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# TIPPING POINT

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MARYLAND'S OVERUSE OF INCARCERATION  
AND THE IMPACT ON PUBLIC SAFETY

A POLICY BRIEF  
MARCH 2005

# TIPPING POINT

Maryland's Overuse of Incarceration, and the Impact on Community Safety

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By Eric Lotke and Jason Ziedenberg

March 2005

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**“High levels of incarceration concentrated in impoverished communities has a destabilizing effect on community life, so that the most basic underpinnings of informal social control are damaged. This, in turn, reproduces the very dynamics that sustain crime.”** — Todd Clear, Professor of Criminal Justice, at the John Jay College of Criminal Justice, City University of New York, in *Invisible Punishment* (2003).

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The size of Maryland's prison system has tripled in recent years, rising from 7,731 in 1980 to 24,186 in 2003.<sup>1</sup> This expansion in incarceration was driven mainly by drug imprisonment and drug addiction, and those most affected were African Americans, Latinos, and other groups of color. Previous research by the Justice Policy Institute showed that in Maryland, although African Americans constitute 28% of the population, they represent 68% of people arrested for a drug offense and 90% of people incarcerated for a drug offense.<sup>2</sup> Furthermore, African American men in Maryland are imprisoned at nearly 8 times the rate of white men.<sup>3</sup>

This policy brief updates and continues the analysis contained in our October 2003 report, *Race and Incarceration in Maryland*, and highlights the large number of people being removed from Maryland communities and its impact on public safety. We now find that on any given day:

- In Baltimore, nearly one in five young African American men, aged 20 to 30, is in custody.
- Statewide, approximately one in ten young African American men, aged 20 to 30, remain in custody.

The overall impact is to depopulate entire communities of young men. In addition to the individuals who are entirely removed, additional others are on probation or parole. While partially able to participate in the life of the community, these individuals remain saddled with restrictions that make it more difficult to live a normal life. The result is communities that bear the mark of the justice system at every turn.

Unfortunately, this condition is not new. Since 1992, when the National Center on Institutions and Alternatives reported that 56% of young African American men in Baltimore were under some form of criminal justice control, Maryland has added approximately 6,000 people to its prison system.

Despite the dramatic rise in incarceration, Maryland still has a festering problem with serious violent crime, especially in the neighborhoods and communities that have been most impacted by the law enforcement and criminal justice response to crime.

This policy brief highlights what we are beginning to learn about the complex relationship between incarceration and community safety. It calls into question the expectation that increased incarceration yields increased safety. Indeed, excessive levels of incarceration may carry their own risks to safety. Recent scholarship suggests that the high incarceration rates in this country may be undermining the social cohesion that holds communities together. The loss of entire segments of a population may reduce communities' own, internal capacity to maintain normal relationships, sustain a vibrant economy, and keep crime low. In other words, the overuse of incarceration in the United States, and in the state of Maryland, may perpetuate the very conditions it is intended to solve.

This policy brief uses recent scholarship to examine local impacts of incarceration, and its impact on community safety. The brief will examine the impact of the increased use of incarceration on the state of Maryland as a whole, the African American community statewide, and specific communities such as the city of Baltimore.

## **I. The Scale of Incarceration: A National Perspective**

Prisons are a growing part of life in America. The United States currently holds 2.1 million people in prison or jail,<sup>4</sup> and one in every 15 Americans born in 2001 is expected to serve at least a year in prison sometime during their lives.<sup>5</sup> In some towns, where factories have closed or jobs moved overseas, prisons are the largest employer and the economic lifeblood of the community. Adding the number of individuals on probation and parole, there are nearly 7 million people under correctional supervision in America,<sup>6</sup> more people than in our eight least populous states combined. Organized differently, these people would have 16 votes in the United States Senate.

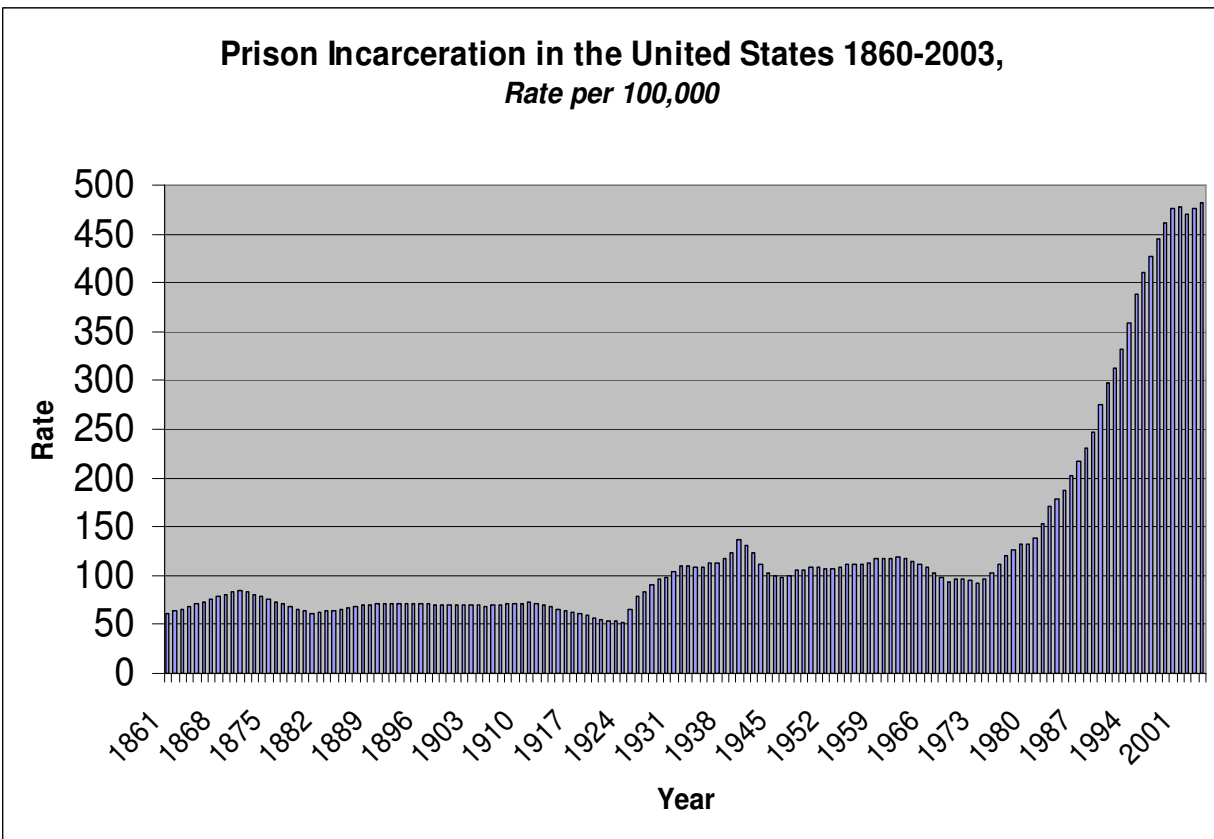
It has not always been like this. America opened its first walled penitentiary in Philadelphia in 1829.<sup>7</sup> For the next 150 years, the number of people in prison and jail climbed in rough proportion to the U.S. population.<sup>8</sup> Around 1980, the incarceration rate began to rise, and over the next twenty years, the incarcerated population of the United States quadrupled.

