



## **The Changing Racial Dynamics of the War on Drugs**

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## OVERVIEW

For more than a quarter century the “war on drugs” has exerted a profound impact on the structure and scale of the criminal justice system. The inception of the “war” in the 1980s has been a major contributing factor to the historic rise in the prison population during this period. From a figure of about 40,000 people incarcerated in prison or jail for a drug offense in 1980, there has since been an 1100% increase to a total of 500,000 today. To place some perspective on that change, the number of people incarcerated for a drug offense is now greater than the number incarcerated for *all* offenses in 1980.

The increase in incarceration for drug offenses has been fueled by sharply escalated law enforcement targeting of drug law violations, often accompanied by enhanced penalties for such offenses. Many of the mandatory sentencing provisions adopted in both state and federal law have been focused on drug offenses. At the federal level, the most notorious of these are the penalties for crack cocaine violations, whereby crack offenses are punished far more severely than powder cocaine offenses, even though the two substances are pharmacologically identical. Despite changes in federal sentencing guidelines, the mandatory provisions still in place require that anyone convicted of possessing as little as five grams of crack cocaine (the weight of two sugar packets) receive a five-year prison term for a first-time offense.

At the state level, the most longstanding of the current generation of harsh drug laws are New York’s “Rockefeller” drug laws. Adopted in 1973, these laws call for a 15-year prison term for possession of four ounces of narcotics or sale of two ounces. Modest reforms to the law were enacted in 2004, and more substantial reform is likely to be signed into law this year.

The dramatic escalation of incarceration for drug offenses has been accompanied by profound racial/ethnic disparities. Overall, two-thirds of persons incarcerated for a drug offense in state prison are African American or Latino. These figures are far out

of proportion to the degree that these groups use or sell drugs. A wealth of research demonstrates that much of this disparity is fueled by disparate law enforcement practices.<sup>1</sup> In effect, police agencies have frequently targeted drug law violations in low-income communities of color for enforcement operations, while substance abuse in communities with substantial resources is more likely to be addressed as a family or public health problem.

In recent years, there is emerging evidence of potentially significant change in the approach and effects of national drug policy. First, there is increasing public and policymaker recognition of the value of drug treatment as a more appropriate response to substance abuse than incarceration in many instances. In this regard, we can trace the rapid expansion of drug courts. From the inception of the first treatment-oriented courts in 1989, these programs have now grown to more than 1,600 nationally. There is ongoing debate regarding the extent to which these approaches divert defendants from incarceration, but in any case they represent broad support for less punitive policies in regard to substance abuse.

Within the prison system we have seen the beginnings of change as well. In state prisons, from 1999-2005 (most recent data) there was virtually no change in the number of people incarcerated for a drug offense, rising less than 1% from 251,200 to 253,5000 during this time.<sup>2</sup> Without exaggerating the impact of these figures – still record highs – there is nonetheless a stabilizing of these numbers in state prisons, a far different trend than was seen in the 1980s and early 1990s.

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<sup>1</sup> See, for example, Michael Tonry, *Malign Neglect: Race, Crime, and Punishment in America*, Oxford University Press, New York, 1995; Katherine Beckett, Kris Nyrop, and Lori Pfingst, “Race, Drugs, and Policing: Understanding Disparities in Drug Delivery Arrests,” *Criminology*, 44, 1: 105-138.

<sup>2</sup> All data on state prison populations taken from annual prison reports of the Bureau of Justice Statistics.

This stability in the number of drug offense incarcerations is intriguing, but hides an even more dramatic change – a significant shift in the racial composition of people incarcerated for a drug offense. Our analysis below documents these striking trends:

- The number of African Americans in state prisons for a drug offense declined by 21.6% from 1999-2005, a reduction of more than 31,000 persons.
- The number of whites incarcerated for a drug offense rose significantly during this period, an increase of 42.6%, representing an additional 21,000 persons in prison.

