

## SECTION X



CRIME AND  
CRIMINAL JUSTICE  
AMONG  
BLACK OHIOANS

## SECTION X: FOCUS AREA - CRIME AND CRIMINAL JUSTICE AMONG BLACK OHIOANS

### Introduction: Blacks' Disproportionate Involvement in Crime and Criminal Justice

Across the United States, Blacks continue to interact with crime and the criminal justice system at a rate considerably higher than that of other racial populations. As a result, Black communities are plagued by the negative consequences of victimization and all the hardships associated with having a criminal record.<sup>380</sup> Within our nation, and in the State of Ohio, data and research emphasizes that racial disparity continues to persist within the criminal justice system, especially with regards to the disproportionate rate of Blacks' involvement with crime.

This section seeks to address the following questions:

- *Why are blacks are so disproportionately involved in crime as both offenders and victims?*
- *To what extent does race impacts the administration of justice?*
- *What are the consequences of racial disparity in crime and criminal justice?*
- *What should policy makers do to address these issues?*

Although our criminal justice system rests upon the premise of "Equal Justice Under the Law," minorities, especially African American males, receive harsher treatment for similar offenses committed by their white male counterparts. Even when controlling for the seriousness of the offense, minorities are more likely to be treated harshly, and are more likely to be placed in correctional facilities than non-minorities. This racial disparity is indicative of a system that is "separate and unequal."

One of the most compelling facts about corrections in Ohio and in the U.S. is that although crime has consistently declined throughout much of the 1990s and into the 21st century, the number of people under correctional supervision has continued to climb. Crime rates are lower than they have been in nearly 25 years, yet the nation's probation population is up nearly 300 percent – prison population has increased by more than 400 percent.<sup>381</sup> While African Americans account for less than 12 % of Ohio's population,<sup>382</sup> they account for over 25 % of all arrests in the State; Blacks across the nation and in Ohio are involved in crime at higher rates as both offenders and as victims. Victimization is higher among Ohio's blacks for both violent and property offenses when compared to whites.<sup>383</sup>

In light of the increase in probation and prison population, it is important to recognize that blacks are disproportionately arrested, imprisoned and executed, even when controlling for the seriousness of offense. Perceptions of the justice system tend to vary according to race; for example, blacks are more likely than whites to hold negative attitudes toward police and are less likely to view the criminal justice system as fair.<sup>384</sup> These differing perspectives of the justice system may exacerbate racial conflict as well as contempt directed at agents of the criminal justice system.

Perceptions of the police and of the overall criminal justice system may be influenced by citizens' personal experiences with police. Citizens who share the perception that they are treated fairly by the police are more likely to express favorable opinions about the police, regardless of the outcome of the interaction.<sup>385</sup> Perceptions about the sources of criminal behavior also influence responses to crime. For example, many blacks believe that inequality in the justice system is a result of white racism, as evidenced by blacks' disproportionately large involvement in the criminal justice system.

As such, Blacks are more likely to support preventative and rehabilitative policies that support efforts aimed at reducing structural conditions, such as unemployment and poverty, thought to produce crime. On the other hand, the majority of whites believe that racial differences in crime result from lack of motivation among blacks, lax child rearing, and aggressive personalities. Therefore, it is not surprising that whites are more likely to support punitive crime policies such as capital punishment, and “three strikes” legislation.<sup>386</sup>

Numerous studies reveal that even after controlling for the seriousness of offense, minorities are more likely to be treated more harshly and are more likely placed in a correctional facility as a punishment, compared to non-minorities.<sup>387</sup> This example of racial disparity is indicative of a system that is “separate and unequal.” While public attention tends to focus on the disproportionate number of blacks in confinement, overrepresentation is often a by-product of the accumulation of actions that occur at earlier points in the justice system, such as the decision to arrest, the decision to detain, and discretion involved in sentencing.

In Ohio, the trend is no different. Blacks face the same disproportionate and hopeless path towards involvement within the criminal justice system while the public remains without knowledge of such stark realities. Unfortunately, survey data confirm that most Ohioans are not well informed. As a result of higher rates of involvement in the criminal justice system (both as victims and offenders), blacks are more likely to experience the negative social and psychological effects of crime. For the majority of these young Black males, their participation in the criminal justice system is a harrowing journey through institutionalized racial disparity. This report will provide a glimpse into the challenges faced by Ohioans whose lives are affected by crime and the criminal justice system and what steps need to be taken to amalgamate this crisis.