By the 1990's, the U.S. was opening on average one new prison or jail every week. Today, the United States has the largest prison population in the world and the highest incarceration rate in the world. It took America 160 years to incarcerate its first million people, but just twelve years to incarcerate the second million.

Figure 1: U.S. PRISON INCARCERATION RATE, 1860 TO 2003

**It took America 160 years to incarcerate its first million people, but just 12 years to incarcerate the second million**

Source: Cahalan, Margaret W., U.S. Department of Justice, Bureau of Justice Statistics.



*Historical Corrections Statistics in the United States, 1850-1984 (1986). U.S. Department of Justice, Bureau of Justice Statistics, Prisoners series. This figure shows prisons only, not jails or juvenile facilities. For some of the oldest years, data is only available in decennial increments: 1860, 1870, 1880, and 1890. Data is also available for 1904, 1910 and 1923. During the gaps between these years, a best-fit line was drawn between each original data point. After 1923, original data is available annually.*

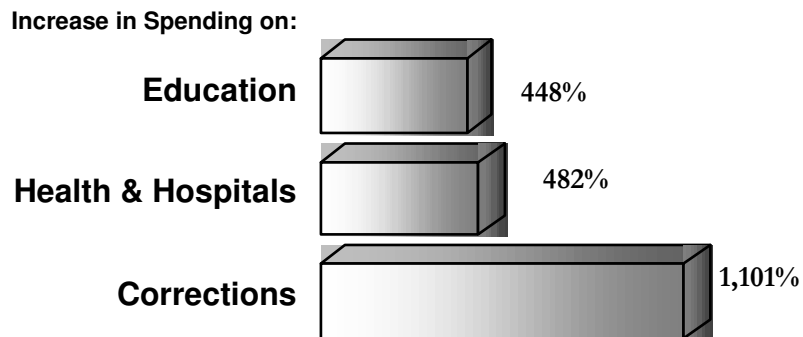
This heavy use of incarceration devours resources. Law enforcement has been the fastest rising expenditure in most state budgets since 1977. In 2001, the U.S. spent a record \$167 billion on prisons, law enforcement, and criminal justice.<sup>9</sup>

These expenditures limit our ability to educate our young, provide health care, support the elderly, and to create programs to prevent the next generation of young people from spending their lives in and out of jail.

As Figure 2 reveals-between 1977 and 2001, state, and local education spending (preponderantly primary and secondary schools) increased by 448%, yet spending on corrections increased by 1101%.

Figure 2: Total State and Local Expenditure, 1977 to 2001

***State and local spending on corrections increased faster than on other programs***



*Source: Bauer, Lynn U.S. Department of Justice, Bureau of Justice Statistics, Justice Expenditure and Employment in the United States, 2001 (May 2004), figure 3.*

## **II. The Scale of Incarceration: Maryland**

Incarceration in Maryland mirrors national trends. In 1979, there were 7,731 people in Maryland prisons. In 2003 there were 24,186 people in Maryland prisons.<sup>10</sup> During this time, African Americans comprised three-quarters of the state's prison growth.

In addition, approximately 11,976 additional individuals are confined in local jails throughout the state.<sup>11</sup> Specifics such as racial composition are difficult to determine because jail records are not kept centrally, but we examined jails in Baltimore City and other large counties, collectively representing approximately half of the state. Altogether, a total of 36,162 people are presently held in prison or jail in the state of Maryland.

Prisons and jails are only one indicator of the growth of the state's criminal justice sector. The number of people impacted by this system grows still larger when the 97,099 people on probation and parole are included.<sup>12</sup> Among these, approximately 58,000 are African American.<sup>13</sup>

Figure 3 indicates the overall size of the Maryland criminal justice system. Overall, roughly 2.5% of all people in Maryland are under some kind of criminal justice control.<sup>14</sup>

Figure 3: <b>The Size of Maryland's Criminal Justice System</b>	
Prison	24,186
Jail	11,976
Probation and Parole	97,099
<b>Total</b>	<b>133,261</b>

Although not incarcerated, people on probation or parole remain under the control of the system. Typically they are required to attend appointments, ordered not to drink alcohol or live in certain places, and required to submit to regular urinalysis. In theory they should also be eligible for some kind of training or treatment, but resources are often scarce and supportive interventions rarely materialize on the scale of punitive ones. Most importantly, the freedom of these individuals is conditional; they are often returned to prison or jail for failing terms of their supervision, whether by committing a new crime or simply violating a technical rule. Approximately one in every five prison admissions are for violations of parole.<sup>15</sup> Additional prison admissions are for violations of probation.