This report examines these shifting dynamics in the context of the criminal justice system to explore possible explanations for these changes. We then assess the implications of these changes for both substance abuse policy and considerations of racial justice.

## CHANGING RACIAL DYNAMICS OF INCARCERATION FOR DRUG OFFENSES

Since the inception of the war on drugs, African American communities have been subject to high levels of arrest and incarceration for drug offenses. As of 2005, African Americans represented 12% of the total population of drug users, but 34% of those arrested for drug offenses, and 45% of those in state prison for a drug offense. Many of these disparate rates of supervision in the criminal justice system still persist, but within state prisons there is clearly a change taking place in recent years. We can see this in Table 1 below, examining the number of persons incarcerated for a drug offense by race and ethnicity for 1999-2005.

**TABLE 1: DRUG OFFENDERS IN STATE PRISON BY RACE/ETHNICITY, 1999-2005**

	1999	2000	2001	2002	2003	2004	2005	Change, 99-05
All Drug Offenders	251,200	251,100	246,100	265,000	250,900	249,400	253,300	0.8%
White #	50,700	58,200	57,300	64,500	64,800	65,900	72,300	42.6%
White %	20.2%	23.2%	23.3%	24.3%	25.9%	26.4%	28.5%	
Black #	144,700	145,300	139,700	126,000	133,100	112,500	113,500	-21.6%
Black %	57.6%	57.9%	56.8%	47.5%	53%	45.1%	44.8%	
Hispanic #	52,100	43,300	47,000	61,700	50,100	51,800	51,100	-1.9%
Hispanic %	20.7%	17.2%	19.1%	23.3%	20%	20.8%	20.2%	

Several trends are striking in this period:

- First, the number of people serving prison time for a drug offense is virtually unchanged, increasing by less than 1% over the six-year time frame. While this may not appear dramatic, it needs to be considered in the context of the 1200% growth in the state prison population for drug offenses from 1980 to 1999.
- Second, while the overall number of persons serving time for a drug offense has not changed, the racial composition has shifted significantly. The number of African Americans declined by more than 31,000 during this period, a 21.6% drop. In 1999, African Americans had constituted 57.6% of those serving time in prison for a drug offense; by 2005 this figure had declined to 44.8%.<sup>3</sup>
- Conversely, the number of whites serving time for a drug offense rose substantially during this period, a 42.6% increase from 50,700 in 1999 to 72,300 in 2005. As a result, the white share of drug offense incarceration rose from 20.2% to 28.5%. The Hispanic figures were virtually unchanged during this time, with a modest 1.9% drop overall. (Figures do not add to 100 percent due to other race categories.)

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<sup>3</sup> Data analysis procedures adopted by the Bureau of Justice Statistics in 2004 affected the categorization of persons identifying with two or more races (2.9% of the total), and had the result of a modest reduction in the number of persons identified as non-Hispanic white and black.

## ASSESSING THE DECLINING BLACK PROPORTION OF DRUG OFFENSES

In looking at trends in state incarceration, clearly we are seeing the end result of 50 state law enforcement and sentencing systems that cumulatively produce these figures. Therefore, one needs to be cautious about interpreting trends. But in order to understand these dynamics we can look at a series of indicators to try to identify causal factors, both within and outside the criminal justice system.

### Tradeoff with Federal Prison Population

We begin by looking at the composition of the federal prison population. A simple explanation for the declining black population in state prisons might be that federal prosecutors had enhanced drug prosecutions disproportionately among African Americans, and therefore merely shifted the location of imprisonment. Table 2 below displays data on the racial/ethnic dynamics of incarceration in federal prisons for drug offenses from 1999-2005.<sup>4</sup>

