) During the 1990s, Texas added more prisoners to its prison system (+98,081) than New York’s entire prison population (73,233) by some 24,848 prisoners. This means that the number of prisoners that Texas added during the 1990s was 34% higher than New York’s entire prison population. Throughout the 1990s, Texas added five times as many prisoners as New York did (18,001).

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Graph 5. Texas has double the number of prisoners as New York State.



Source: Beck, Alan. *Prison and Jail Inmates at Midyear 1999*. (April 2000) Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics; *1999 Fiscal Year Statistical Report* (February 2000). Huntsville: Texas Department of Criminal Justice; *State Population Estimates: Annual Time Series*, July 1, 1990 to July 1, 1999. (December 1999). Graph not exactly to scale.

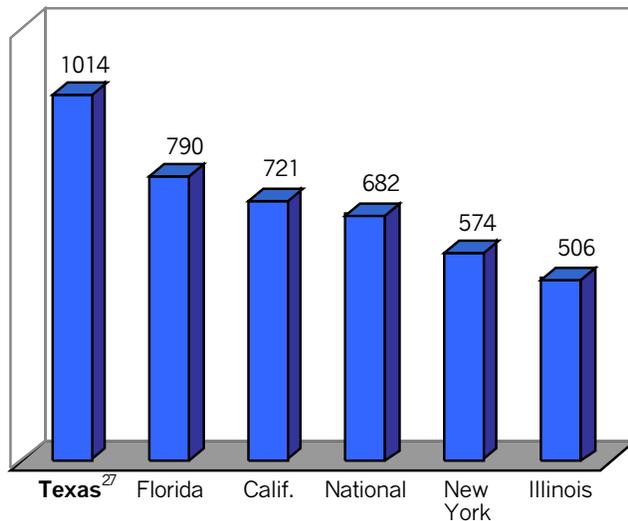
Nevertheless, the Lone Star State's crime drops were much less impressive than what occurred in the Empire State. Since 1995, the percentage decline in overall crime in New York was four times greater than the drop experienced in Texas, and New York's crime rate dropped twice as much as Texas. Even if you go back further, from 1990 to 1998-the decline in the crime rate in New York was 26% greater than the drop in crime in Texas.

More recent FBI crime survey's suggests that Texans may be receiving "Diminishing Returns"²⁶ on what further prison expansion may do in reducing the state's crime rate. While its incarceration binge slowed in the late 1990s, Texas continued to increase its prison population by 4,000 inmates between 1998 and 1999. During that same year, while the average of US cities with population over 500,000 experienced a 6% decrease in crime, Texas cities with populations over 500,000 experienced a 2.3% increase in crime. Of the six large cities which experienced an increase in crime from 1998 to 1999, four were in Texas.²⁷

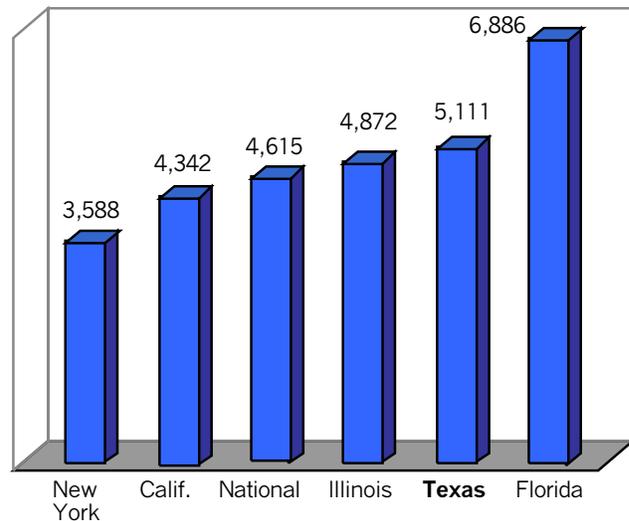
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Graphs 6 & 7. Texas: High Incarceration Rate, and High Crime Rate.

Graph 6: Incarceration Rates, 1999
(Prison and Jail Population):



Graph 7: Crime Index Rates -
Yearend 1998



Source: JPI analysis of Bureau of Justice Statistics Data (Beck, April 2000), and *Uniform Crime Report: Crime in the United States, 1998* (1999). *1999 Fiscal Year Statistical Report* (February 2000). Huntsville: Texas Department of Criminal Justice; *Texas County Jail Population, September 1, 1999*. (September 1999) Austin: Texas Commission on Jail Standards.

Conclusion: The costs of toughness.