The purpose of these criminal justice controls is to make it less likely that these individuals will become engaged in criminal activity. Yet some of the conditions may actually create obstacles to efforts to reintegrate people into a law-abiding society. People with criminal records in Maryland face barriers in obtaining public housing, cannot receive certain kinds of social service assistance, and depending on the charge, restrictions on or voter disenfranchisement.<sup>16</sup> They must sometimes leave work early for parole appointments, spend their own money on bus fare, and be visited at work by people who identify themselves as parole officers. These conditions can set them up to fail. No accounting of the impact of prison can exclude people for whom one missed appointment, one positive urine test, or one minor infraction may return them to confinement.

Of particular interest to measurements of the economic health of the state, many people among the 97,000 Marylanders on parole or probation face restrictions in getting certain kinds of jobs, including home health care and nursing. Employers are free to inquire about arrests not leading to conviction, and the state has no standards for prohibiting employment discrimination by private employers.

In tough economic times, people returning from prison or on probation who do not have the skills needed for a changing, technologically advanced labor market are competing for a smaller pool of low skilled jobs with the growing ranks of people forced off the public assistance rolls.<sup>17</sup>

### **The legal barriers people with criminal records face in Maryland**

- Restrictions in obtaining employment even when arrest does not lead to conviction.
- Restrictions in obtaining public housing even when arrest does not lead to conviction.
- Restrictions in receiving TANF assistance and food stamps when convicted of a drug-related felony.
- Restrictions in obtaining drivers' licenses after convictions of certain crimes.
- Restrictions from becoming foster and/or adoptive parents.
- Personal criminal records available to private parties and non-law enforcement agencies.
- Restrictions to voting when convicted of an "infamous" (non-violent) crime.
- Banned from voting when convicted of a second or subsequent violent crime.

*Source: Samuels, Paul and Mukamal, Debbie, After Prison: Roadblocks to Reentry – A Report on State Legal Barriers Facing People with Criminal Records. Legal Action Center, 2004.*<sup>18</sup>

Because the raw numbers are so high and they are concentrated within small categories of the population, further research has been undertaken to measure the impact on the parts of the population that are the most involved in the justice system – notably young African American men. Young men of all races and ethnicities are disproportionately involved in crime, but young African American men are most caught up in the justice system. As Figure 4 indicates, this policy brief is the latest in a line of research examining the reach of the justice towards this population.

**Figure 4.**  
**The Impact on African American Men: A National and Historical Context**

Year	Study	Finding
1987	California Attorney General	66% of California African American males ages 18-30 are arrested at some point during that age range. <sup>19</sup>
1990	Sentencing Project	24% of African American men 20-29 nationally are in prison, jail, on probation or parole on any given day. <sup>20</sup>
1990	RAND Corporation	33% of African American males in Washington, D.C. had been arrested and charged with a criminal offense in the 3 years between ages 18-21. <sup>21</sup>
1992	National Center on Institutions and Alternatives	56% of Baltimore's African American males 18-35 are involved in the criminal justice system – prison, jail, probation, parole, out on bond or warranted on a warrant. <sup>22</sup>
1995	Sentencing Project	32.2% of African American males 20-29 are in prison or jail, on probation or parole. <sup>23</sup>
2003	U.S. Department of Justice	32.2% of African American boys born in 2001 will serve at least one year in prison during their lives. <sup>24</sup>

This policy brief focuses on African American men between the ages of 20 and 30. According to the U.S. Census Bureau, there are 95,271 individuals of this description in the state of Maryland. Of these, 10,739 are incarcerated on any given day. An additional 20,265 live on probation or parole. Thus, as Figure 5 indicates, a total of 29,212 African American men in their twenties in Maryland are under the control of the criminal justice system – in prison or jail, probation or parole.

**Figure 5.**

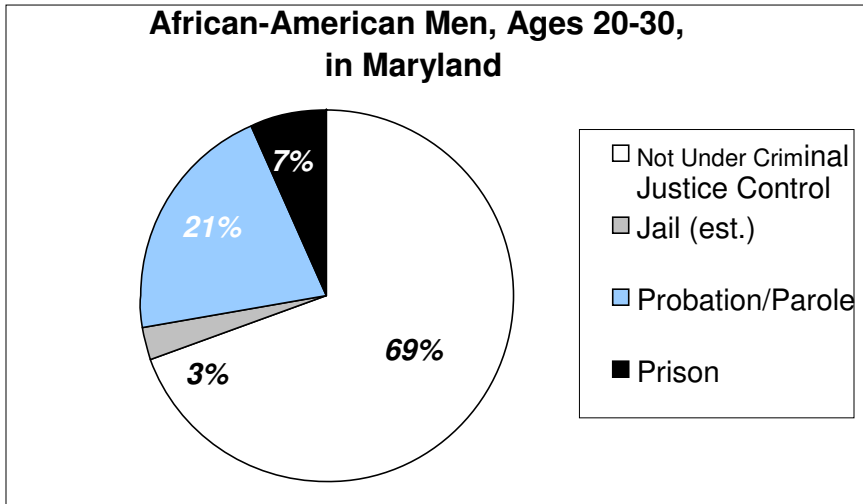
African American Men aged 20-30 in Maryland Under Criminal Justice Control		
	<b>Statewide</b>	Baltimore
Total population	95,271	<b>25,215</b>
In Prison	6,289	<b>3,226</b>
In Jail	2,658	<b>1,269</b>
On Probation/Parole	20,265	<b>8,680</b>
<b>Total Supervised</b>	<b>29,212</b>	<b>13,175</b>

*Source: Total Population data provided by the U.S. Census Bureau American FactFinder. Prison, Probation/Parole, and some Baltimore data provided upon request by the Maryland Department of Correctional Services and Public Safety. Oct. 2004. The number of African American men in jail statewide is an incomplete estimate, based on surveys of the ten largest counties and the Baltimore City Detention Center.*



Figure 6 represents these numbers as fractions of the whole. Approximately 30% of the young African American men in the state of Maryland are under justice control on any given day. Approximately 10% are actually behind bars.