TABLE 2: DRUG OFFENDERS IN FEDERAL PRISON BY RACE/ETHNICITY, 1999-2005

	1999	2000	2001	2002	2003	2004	2005	Change, 99-05
All Drug Offenders	71,757	76,041	80,888	84,674	89,325	91,646	95,211	32.7%
White #	16,492	17,547	18,303	19,346	20,539	21,176	22,251	34.9%
White %	23%	23.1%	22.6%	22.9%	23%	23.1%	23.4%	
Black #	31,097	33,068	35,537	36,718	38,341	39,353	40,812	31.2%
Black %	43.3%	43.5%	43.9%	43.4%	42.9%	42.9%	42.9%	
Hispanic #	23,095	24,337	25,939	27,388	29,010	29,493	30,279	31.1%
Hispanic %	32.2%	32%	32.1%	32.4%	32.5%	32.2%	31.8%	

<sup>4</sup> Data on federal prison population provided by the Federal Bureau of Prisons.



As we can see, there was a significant increase – just under 10,000 – in the number of African Americans incarcerated for a drug offenses during this time. But this 31.2% increase was virtually identical to the increase for Latinos and slightly less than that for whites. This increase, therefore, represents an overall expansion of federal resources for drug prosecutions, but not one with enhanced differential effects on African Americans. The only change of significance was a modest rise in 2001 which included the absorption of incarcerated persons in the Washington, D.C. prison system into the federal system, but the overall increased number of drug offenders of all races from Washington, D.C. was just an additional 455 persons that year. So, there is no obvious change in the relative proportion of state and federal incarcerations that would explain the decline in the number of African Americans in state prisons for a drug offense.

### **Rates of Drug Use**

A second area of inquiry relates to drug use. If, for example, African American drug use declined during this time period, then that might ultimately result in reduced incarceration for drug offenses. But as seen below in Table 3, there is little change in this regard. Data on regular drug users, compiled by household surveys conducted by the Department of Health and Human Services,<sup>5</sup> has consistently shown over many years that the number of drug users generally reflects the relative racial/ethnic proportion of the national population. That is, whites, blacks, and Latinos use drugs at relatively similar rates. African Americans constitute about 12% of the national population, and from 1999-2005 comprised between 11.5-14.0% of all regular drug users. Similar stability can be seen in the white and Hispanic proportions of drug users during this time. So in this case as well, there are no changes that are

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<sup>5</sup> Data on rates of drug use from the national household surveys of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services. “Regular” drug users are the most frequent consumers of drugs, as measured by “used drugs in the past month” in the surveys. Even this measure, though, is somewhat imprecise, since it conflates people who use drugs on a daily basis with those who use drugs “regularly” but not daily. For these purposes, though, the overall stability in rates of use is the most significant aspect of the analysis.

significant enough to explain the declining African American figures in state imprisonment.

**TABLE 3: RACIAL/ETHNIC PROPORTION OF REGULAR DRUG USERS, 1999-2005**

Year	White %	Black %	Hispanic %
1999	72.1	13.4	10.2
2000	74.8	11.5	9.1
2001	74.2	11.9	9.9
2002	71.8	13.3	10.7
2003	71.0	12.3	12.2
2004	70.7	12.7	11.7
2005	69.2	14.0	12.4

It is important to note, though, that data on drug use are limited for two key reasons. First, it is much more likely that drug  *sellers*, rather than  *users*, will receive prison sentences. But measuring drug selling is challenging, as there are no reliable surveys that provide data. Persons who use drugs, though, generally report that they purchased their drugs from someone of their own race.<sup>6</sup> Therefore, if drug use is roughly proportional to the overall population, drug selling rates are likely to be in that range as well.

A second limitation of using data on drug use is that it has been widely documented that drug arrests are far from responsive to actual rates of drug use. As a result of a variety of law enforcement policies and practices, people of color are far more likely to be subject to drug arrests than are whites who use or sell drugs. Nonetheless, the available data at least convey that there are no changes in rates of drug use overall that contribute to the prison data trends.

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<sup>6</sup> K. Jack Riley, *Crack, Powder Cocaine, and Heroin: Drug Purchase and Use Patterns in Six U.S. Cities*, National Institute of Justice, December 1997.