One of the leading proponents of the Texas prison expansion recently argued, “let’s admit that prison is a sad and expensive necessity.....And if Texans and their criminal justice policies seem tough, maybe it’s because its criminals are tough. Texas ain’t Vermont.” But the protagonists of high incarceration policies have not proven whether these policies are truly a “necessity.” Despite having the most punitive criminal justice system in the world, Texas crime rates have not experienced the declines witnessed in other parts of the country—places where prison growth has not been pursued with such vigor. In light of these lackluster results, the architects of Texas’ prison policies should question whether these mediocre crime drops are worth the “sad” social cost the state is paying for having 1 in 20 adults, and 1 in 3 young black men, under criminal justice control. The criminal justice policy-making consensus in Texas—a view that spans both parties—has directed corrections officials to plan for the day when there will be 1 million people under criminal justice control. Unless the costs of these policies are weighed in the balance, this foreboding figure will undoubtedly come to pass.

Table 2: Texas Criminal Justice Population 1999

| | |
|--|------------|
| Prison | 149,684 |
| Jail | 57,842 |
| Parole | 75,189 |
| Probation | 423,883 |
| Total | 706,600 |
| Adult Population | 14,067,392 |
| Percentage of Adults under Criminal Justice Control | 5% |

Methodology

Part I – Data Sources.

Prison and Jail Estimates

The size and hybrid nature of the Texas criminal justice system has meant that the reports of its prison, jail, parole and probation totals vary from state, federal and local sources. Just prior to publication, we note that BJS published new counts of the number of prisoners under the jurisdiction of Texas criminal justice system that saw its population rise from 144,520 in 1998, to 163,190 in 1999 to account for the fact that many of Texas state prisoners are being held in institutions dubbed “State jails.” The accounting change was factored in to the Texas prison growth by BJS for both 1990 and 1999 to obtain an accurate growth rate figure by which to compare it with other states. We note that in 1999, the margin of difference between what the principal sources—the Bureau of Justice Statistics (146,180) and the Texas Department of Criminal Justice (149,684) —say are the number of inmates on hand varies no more than 2.4% (3,500).

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In this study, to be consistent, we used the more conservative TDCJ data counts of prison and jail numbers in our projections of the number of people under criminal justice control. These were also the only data that allowed us to make race and age calculations of the Texas' correctional population.

Total prison, state jail and SAFFP populations were taken from the TDCJ reports for August 31, 1999. County jail populations were provided by the Texas Commission on Jail Standards and are from September 1, 1999. The Texas probation statistics and parole figures were provided by the TDCJ and are from August 1999. In order to keep the data consistent, we used only 1999 data, although 2000 statistics were sometimes available.

Table 3: Texans Under Criminal Justice Control, 1999, Race Estimates

| | Black Men (over age 18) | Young Black Men (age 21-29) |
|--|-----------------------------------|---------------------------------------|
| Prison | 60,329 | 18,078 |
| Jail | 23,831 | 7,006 |
| Parole | 28,718 | 8,443 |
| Probation | 67,236 | 19,767 |
| Total: | 180,114 | 53,294 |
| African American Male Population | 752,281 | 183,496 |
| Percentage Under Criminal Justice Control | 24% | 29% |

Since no demographic information was provided for probation numbers, proportions were taken from the Texas probation population in 1996 cited in the Bureau of Justice report *Correctional Populations in the United States 1996*. The population figures for Texas were taken from the Texas State Data Center Projected Population for July 1, 1998, the most recent available that was broken down by race and age. Populations for

the other states and the District of Columbia were provided by the U.S. Census State Population Estimates and are from July 1, 1999. Other state and prison and jail figures for comparison were provided by the Bureau of Justice Statistics Mid-Year Reports 1994-1999, and the BJS Sourcebook of Criminal Justice Statistics 1998. Arrest data by race was provided by the Texas Department of Public Safety and is for 1999.

Part II. Analysis

To calculate the percentage of the prison and jail population that is African American, we added up the black prison and jail population (see methodology for how this population was determined) and calculated what percentage this formed of the total prison and jail population. The calculations detailed above were repeated to determine the percentage of the prison and jail population that is white. There are an estimated 61,325 whites and 87,132 blacks in the Texas prison, jail and SAFP populations. See methodology for how rates and figures were determined.

Race and measuring Disproportionate Minority Imprisonment

To obtain estimates of the number of black men in the age range 21-29 under criminal justice supervision, we first calculated the number of adult black men under criminal justice supervision. To determine the number of black men on parole, we assumed that the percentage of the parole population that was male would also apply to the black population, and thus determined the percentage of black men on parole. To determine the number of black men on probation, we applied proportions of the 1996 Texas probation numbers to the 1999 population. The percentage of black men in prison was applied to the county jail population. To obtain estimates of the number of each demographic group in the age range 21-29 under criminal justice supervision we used the figures provided by the state prison population.