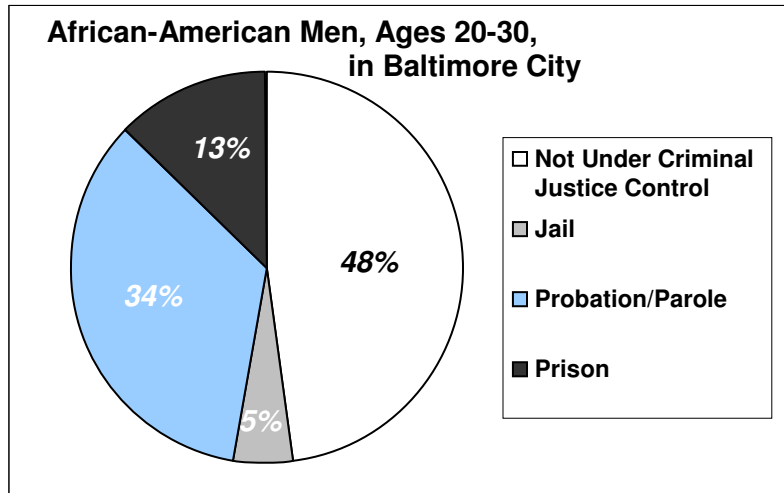
**Figure 6.**



Source: See Figure 5.

The concentration becomes even more vivid when analysis focuses on the city of Baltimore. In this city of 651,154 people, 25,215 of them are African American men between the age of 20 and 30.<sup>25</sup> More than half (52%) of these young men are under justice control, in prison or jail, probation or parole.<sup>26</sup> Nearly one in five of them are actually in custody on any given day. These individuals who in another time in this country would have been working, taking care of children, or contributing to their community are now behind bars. Under the name of public safety, they have been effectively removed from their families, their neighborhoods, their local economies, and our society. See Figure 7.

**Figure 7**



Source: See Figure 5.

### **III. Prisons: A Financial Drain on Communities?**

As the justice system has grown in the state of Maryland, so too has spending on corrections. Maryland's per capita spending on corrections rose two-thirds between 1990 and in 1999.<sup>27</sup> The corrections budget approached \$1 billion in 2003.<sup>28</sup>

The impact can be seen more clearly when expenditures are tracked to the community level. Researcher Eric Cadora has localized and tracked the impact of corrections spending in New York City all the way down to the block level.<sup>29</sup> He found single city blocks where \$1 million is spent every year locking up residents of that block. These individuals are mostly incarcerated for offenses related to personal drug addictions, and they return on average less than three years later – stigmatized and still unskilled to the same block.

While we do not know where people in prison from Maryland are from by "million dollar blocks," we can approximate and roughly map what communities lose when people go to prison. The Maryland Department of Correctional Services and Public Safety has provided data on the county of commitment for people in Maryland prisons— that is, the county where they were convicted and sent to the prison system from. While it does not precisely pinpoint where people lived prior to imprisonment, commitment data provides a reasonable geographical overview.

As of February 2005, 9,953 individuals confined in the state prison system come from Baltimore City, and an additional 2,820 people come from Baltimore County.<sup>30</sup>

The state Department of Legislative Services typically uses \$22,000 per year as the average total cost per incarcerated individual. Multiplying the cost per person in prison by the number of people in prison means that roughly \$280 million is spent every year just to lock up people from the Baltimore region.

Figure 8 below shows the ten counties that send the largest number of people to state prisons, and the amount of money being spent in the state corrections system to incarcerate them. This calculation does not include the cost of police, prosecution, local jails, and all the rest of the system costs – but it provides a rough measure of how much money is being spent to send people to prison from these communities. If the same amount of money were redirected in other ways – ranging from drug treatment to community economic development – these counties and communities might experience better results.

For example, under the present system, nearly \$7 million dollars is being spent to imprison people from Howard County. If there were different criminal justice policies, how might these counties and communities choose to spend \$7 million dollars? Or put another way, if some portion of 310 people in Howard County were receiving treatment in their community, and had the opportunity to contribute to the economic and social life of their neighborhoods, what would \$7 million buy in terms of treatment, supervision, and local economic development?

**Figure 8: Estimated Cost of Prison Spending, By County**

<b>County</b>	<b>In state custody from that county</b>	<b>Spending for those people</b>
1 Baltimore City	9,953	\$218,966,000
Baltimore County	2,820	\$62,040,000
2 Prince George	2,346	\$51,612,000
3 Anne Arundel	982	\$21,604,000
4 Montgomery	867	\$19,074,000
5 Wicomico	750	\$16,500,000
6 Washington	739	\$16,258,000
7 Charles	705	\$15,510,000
8 Harford	685	\$15,070,000
9 Frederick	436	\$9,592,000
10 Howard	310	\$6,820,000

*Source: Commitment data provided upon request by Department of Corrections and Public Safety, February 2005.*

#### **IV. Impact on Crime: Does Mass Incarceration Make Us Safer?**

The theory is simple: adding more people to prison, and building more prisons, should make us safer. If people who have committed crimes in a community are removed, then they cannot commit further crimes in the community.

Imprisonment is supposed to incapacitate some and deter others in order to reduce crime. Yet if this were the case, with all of this growth, we should be seeing safe and vibrant communities by now – especially in the places with the highest concentration of crime and criminal justice removal.