## Trends in Arrest Rates

Following the trajectory of the criminal justice system, we can then examine trends in drug arrest rates that might offer an explanation for the change in black incarceration. Overall, we see in Table 4 that in the 1999-2005 period drug arrests continued to rise for all but one year, an overall increase of 19% during this time.<sup>7</sup> This trend continues a pattern that has been virtually unabated since the mid-1980s.

TABLE 4: DRUG ARRESTS, 1999-2005

Year	Number of Drug Arrests
1999	1,557,100
2000	1,579,566
2001	1,586,902
2002	1,538,813
2003	1,678,192
2004	1,746,570
2005	1,846,351

In looking at the potential impact of drug arrests on incarceration, though, it is important to disaggregate the arrest totals. In recent years, there has been a sharp increase in the number of arrests for marijuana offenses, which now total more than 40% of all drug arrests.<sup>8</sup> The vast majority of marijuana arrests, more than 80%, have been for possession offenses. Since an arrest for marijuana possession rarely results in a prison term, it is more useful for these purposes to analyze arrest patterns without these offenses, which lowers the arrest figures by nearly 40%.

<sup>7</sup> Data on arrests taken from the annual *Uniform Crime Reports* of the FBI.

<sup>8</sup> Ryan S. King and Marc Mauer, *The War on Marijuana: The Transformation of the War on Drugs in the 1990s*, The Sentencing Project, May 2005.

If we then examine drug arrests by race, excluding those for marijuana possession, we see a significant shift.<sup>9</sup> As seen in Table 5 the proportion of adult African Americans arrested for one of these drug offenses declined from 40.1% in 1999 to 33.2% in 2005, for an overall decline of 17.2% during this period. (FBI arrest data provide breakdowns by race, but not ethnicity. Therefore there is no means of tracking changes for Latino arrestees, most of whom are incorporated in the white category.) The 17.2% decline in the black proportion of arrests approaches the scale of the 21.6% decline in the number of African Americans in state prison for a drug offense during this period.

**TABLE 5: BLACK PROPORTION OF DRUG ARRESTS, EXCLUDING MARIJUANA POSSESSION, 1999-2005**

<b>Year</b>	<b>Black %</b>
<b>1999</b>	40.1
<b>2000</b>	39.3
<b>2001</b>	39.1
<b>2002</b>	35.8
<b>2003</b>	33.8
<b>2004</b>	33.1
<b>2005</b>	33.2

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<sup>9</sup> Data calculated from drug arrest figures by race provided by the Uniform Crime Reports division of the FBI.

## Trends in Drug Offense Convictions

Following the changes in patterns of drug arrests we then examine data on felony drug convictions by race. Data from the Bureau of Justice Statistics are analyzed every two years,<sup>10</sup> as seen in Table 6. In this area, from 1998-2004 we can see a significant decline in the black proportion of drug convictions, 13% overall (from 53% to 46%) and 17% (from 57% to 47%) for drug trafficking offenses, which are the drug charges most likely to result in a prison term. The decline in convictions for trafficking offenses is almost identical to the proportional decline in drug arrests for African Americans. All other things being equal, a declining proportion of black drug convictions should lead to similar reductions in black incarceration for drug offenses. The decline in the conviction rate is not quite as large as the overall drop in incarceration for African Americans, but clearly represents a substantial portion of that change. (As with data on arrests, drug conviction data do not record ethnicity, so there is no means of tracking convictions for Latinos.)

TABLE 6: PROPORTION OF DRUG CONVICTIONS BY RACE, 1998-2004

<b>WHITE</b>	<b>1998</b>	<b>2000</b>	<b>2002</b>	<b>2004</b>
All Drug Convictions	46%	46%	55%	52%
Possession Convictions	55%	49%	61%	54%
Trafficking Convictions	42%	44%	51%	51%
<b>BLACK</b>	<b>1998</b>	<b>2000</b>	<b>2002</b>	<b>2004</b>
All Drug Convictions	53%	53%	43%	46%
Possession Convictions	44%	50%	36%	44%
Trafficking Convictions	57%	55%	47%	47%

<sup>10</sup> See *Felony Sentences in State Courts* reports of the Bureau of Justice Statistics.