### Explanations for Racial Differences in Crime

Most explanations of crime typically focus on either individuals being rational actors, or on the role structural conditions have in society, such as poverty, unemployment, and residential instability that give rise to crime and delinquency. Research offering individual explanations of crime has consistently demonstrated that factors such as race, age, marital status and sex are the best predictors of a person’s risk for engaging in violence. However, critics of individual level explanations contend that environmental and social factors are not given enough consideration. They point to the fact that in extremely disadvantaged neighborhoods, primarily occupied by African Americans, residents tend to be socially isolated from mainstream society. As a result, they have less access to jobs and less exposure to conventional role models. In such communities, residents are unable to address problems such as crime, and the maintenance of residential control. From this view, high levels of disadvantage, not race, are what produce high levels of crime and other social problems in African American communities. Thus, as research is increasingly demonstrating, a substantial portion of racial differences in crime are accounted for through the examination of differences in the social context within which blacks and whites tend to live.

### Effect of Segregation and Community Disadvantage

Americans continue to live in areas that are highly segregated by race and socioeconomic status. Blacks tend to live in areas with relatively few whites and with poverty levels and rates of female-headed households that are more than twice that of white neighborhoods.<sup>388</sup> In fact, almost two-thirds of all

blacks in the U.S. live in highly segregated, disadvantaged areas, while the majority of whites live in highly segregated advantaged areas. These separate black and white neighborhoods provide separate social environments that produce racial differences in crime.

Research has shown that segregation is an important component for reproducing neighborhoods that are structurally unequal across racial lines. Segregation concentrates disadvantage across neighborhoods within cities, detaching primarily minority populations from social institutions. In fact, researchers have established that segregation leads to increased concentration of black poverty, unemployment, female-headed families, and male joblessness, all of which contribute to higher crime rates.<sup>389</sup> High levels of disadvantage leave members in isolated and perilous communities with little resources and, consequently, cultural adaptations develop that foster violence and that make crime more attractive.

As a matter of fact, the effect of concentrated disadvantage is race neutral; crime rates vary with community conditions regardless of the racial composition of an area. Two studies conducted in Ohio provide strong support for this conclusion. First, a study conducted in Columbus compared predominately white and predominately black communities with similar levels of disadvantage and found that extremely disadvantaged communities have substantially higher levels of violent crime compared to less disadvantaged areas. More importantly, consistent with the racial invariance arguments, this pattern is consistent across black and white neighborhoods.<sup>390</sup> Another study conducted in Cincinnati came to similar conclusions examining the effect of disadvantage on assaults for white and African American males. Their findings reveal that levels of neighborhood disadvantage serve to increase assaults in Cincinnati and the effect of disadvantage operate similarly across races.<sup>391</sup> Taken as a whole, the body of literature explaining the racial patterning of crime has concluded that the sources of crime are invariant across race and rooted in the structural differences evident in racially segregated communities.

### Challenges in Criminal Justice

**Non-Violent Crimes** Contrary to popular belief, most offenders in prisons and jails are non-violent criminals. Although high levels of black imprisonment can be explained by “high crime communities” that are racially segregated and violent, the disproportionate number of blacks in our prisons cannot be explained simply by these severely disadvantaged communities who have high correlation to high rates of violence. In 2005, Ohio law enforcement agencies reported 287,972 arrests to the FBI, 70% of which were non-violent misdemeanor offenses, while serious property crimes of burglary, larceny, motor vehicle theft, and arson accounted for just over 12 percent of all arrests. Arrests for drug offenses were slightly higher than property offense constituting 13 percent of all arrests.<sup>392</sup> On the other hand, violent crimes of murder, rape, robbery and aggravated assaults, constituted only 3 percent of all arrests made in Ohio.