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**“After trending downward from a record 353 in 1993, homicides in Baltimore have ticked back up since 2002. They hit 278 last year, putting Baltimore in line for the title of deadliest big city in the nation, with a homicide rate three times greater than Los Angeles and five times greater than New York. Last month, the city posted its bloodiest January since 1973, with 32 killings.”**

**The New York Times, February 9th, 2005.**

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The relationship between prison and crime is exceptionally complicated. The decline in crime in the 1990’s was somewhat related to the use of prison, but not exclusively. The decline was primarily related to demographics, as the baby-boom aged past its crime prone years, a booming economy, and the maturation of the market for crack cocaine introduced in the late 1980’s. Prisons were not irrelevant – credible researchers associate prisons with between 4% and 27% of the reduction in crime.<sup>31</sup> But prisons were just one factor among many, and not the most significant.

Indeed, the correlation between prisons and crime control is very rough. For example, research by the Justice Policy Institute found no correlation between increasing drug offense admissions to prison and decreasing drug use.<sup>32</sup> In many cases, the relationship between prison and crime is actually inverted. For example, between the years of 1993 and 2002:<sup>33</sup>

- Maryland’s rate of incarceration grew by 14.9%, dwarfed by a 52.9% growth in neighboring Pennsylvania. However, Maryland experienced a 22.5% decrease in FBI index crime compared to just a 13.3% decrease in Pennsylvania.
- California’s incarceration rate grew by 15.5% compared with only 3.4% growth in New York. However, New York’s index crime rate dropped 27.6% more than California’s. The overall prison population of New York has actually been declining in recent years.

- Texas incarceration rate grew four times faster than New Jersey's (18.5% growth versus 4.2% growth), but New Jersey experienced a 90.4% greater reduction in crime (36.9% decrease versus 19.4% decrease).

Nonetheless, prisons continue to outpace all other interventions in terms of financial cost and human impact. Prison populations grew in the 1980's when crime was rising; they grew in the 1990's when crime was declining. Nowadays, the justice system appears to be growing on autopilot, simply because it is the nature of public policy to continue unchanged in the absence of a deliberate decision to change direction.

Yet serious questions are now arising over whether additional incarceration is helpful, or perhaps actually harmful. Contemporary criminological scholarship suggests that excessive incarceration may decrease safety in communities and diminish the ability of residents to protect themselves. The concern is that removing so many people from a community can undermine the social cohesion that holds communities together and fortifies their own, internal capacity to maintain social order and fight crime.

Groundbreaking research has been done by Todd Clear of the John Jay College of Criminal Justice in New York City.<sup>34</sup> Clear used data from three related studies in Tallahassee, Florida to examine how high levels of incarceration affected lives of people who remained free. He found that high levels of incarceration were associated with reduced safety in communities. Geographically focused statistical analysis revealed that neighborhoods with the highest levels of incarceration in one year had higher-than-expected crime rates the following year (compared to other Tallahassee neighborhoods, and controlling for factors such as poverty, racial composition, and voluntary mobility).

Explanations described by Clear for such findings include the displacement of children whose parents are incarcerated. For example, the incarceration of women adds to the stress of family members who care for their children, especially since these families typically live under great stress already. The incarceration of men weakened boys' sources of positive as well as negative male role modeling. In general, incarceration reduced the overall "human capital" – the talent, social skills and energy – that every person brings to a community. Although Clear plainly did not claim, "incarceration causes crime," he made a strong case that our policy choices may not have had the intended consequences in terms of less crime and fewer victims:

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**High levels of incarceration concentrated in impoverished communities has a destabilizing effect on community life, so that the most basic underpinnings of informal social control are damaged. This, in turn, reproduces the very dynamics that sustain crime.**<sup>35</sup>

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Sociologist Robert Sampson uses the term “collective efficacy” to describe the informal means by which communities maintain their own order.<sup>36</sup> It is well understood that police and the formal apparatus of justice play only a minor role in maintaining social order; the principle work is done privately at the community level – by adults who spontaneously monitor the play of children, intervene to prevent truancy or who tell each other to cool off in public disputes. It is also understood, however, that some neighborhoods with significant social and economic disadvantage have high rates of crime, while others do not. Sampson tried to identify the cause of the differences. He found that variables such as residential stability tend to increase collective efficacy; on the other hand, residential mobility and institutional disruption tend to weaken it. In other words, healthy communities are defined as places where people want to live, and where they stay to establish personal roots. In contrast, transient neighborhoods where people are constantly leaving, or being removed, tend to have weak social bonds and weak communities. Furthermore, a subjective sense of alienation, exploitation, or dependency can undermine collective efficacy and correlate with increased levels of crime and interpersonal violence.

The recent work of Keith Harries of the University of Maryland brings these matters closer to home.<sup>37</sup> He found that in some neighborhoods with high rates of justice involvement, lethal violence actually rose. Although Maryland overall and Baltimore in particular experienced the same declines in crime that most of the country experienced in the 1990’s, it remains a violent place:

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**“Baltimore, Maryland is in the unfortunate position of being a quintessential model of the most extreme levels of such inner-city crime, regularly ranking among cities with the highest homicide rates in the United States. We can infer that Baltimore is one of the most violent cities in the developed world.”<sup>38</sup>**

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The problem is particularly acute in several Baltimore neighborhoods. Crime actually rose in these neighborhoods while it was declining elsewhere, even though the population of youth in these communities declined.

Typically a decline in youthful populations correlates with a decline in crime, mainly because young people of all races and ethnicities engage in higher rates of delinquent or criminal behavior than adults do. Yet in these neighborhoods, the loss of young people — of similar ages to those comprising the growing ranks of the state's prison population — crime rose.

Harries gave these neighborhoods — located in parts of East Baltimore, West Baltimore, Park Heights and Pimlico—additional attention. He found a “remarkable persistence of high rates of violence in Baltimore in the face of an aggressive public policy of crime prevention, albeit from a ‘control’ perspective.”<sup>39</sup> In short, the crime control findings were not what they should have been: aggressive enforcement coupled with a decreasing youth cohort should be associated with declining crime. Yet in some areas the opposite occurred.