## **FACTORS CONTRIBUTING TO THE DECLINE IN AFRICAN AMERICAN DRUG OFFENSE INCARCERATION**

The trends we are observing are relatively recent and therefore will need to be assessed over time in order to draw firm conclusions regarding the driving forces contributing to the prison declines we have documented. But there are several possible systemic changes that may provide parts of the explanation.

### **Changes in Drug Use Patterns**

While the overall racial distribution of drug users has not changed substantially during this period, there have been some changes in the degree to which various drugs are used. In particular, the use of crack cocaine has declined substantially since the peak years of the late 1980s. An analysis published by the National Institute of Justice documented that crack use had become much less popular, particularly among young people, by the 1990s.<sup>11</sup>

As has been true of other new drug phenomena over many years, the peak years of the crack cocaine “epidemic” were in retrospect relatively short-lived. As historian David Musto has documented, drug epidemics often begin with a new drug becoming rapidly embraced by young people and others.<sup>12</sup> After a few years, the novelty of the drug wears off and the harmful nature of the substance becomes increasingly well understood. This generally results in a change in community norms to produce negative associations with the drug and hence, declining use among potential new initiates.

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<sup>11</sup> Andrew Golub and Bruce D. Johnson, *The Rise of Marijuana as the Drug of Choice Among Youthful Adult Arrestees*, National Institute of Justice, June 2001.

<sup>12</sup> David F. Musto, *The American Disease: Origins of Narcotic Control*, New York: Oxford University Press, 1999.

### **Changes in Drug Selling Patterns**

As use of crack cocaine was declining in the 1990s, so too were the methods of its sale in many cases. In criminologist Richard Curtis's ethnographic studies in Brooklyn, N.Y., he found that by the late 1990s many drug sellers had shifted their transactions to indoor locations as well as limited their sales to people known to them.<sup>13</sup> Regardless of the level of drug selling, such a shift had consequences for communities and the court system. During the early years of the war on drugs, law enforcement activity had been heavily focused on urban crack markets. This was a contentious strategy. Police officials generally argued that the open-air drug markets that were common in many disadvantaged communities were disruptive to community life and needed to be challenged. Civil rights advocates and others countered that the drug war was unfairly targeting drug activity in communities of color, as well as underemphasizing approaches involving prevention and treatment. Regardless of which position one may have supported, the decline in crack use, along with changes in patterns of distribution, made it both more difficult and arguably less necessary for law enforcement to exert such a heavy presence in these communities.

### **Changes in Arrest Patterns**

As we have seen, there has been a steady decline in the black proportion of drug arrests (excluding marijuana possession) during the period 1999-2005. Unfortunately, FBI arrest data categories are too broad to permit an analysis of changes in arrest by specific type of drug, so there is no means by which to assess whether changes in relative rates of use of crack cocaine or other drugs are driving these trends. But given the changes in rates of crack cocaine use and distribution patterns we have observed, it seems likely that at least part of the declining African American share of drug arrests is related to these developments.

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<sup>13</sup> Richard Curtis, "The Improbable Transformation of Inner-City Neighborhoods: Crime, Violence, Drugs, and Youth in the 1990s," *Journal of Criminal Law and Criminology*. Summer 1998, Vol. 88, 4.