In 2005, whites were arrested for 49% of violent crimes in Ohio while blacks were arrested for 51%.<sup>393</sup><sup>394</sup> Although the number of blacks arrested for violent crimes was about equal to the number of whites arrested for violent crimes, it is important to keep in mind that blacks make up only 12 % of Ohio’s population. That being considered, it is clear that a disproportionately large number of blacks were arrested for committing violent crimes in Ohio.

**Racial Profiling** The role of racial profiling in the disproportionately large number of black arrests is often called into question. Racial profiling refers to law enforcement targeting people based on race or ethnicity in the belief that certain groups are more likely to commit certain types of crime.<sup>395</sup> The practice of racial profiling is based on false assumptions that most offenses are committed by minorities, particularly African Americans and Hispanics. Consequently, more minorities are arrested, prosecuted, convicted and incarcerated, thus reinforcing the perception that crime is primarily an activity engaged in by minorities. However, not only is racial profiling a discriminatory practice, it is an inefficient method of policing. For example, “Operation Pipeline,” a major drug law enforcement program that relied heavily on racial profiling, stopped over 34,000 vehicles operated by minorities and found that only 2 % contained illegal drugs.<sup>396</sup> Furthermore, whites are more likely than both blacks and Hispanics to be found with contraband in their vehicles.<sup>397</sup>

In an effort to curb racial profiling in traffic stops, recent legislation now requires Ohio law enforcement officers to collect data on the race of the driver and all other persons in the vehicle, whether a search was conducted, whether contraband was found, and whether an arrest was made.<sup>398</sup> Agencies across Ohio are required to report the data to the attorney general at least once a year.

**Racial Pattern of Incarcerations** According to the Bureau of Justice Statistics, racial differences in incarceration are staggering; among over two million prisoners incarcerated, there were 4,834 black male prisoners per 100,000 black males in the United States and only 681 white male prisoners per 100,000 white males in the United States.<sup>399</sup> High rates of incarceration have negative consequences for African American families and communities. For the past two decades, black men have been sentenced to prison at a faster rate than they have enrolled in college.<sup>400</sup> Meanwhile, the female incarceration rate is growing at a faster rate than that of their male counterparts, while mirroring the disparity patterns between black and white males. Black females were 4.5 times more likely than white females to be incarcerated, which could be an even greater threat to black communities.<sup>401</sup>

The majority of the prison population is comprised of minority men, especially African Americans and Hispanics. Although in theory, prisons are reserved to house only the most dangerous offenders, 50% of the U.S. prison population consists of nonviolent offenders, most of whom are inmates of color.<sup>402</sup> A study examining incarcerated offenders found that Black inmates were more likely to be incarcerated for nonviolent crimes than white inmates. Consequently, the disproportionate numbers of absent black men and women as parents and community members are causing families and neighborhoods to suffer. These trends can be seen nationally and in Ohio. The impact on black children, families, and communities has been devastating.

## Special Populations

**The Mentally Ill** Across the United States, the Bureau of Justice Statistics reported in 2005 that over half of state prisoners, and almost two-thirds of jail inmates, report a history or symptoms of mental illness. Moreover, the New Freedom Commission on Mental Health estimates that rates of mental illness are 3-4 times higher among inmates than of the general population.<sup>403</sup> To the dismay of many, the Bureau of Justice Statistics report that more people with mental illnesses are being treated in the criminal justice system than in the mental health system. Among blacks in state prisons, 55% are categorized as having a mental illness. Mental illness is even higher among blacks in jail (63%). Currently, there are close to 7,000 individuals suffering from a mentally illness in Ohio’s prisons. The Sentencing Project sought to explain why mental illness is increasingly being criminalized. The research

offered several explanations. First, the deinstitutionalization of hospitals has left many in their communities without treatment. In 2008, Ohio was one of many states to significantly reduce spending on mental health as a result of State budget cuts. As a result of reduced spending on mental health care, many patients in need of mental health care may be directed instead into the criminal justice system. Second, public perception of mentally ill people as dangerous or violent personalities has led to an increasingly punitive approach toward dealing with individuals who do not meet society's norms. As a result, the insanity pleas in criminal cases, which have traditionally offered alternatives to incarceration, have become increasingly rare. Finally, there are few resources to assist the mentally ill as they reintegrate into society once they leave jails, prisons, and hospitals.<sup>404</sup>

To address the increasing problem of criminalization of the mentally ill throughout the State, Ohio utilizes crisis intervention teams (CIT) and mental health courts. The crisis intervention team is made up of officers from a variety of State agencies and local schools and universities who have been given special training to respond to mental health crises. The CIT officers generally attempt to divert the mentally ill away from the criminal justice system. Many defendants, however, are not diverted; their cases may be held in mental health courts that specialize in ensuring court-supervised treatment and services such as job training, housing assistance, and drug treatment.