Harries examined a number of hypotheses for this inversion and he found likely explanations to include residential mobility and what he calls the “missing male” phenomenon. In his study tracts, the male-to-female ratio stayed around eight males to every ten females. In comparison, in affluent Roland Park is the ratio of males to females is roughly equal.

Harries associated this simple gender disparity, in combination with the social stigma and legal burden of a criminal record, with obstacles to the formation of healthy families, stable communities, and ultimately with incarceration and lethal violence.

To be clear, Harries did not say that the loss of hundreds of young African American men to prison and jail was responsible for the increase in crime. He emphasized that it is too early for definitive conclusions, but he observed that neighborhood decline is reinforced by the decline in population and erosion of community cohesion. But a large group of young men from Baltimore are in prison—are “missing” from the city—and crime festers in neighborhoods that have lost young men. The role he notes of prison expansion in destabilizing the African American community is consistent with the view increased incarceration harms communities, and may deleteriously affect Maryland communities, and public safety:

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**“Incarceration is particularly important as a component in the so-called retreat from marriage in the African American community. By 1995, it was estimated that one-third of Black males aged 20–29 were under some form of supervision in the criminal justice system (Mauer and Huling, 1995; Miller and Browning, 2000). This wholesale stigmatization of younger Black males has profound implications for employment, welfare eligibility, and enfranchisement, which in turn impact the ability of Black males to enter into viable marriages.” — Harries, Keith. “Violence Change and Cohort Trajectories: Baltimore Neighborhoods, 1990-2000.” *Urban Geography*. Vol. 25, 2004.**

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These findings should cause significant reconsideration of current policies that emphasize arrest and incarceration.

## **VI. Recommendations**

The overuse of incarceration is a national problem, and this report localizes that story to this state, and its largest city, to help frame discussion on the choices that can be made to promote community safety, and better outcomes. Fortunately, Maryland has thoughtful policymakers who are working to get a handle on crime problems and community development issues that are a scourge across the country.

The “treatment not jail” legislation of 2004 was a step in the right direction. This bill added \$3 million new funds for drug treatment, and created new means to divert some people accused of low-level, non-violent drug crimes from the prison system to the treatment system. Signed by a Republican governor, this bill was an example of bipartisan consensus that started the long process of solving a condition that is twenty years in the making. To continue in this direction, it is necessary to continue to shift resources towards positive interventions such as drug treatment and job training.

It is also necessary to change outdated sentencing and correctional policies that contribute to the problem. Specific recommendations include:

### **➤ Mandatory Minimum Reform**

In 2003, Regan-appointed Supreme Court Justice Anthony M. Kennedy called mandatory sentences “unwise and unjust.”<sup>40</sup> The American Bar Association created a commission, named after the Justice, to examine America’s penal system, which concluded in 2004 that mandatory sentences should be abolished and sentencing discretion returned to judges.<sup>41</sup>



The Maryland Bar Association has also taken positions in opposition to mandatory minimums. Finally, in November 2003, a survey of Maryland voters conducted by Potomac, Inc. found that while 31% of respondents felt that mandatory sentences were a good idea, 57% felt that judges should decide sentences. It also showed more support for cutting prisons than cutting any other program to trim the budget, and support included people who were victims of violent crimes.

Maryland now has mandatory 10 and 25-year sentences for people convicted of drug sales for the second and third time, respectively.<sup>42</sup> While originally intended to deter and incapacitate serious drug traffickers, the laws are regularly invoked against people with persistent problems related to substance abuse, who are dealing to support their drug habits. Even when prosecutors choose not to charge under the mandatory law, the law can operate as a lever in plea negotiations to drive people accused of low-level offenses into plea bargains that involve long prison terms and do nothing to address the underlying addiction. Moreover, mandatory sentences overrule the careful calibrations regarding offense severity and criminal history made by the Guidelines Commission. We recommend that these mandatory sentences be repealed.

Other states are already moving to reform their mandatory sentencing statutes. In December 2002, Michigan's Republican Governor John Engler signed legislation passed by the state's Republican-controlled House and Senate abolishing Michigan's mandatory minimum drug sentences and mandating that drug offenses be sentenced according to Michigan's sentencing guidelines. This landmark reform saved Michigan approximately \$41 million in 2003 alone. Connecticut, Delaware, Indiana, Louisiana, Maine, and North Dakota all recently abolished or narrowed their mandatory minimum sentencing laws.<sup>43</sup>

### ➤ **Diminution Credits**

At present, people serving time in Maryland prisons receive diminution credits for good behavior, work and other considerations. Earning diminution credits leads to faster release to community supervision. However, participation in treatment and reentry programs such as Project RESTART do not presently generate diminution credits, even though such programs help people to succeed after release. Such policies can be reconsidered either legislatively or by executive action. Expediting release for people who prepare for reentry will reduce prison costs and free funds for supervision and support in the community.

### ➤ **Sentencing Guideline Reform**

The Maryland Sentencing guidelines are voluntary, but they still play a critical role in the Maryland justice system. The drug-sentencing grid can be adjusted to encourage judges, prosecutors, and defenders to make greater use of probation with treatment conditions in appropriate cases. In addition, technical changes can be made in offender scoring and classification so that people with drug addiction problems who have accumulated lengthy records of low-level convictions and probation violations do not accumulate such high scores that they appear more dangerous than they truly are.

### ➤ **Right to Vote**

People who have been released from prison should have the right to vote. As a society, we expect them to work and pay taxes and participate in every ordinary way in our modern democracy. Voting is a fundamental right; it should not be denied.