### **Impact of Drug Courts or other Diversion Programs**

Since the inception of drug courts in 1989 there has been a broad expansion of interest and programming in this area. These courts vary significantly in many ways, including criteria for admission, type of treatment programming, and impact on sentencing. There remains debate regarding the degree to which these courts may have a “net-widening” effect; that is, do they divert people from a term of incarceration or bring under court supervision people who might otherwise not be processed in the court system? There are not yet definitive findings in this regard, but it is likely that at least in some jurisdictions there are people charged with a drug offense who are diverted from a prison term due to drug court programming. Whether such an outcome disproportionately benefits African Americans is in part a function of the location of such diversion programs. To the extent that they are located in urban areas with heavy concentrations of people of color as defendants, this may be the case. In Brooklyn, New York, for example, the longstanding Drug Treatment Alternative to Prison program operated by the District Attorney’s office reports that 46% of its defendant population is African American and 46% Hispanic.<sup>14</sup> Scholars such as Michael O’Hear, though, contend that the eligibility criteria for drug court programs and length of prison terms for unsuccessful participants may actually disadvantage African American defendants.<sup>15</sup>

### **Impact of Sentencing Policies**

The 21.6% decline in the number of African Americans incarcerated for a drug offense is clearly consistent with declines of that magnitude in the black rate of arrest and conviction during this period. In addition, to the extent that some portion of this decline was related to declining arrests for crack cocaine offenses, this factor may have contributed disproportionately to the decline. At the federal level there has

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<sup>14</sup> Drug Treatment Alternative to Prison, *Seventeenth Annual Report*, May 2008.

<sup>15</sup> Michael O’Hear, “Rethinking Drug Courts: Restorative Justice as a Response to Racial Injustice,” *Stanford Law and Policy Review*, Vol. 20, April 2009.



been a great deal of attention to the broad sentencing disparity between punishments for crack cocaine compared to powder cocaine offenses. But 13 states also maintain a distinction in sentencing between the two drugs, albeit not as extreme as in the federal system.<sup>16</sup> Therefore, to the extent that African Americans have been disproportionately charged with crack cocaine offenses in the past, it is likely that their sentences in these states were more severe than for persons convicted of other drug charges.

It is important to note as well that despite the apparent declining impact of crack cocaine on arrests and incarceration at the state level, there has been no corresponding decline at the federal level. The number of federal prosecutions for crack offenses remains substantial, and as we have seen, the overall number of people in federal prison for a drug offense rose by 32.7% from 1999 to 2005. Racial disparities persist as well, with African Americans constituting more than 80% of the people convicted of a federal crack cocaine offense.

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<sup>16</sup> United States Sentencing Commission, *Cocaine and Federal Sentencing Policy*, May 2007, p. 98.

## **THE RISING WHITE PROPORTION OF DRUG OFFENSE PRISON TERMS**

As we have seen, the decline in black incarcerations for drug offenses has been matched by a substantial rise in whites behind bars for drug offenses. Several possible explanations may be at play in this regard.

First, we have seen over time that drug offense arrest rates are largely a function of law enforcement practices, rather than absolute levels of drug use or selling. That is, police agencies have in many cases concentrated resources on stemming drug traffic in low-income communities of color. This is often justified by arguments that drug selling in such neighborhoods is more likely to be disruptive to the community due to open-air drug markets and therefore requires a law enforcement response. Such an assertion is challenged by the argument that drug selling in many white communities can be harmful to individuals and families as well, and that a heavy emphasis on law enforcement diverts resources from prevention and community-building services that would be more beneficial.

Regardless of how one sees these issues, there is little doubt that law enforcement practices for many years disproportionately targeted minority neighborhoods. But as noted above regarding the changing composition of (non-marijuana possession) drug arrests, it is possible that whites are increasingly comprising a larger share of the drug arrests that are more likely to result in a prison term.

Another possibility is that with the rise of methamphetamine in some states – a drug used more by whites and Latinos than African Americans – increasing prosecutions and prison terms are contributing to the white rise in imprisonment. While there is some data to suggest that there are increasing numbers of persons serving prison sentences for meth offenses, it is not clear what proportion of the overall increase is due to this factor.

Looking at data from states with reported high rates of methamphetamine use, we find some significant increases in imprisonment during the years covered in this analysis. In Minnesota, an analysis produced by the Department of Corrections documented a substantial increase in the number of persons incarcerated for a meth offense, rising from 230 in 2001 to 1,127 in 2005, although there is no published data on the racial composition of this population.<sup>17</sup> This increase accounted for almost 90% of the growth of drug offense incarceration during this period.