Because no exact age distribution was available for the parole, probation and county jail population, we followed the methodology employed by the Sentencing Project in their 1996 study “Young Black Men and the Criminal Justice System”. We used proportions of each demographic group in prison for the age range 21-29 as an estimate of the county jail, probation and parole age distributions as well. As the Sentencing Project

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approach suggests, this as a conservative estimate for the following reason; the median prison inmate is about 35 years old; probationers are likely to be younger on average than inmates, and parolees older, but probationers far outnumber parolees. While the national average jail population is about ten percent younger than the prison population, jail inmates are also less likely to be African American. Therefore, our assumption is that the two differences are statistically cancelled out. Age distribution for the SAFFP and state jail populations were not averaged into the proportional equation because the facilities represent such a small percentage of the population and are of such a hybrid nature that they would not be statistically representative.

In this report, we used TDCJ data to calculate the “true” incarceration rate for Texas citizens, using the same set of numbers to calculate the white and black rates, and the comparison national rate. Where we compare to other states, we use the incarceration rate numbers calculated by BJS in their Midyear 1999 prison and jail estimates. Again, as with other comparisons between BJS and TDCJ data, the difference between the two rates was marginal (3%). We define incarceration rate as 100,000 the number of prison and jail inmates, divided into the state and national populations, divided by 100,000.

The black incarceration rate in Texas was calculated by adding the numbers of black people housed in the state prisons, state jails, county jails and SAFFP (Substance Abuse Felony Punishment) programs. Because no demographic breakdown was provided for the Texas county jail population, we used proportions from national jail and prison populations to determine the percentage of blacks in the Texas jails. Nationally, the number of black people in the jail population is 5.5 percentage points lower than the number of blacks in the state prison population. Because Texas has a black population of 12%, approximately equal to the percentage of black people in the United States as a whole, we assumed that the black jail population in Texas would also be 5.5 percentage points lower than the percentage of blacks in prison in Texas. Therefore, we concluded that blacks form 38.7% of the county jail population, as opposed to 44.1% of the state prison population.

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Because the percentage of whites in prisons and jails is equal on a national level, the percentage of whites in prison in Texas (30.2%) was used to determine the number of whites in the County Jails. The calculation detailed above was repeated to determine the percentage of the prison and jail population that is white.

The national black incarceration rate was determined by using figures provided by the BJS' Mid-Year Report 1999 for the number of blacks housed in local and state prisons and jails, and the national black population was provided by the U.S. Census Bureau's Population Estimates Program for July 1999.

Data for Hispanics is somewhat unreliable and therefore was not used in the majority of the calculations. In some instances, data on Hispanics was entirely lacking, whereas in other cases the available data reflected questionable accuracy due to differing forms of classification.

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Endnotes

- 1 The principal authors of this report were Dana Kaplan, Vincent Schiraldi and Jason Ziedenberg.
- 2 Beck, Allen J. *Prisoners in 1999* (August 2000). Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics.
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- 13 See methodology.
- 14 Beck, Allen. *U.S. Correctional Population Reaches 6.3 million men and women*. (July 2000) Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2000.
- 15 The Texas incarceration rate was calculated by adding the population of people housed in the Texas State Prisons, the Texas State Jails, the County Jail System, and the Substance Abuse Felony Punishment Program (SAFP), and dividing the Texas population (age 18 and older).
- 16 International incarceration rates taken from Walmsley, Roy. *World Prison Population List*. London, UK: Home Office, Research, Development and Statistical Directorate, 1999.
- 17 Current prison population from *1999 Fiscal Year Statistical Report* (February 2000). Huntsville: Texas Department of Criminal Justice.
- 18 Ward, Mike. “Texas Prisons Officially Log Inmate Number 1,000,000.” *The Austin American-Statesman*, July 26, 2000.
- 19 Walmsley, 1999. *Offender Breakdown: August 31, Daily Maximum Population Reports for Fiscal Years 1988-1998*. Huntsville: Texas Department of Criminal Justice
- 20 Jennings, Diane. “Growing Inmate Population has Lawmakers Scrambling for Solutions.” *The Dallas Morning News*, April 9, 2000.
- 21 *Prison Population by Offender Type, Fiscal Year 1988-1998*. (September 1999) Austin: Criminal Justice Policy Council.
- 22 See methodology.
- 23 See methodology.
- 24 *Correctional Populations in the United States, 1996* (April 1999) Washington, D.C.: U.S. Department of Justice, Bureau of Justice Statistics, 2000.
- 25 A report released by The Sentencing Project in September, 2000, argues that whatever minimal crime reduction may have occurred due to prison expansion, there many other reasons and causes for the declining national crime rates. The study also showed that while Texas lead the nation in the use of incarceration from 1991 to 1998, three other large states-California, Massachusetts and New York-experienced similar or larger reductions in crime with far less imprisonment. Gainsborough, Jenni and Mauer, Marc. *Diminishing Returns: Crime and Incarceration in the 1990s*. Washington, D.C.: The Sentencing Project, 2000.
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