### **Going to Scale**

The key to reducing costs without jeopardizing safety is to shift emphasis from an institution-based system to a community-based system. Every increment helps, but the most significant cost savings accrue when changes are made at a significant scale. Removing a few inmates from several prisons is a step in the right direction and yields some savings; but removing enough inmates to close an entire prison or housing unit saves tens of millions of dollars all at once. Although everyone is concerned about overcrowding and the economic loss to host communities, it is not impossible to close a prison. California, Florida, Georgia, Illinois, Massachusetts, Michigan, Mississippi, Ohio, Utah, and Virginia have all recently closed one or more prisons. Maryland closed the Victor Cullen Academy, a juvenile facility, a few years ago.<sup>44</sup> The larger point is simply that large-scale changes may need to be made if the Maryland justice system is to be directed towards maximizing community safety and minimizing financial costs.

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**"These statistics are real and devastating. It is obvious that our efforts have been inadequate. We need to rehabilitate the lives of our young people and keep them out of prison. We can do this. It is a matter of willpower."** — Senator Gloria Gary Lawlah, D-Prince George, commenting on figures showing the size of the Maryland's prison system, as quoted by the Capital News Service (2003).

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## Endnotes

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<sup>1</sup> 1980: From the Bureau of Justice Statistics website under the heading: Year End Totals: Prisoners Under State and Federal Jurisdiction 1977-98. <http://www.ojp.usdoj.gov/bjs/data/corpop02.wk1>.

2003: From the Bureau of Justice Statistics website under the heading: Prison and Jail Inmates at Midyear 2003 <http://www.ojp.usdoj.gov/bjs/abstract/pjim03.htm>

<sup>2</sup> Schiraldi, Vincent and Ziedenberg, Jason, *Race and Incarceration in Maryland*. Justice Policy Institute, June 2004. <http://www.justicepolicy.org/downloads/finalmrd.pdf>.

<sup>3</sup> Schiraldi, Vincent and Ziedenberg, Jason, *Race and Incarceration in Maryland*. Justice Policy Institute, June 2004. <http://www.justicepolicy.org/downloads/finalmrd.pdf>.

<sup>4</sup> Harrison, Paige M. and Beck, Allen J, U.S. Department of Justice, Bureau of Justice Statistics, *Prisoners in 2003*. (Nov. 2004).

<sup>5</sup> Harrison, Paige and Karberg, Jennifer, U.S. Department of Justice, Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2003* (May 2004). Bonczar, Thomas, U.S. Department of Justice, Bureau of Justice Statistics, *Prevalence of Imprisonment in the United States Population, 1974 -2001* (August 2003).

<sup>6</sup> Glaze, Lauren and Palla, Seri, U.S. Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States, 2003* (July 2004). The exact figures are: 1,387,269 in prison; 691,301 in jail; 4,073,987 on probation; 774,588 on parole; the total is 6,889,800 (accounting for people with multiple statuses).

<sup>7</sup> Paulson, Linda Dailey, "Eastern State Penitentiary." *ENCYCLOPEDIA OF CRIME AND PUNISHMENT*, Levinson, David, ed. Thousand Oaks, CA: Sage Publications, 596-7 (2002).

<sup>8</sup> Cahalan, Margaret and Parsons, Lee Anne, U.S. Department of Justice, Bureau of Justice Statistics, *Historical Corrections Statistics in the United States, 1850 – 1984* (December 1986).

<sup>9</sup> Bauer, Lynn U.S. Department of Justice, Bureau of Justice Statistics, *Justice Expenditure and Employment in the United States, 2001* (May 2004).

<sup>10</sup> 1980: Taken from the Bureau of Justice Statistics website under the heading: Year End Totals: Prisoners Under State and Federal Jurisdiction 1977-98.

<http://www.ojp.usdoj.gov/bjs/data/corpop02.wk1>. 2003: Taken from the Bureau of Justice Statistics website under the heading: Prison and Jail Inmates at Midyear 2003