In Iowa, a state with reported significant rates of meth use, the growth in incarceration began prior to this time frame but continued throughout. Methamphetamine offenses as a proportion of drug admissions increased from 31% in 1995 to 68% by 2000, but then remained fairly steady through 2005 (66%), although the overall number of persons admitted for a drug offense continued to rise.<sup>18</sup> Extrapolating data from the Iowa report suggests that meth offenses accounted for about three-fourths of the 395 person rise in drug admissions for the period 1999-2005. Note, though, that admissions data are not necessarily representative of the offense distribution of persons incarcerated in prison, due to differing lengths of stay for various offenses.

While the data from these states lends support to the idea that increased imprisonment for methamphetamine offenses is likely to have been responsible for some portion of the overall white increase in incarceration, the relatively modest number of states with a significant methamphetamine-using population also suggests that it is probably not the only explanatory factor in this regard.

As with the examination of African Americans in prison for a drug offense, assessing the rise in the number of whites in prison is a complex undertaking and one that reflects criminal justice processing in all 50 states. Gaining an understanding of these

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<sup>17</sup> *Methamphetamine Offenders in Prison*, Minnesota Department of Corrections, November 2005.

<sup>18</sup> *Iowa Prison Population Forecast, FY 2005-2015*, Iowa Division of Criminal and Juvenile Justice Planning, October 2005, p. 11.

dynamics will require a sustained examination in a variety of jurisdictions to observe trends in programming and decision-making.

## CONCLUSION

The decline in the number of African Americans incarcerated for drug offenses is a significant development, coming as it does after several decades of unprecedented expansion in incarceration of people of color. As we have seen in this analysis, available data only suggest some of the factors that may have produced this outcome, and it behooves policymakers and researchers to examine these trends in greater detail.

While these trends are welcome as a possible indication of a change in policy and practice, they need to be tempered by an assessment of the overall scale of incarceration and punishment. Even with the declines noted here, there are still 900,000 African Americans incarcerated in the nation's prisons and jails. To place this in context, at the time of the *Brown v. Board of Education* decision in 1954, that figure was 100,000. So despite a half century of advances in social and economic opportunity, the role of incarceration in the lives of African Americans persists to a degree that was unimaginable just a few decades ago.

Many of the driving forces that have contributed to these record numbers still remain very much in place. The high level of drug arrests, widespread adoption of mandatory sentencing policies, increase in length of prison terms, and other policies continue to drive the prison population even as crime rates have generally declined for more than a decade. And despite the decline in the number of African Americans incarcerated for a drug offense, the overall record number of people in prison for a drug offense still persists. While the racial dynamics of incarceration for drug offenses have shifted, there remains the question of whether massive imprisonment for drug problems is either an effective or compassionate strategy. If we are to see any sustained reduction in incarceration there will need to be a broad scale reexamination of these policies.

Elements of such a change are beginning to take shape. In recent years many states have begun to reconsider the wisdom of some of their overly punitive sentencing policies and have moved to scale these back or promote a greater array of diversionary programs. Increasingly, these initiatives are propelled by fiscal concerns, as policymakers recognize that skyrocketing corrections costs cut into public support for higher education and other vital services. At the federal level, the U.S. Sentencing Commission has enacted changes in the sentencing guidelines for crack cocaine offenses, and members of Congress are considering proposals to reform the mandatory penalties for crack offenses. Legislative action at the federal level is particularly critical since, as we have seen, the number of persons incarcerated for a drug offense continues to rise even as the state figures have stabilized.

It remains to be seen whether these initiatives represent the beginnings of substantial change in the approach to substance abuse and public safety, or are merely modest reforms with little long-term impact. At a time when the nation is considering broad scale change in a host of areas, this is an appropriate moment to reconsider our public safety policy as well.



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