<http://www.ojp.usdoj.gov/bjs/abstract/pjim03.htm>

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- <sup>11</sup> Data provided upon request by the Maryland Department of Correctional Services and Public Safety. Dec. 2004.
- <sup>12</sup> Data provided upon request by the Maryland Department of Correctional Services and Public Safety. Oct. 2004.
- <sup>13</sup> Estimate based upon data provided by the Maryland Department of Correctional Services and Public Safety. Oct. 2004.
- <sup>14</sup> The population data come from the U.S. Census Bureau American FactFinder. The control figures come from various sources cited throughout the report. There is some mixing of dates for the various measures.
- <sup>15</sup> Data provided upon request by the Maryland Department of Correctional Services and Public Safety. Oct. 2004.
- <sup>16</sup> Samuels, Paul, and Mukamal, Debbie, *After Prison: Roadblocks to Reentry – A Report on State Legal Barriers Facing People with Criminal Records*. Legal Action Center, 2004.  
<http://www.lac.org/roadblocks.html>. For more detailed information regarding Maryland state law visit <http://www.lac.org/lac/main.php?view=profile&subaction1=MD>. Confirmed by Maryland State Board of Elections website under the heading: How to Vote in Maryland.  
[http://www.elections.state.md.us/citizens/how\\_to\\_vote.html](http://www.elections.state.md.us/citizens/how_to_vote.html).
- <sup>17</sup> See, e.g. Travis, Jeremy, Solomon, Amy, and Waul, Michelle, *From Prison to Home: The Dimensions and Consequences of Prisoner Reentry*, Urban Institute, 2001.
- <sup>18</sup> Accessed on line January 2005 at <http://www.lac.org/roadblocks.html>. For more detailed information regarding Maryland state law visit <http://www.lac.org/lac/main.php?view=profile&subaction1=MD>.
- <sup>19</sup> Tillman, Robert, “The Size of the Criminal Population: The Prevalence and Incidence of Adult Arrests”. *Criminology*, Vol. 25, No. 3. Fall 1987. The study drew upon a 1974 group of 18 year-olds, tracing their official arrest records to 1986. The study did not focus solely on cities and did not include men over 30 in analysis.
- <sup>20</sup> Mauer, Mark, *Young Black Men, and the Criminal Justice System: A Growing National Problem*. (Washington, D.C., The Sentencing Project, 1990).
- <sup>21</sup> Reuter, Peter, MacCoun, Robert, Patrick Murphy, et al., *Money from Crime: A Study of the Economics of Drug Dealing in Washington, D.C.*, June 1990. The report further noted that the rate of arrest did not decline noticeably over the age range of 20-29.
- <sup>22</sup> Mauer, Mark, *Young Black Men, and the Criminal Justice System: Five Years Later+*. (Washington, D.C., The Sentencing Project, 1994). This was a Five-year follow-up to the 1990 study.
- <sup>23</sup> Miller, Jerome G., *Hobbling a Generation: Young African American Males in the Criminal Justice System of America's Cities: Baltimore, Maryland* (Alexandria, VA: National Center on Institutions and Alternatives, 1992). Note that this study included individuals out on bond or wanted on a warrant. The present study does not.
- <sup>24</sup> Bonczar, Thomas, U.S. Department of Justice, Bureau of Justice Statistics, *Prevalence of Imprisonment in the United States Population, 1974 -2001* (August 2003).
- <sup>25</sup> Data provided by the U.S. Census Bureau American FactFinder.
- <sup>26</sup> This finding is relatively consistent with the 1992 finding of the National Center on Institutions and Alternatives that 56% of young black men are under justice control -- in prison or jail, probation or parole, out on bond or wanted on a warrant. The NCIA study used 18 to 35 as the age range, slightly different from this study, and it included people free on bond or wanted or warrants, which this study does not include. See Figure 2.
- <sup>27</sup> La Vigne, Nancy G., Kachnowski, Vera, et al., *A Portrait of Prisoner Reentry in Maryland*, p. 9. The Urban Institute Justice Policy Center. Mar. 2003. From \$105 to \$172, corrections spending per capita in 1999 dollars.
- <sup>28</sup> National Association of State Budget Officers, *State Expenditure Report, 2003* (2004).
- <sup>29</sup> Tucker, Susan B. and Cadora, Eric, “Justice Reinvestment.” *Ideas for an Open Society*. Vol. 3, No. 3. Open Society Institute, Nov. 2003.

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- <sup>30</sup> Data provided upon request by the Maryland Department of Correctional Services and Public Safety. February 2005.
- <sup>31</sup> Blumstein, Alfred and Wallman, Joel, ed., *The Crime Drop in America*, Cambridge University Press, (2000).
- <sup>32</sup> Beaty, Phillip, Holman, Barry, and Schiraldi, Vincent, *Poor Prescription-The Cost of Imprisoning Drug Offenders in the United States*. Justice Policy Institute, July 2000.  
<http://www.justicepolicy.org/downloads/pp.pdf>.
- <sup>33</sup> All of these figures come from the Bureau of Justice Statistics *Probation and Parole* series and the FBI *Uniform Crime Reports*, with data for 1993 and 2002. Note that incarceration in this case includes both prison and jail.
- <sup>34</sup> Clear, Todd R, *The Problem with "Addition by Subtraction": The Prison-Crime Relationship in Low-income Communities*. As found in Invisible Punishment – The Collateral Consequences of Mass Imprisonment. Mauer, Marc and Chesney-Lind, Meda, ed. 2002. The New Press, New York, NY.
- <sup>35</sup> Clear, Todd R, *The Problem with "Addition by Subtraction": The Prison-Crime Relationship in Low-income Communities*, p. 193. As found in Invisible Punishment – The Collateral Consequences of Mass Imprisonment. Mauer, Marc and Chesney-Lind, Meda, ed. 2002. The New Press, New York, NY.
- <sup>36</sup> Sampson, Robert J., Raudenbush, Stephen W., and Felton Earls. "Neighborhoods and Violent Crime: A Multilevel Study of Collective Efficacy". *Science*. Vol. 277, p. 918-924. 15 Aug. 1997.
- <sup>37</sup> Harries, Keith. "Violence Change and Cohort Trajectories: Baltimore Neighborhoods, 1990-2000". *Urban Geography*. Vol. 25, p. 14-30. 2004.
- <sup>38</sup> Harries, Keith. "Violence Change and Cohort Trajectories: Baltimore Neighborhoods, 1990-2000". *Urban Geography*. Vol. 25, p. 16. 2004.
- <sup>39</sup> Harries, Keith. "Violence Change and Cohort Trajectories: Baltimore Neighborhoods, 1990-2000". *Urban Geography*. Vol. 25, p. 15. 2004.
- <sup>40</sup> Speech to the American Bar Association, August 2003.
- <sup>41</sup> Missouri from Prince George's County was a member of the ABA Justice Kennedy Commission.
- <sup>42</sup> Criminal code sections 5-608 and 5-609. A third offense yields a 40-year mandatory minimum. No part of these sentences can be suspended nor can the person be paroled prior to the expiration of the minimum.
- <sup>43</sup> Greene, Judith and Schiraldi, Vincent. *Cutting Correctly: New Prison Policies for Times of Fiscal Crisis*. Justice Policy Institute. 7 Feb. 2002. <http://www.justicepolicy.org/downloads/CuttingCorrectly.pdf>. Greene, Judith A. *Positive Trends in State-Level Sentencing and Corrections Policy*. Families Against Mandatory Minimums (Smart of Crime Campaign). Nov. 2003.
- <sup>44</sup> Greene, Judith and Schiraldi, Vincent. *Cutting Correctly: New Prison Policies for Times of Fiscal Crisis*. Justice Policy Institute. 7 Feb. 2002. <http://www.justicepolicy.org/downloads/CuttingCorrectly.pdf>. Greene, Judith A. *Positive Trends in State-Level Sentencing and Corrections Policy*. Families Against Mandatory Minimums (Smart of Crime Campaign). Nov. 2003.