**Sex Offenders in Ohio** Currently, sex offenders account for nearly 20 % of Ohio's prison population. Sex offenses are viewed as public health concerns, and violent crimes. Ohio classifies sex offenders based on the age of the victim(s):

- *Child molesters are offenders whose victims are under 13 years of age*
- *Teen molesters' victims are between the ages of 13-17*
- *Rapists' victims are over the age of 18*
- *Multiple age offenders are those whose victims overlap with more than one category.*

**Female Offending** In Ohio, females constitute 31% of serious property crimes and 17% of serious violent offenses, including 1% of murders. The most common violent offense both black and white women in Ohio were arrested for is aggravated assault. Studies using national data indicate that female patterns of violent offending in Ohio resemble national patterns. For example, when examining race and victim offender relationships, researchers found that minority females are more likely to commit violent crimes against intimate partners or acquaintances,<sup>405</sup> and this pattern can be seen among Ohio women as well. In fact, the victims of females arrested for murder tend to be their significant other at a rate 3.9 times higher compared to their male counterparts.<sup>406</sup>

More recently, data from the Ohio Incident Based Reporting System (OIBRS) were analyzed to determine which types of crimes females are most likely to be arrested for. The researchers classified crimes into three categories: 1) crimes against society, such as prostitution and disorderly conduct; 2) crimes against property; and 3) crimes against individuals where the victim is present during the commission of the offense. The results of the study indicate 56 percent of all female arrests in Ohio were for crimes against society, the most frequent being possession of drugs. The most common crime against persons that females were arrested for is domestic violence.<sup>407</sup>

**Juvenile Arrests** Nationally, rates of confinement for black youth are drastically higher than for white youth, especially in light of the fact that white and black youth use illegal drugs at similar rates. In a recent study examining the arrest figures of white and black youth, research found that only 20 percent of drug arrests for white youth are for felony sale or manufacture, compared to 38 percent for black

youth. Conversely, roughly one-third of black youth are charged with simple possession, compared to over two-thirds of white youth arrested for similar drug offenses.<sup>408</sup> These racial differences in arrests have important implications for other stages in the justice process as well as other domains of life. One-third of young, black males are either in prison or under some form of correctional supervision. One-third of young, black males are ineligible to vote because of felony convictions.<sup>409</sup>

Prior to 2002, the Ohio juvenile justice system focused on rehabilitation and treatment. Under this rehabilitative framework, juvenile offenders typically were sentenced to community sanctions; although, in the case of violent or dangerous youth, they could be sentenced to State detention facilities. The increase in high-profile crimes involving youth such as school shootings and gang violence prompted Ohio's legislature to change its juvenile justice system to model more closely after the adult criminal justice system. In doing so, legislation in 2002 lowered the age at which Ohio juveniles can enter the adult system.<sup>410</sup> The new sentencing structure relies heavily on the age of the offender and the type of crime committed, and it requires one of three types of dispositions, two of which involve being transferred to the adult system.<sup>411</sup> This new approach not only gives the options of hearing the entire case in either juvenile or adult court, it allows for "blended sentences" that allow juvenile courts to impose adult sanctions if the youth does not successfully complete the juvenile disposition. In 2002, 16 youth were committed to Ohio Department of Youth Services (ODYS) for blended sentences and 23 youth were committed to adult institutions during the first six months of 2003.<sup>412</sup>

In the case of heinous crimes, prosecutors can request that cases be held in adult criminal court. If this occurs, a Relinquishment of Jurisdiction for Purposes of Criminal Prosecution or, as it is more commonly referred to, Rule 30 hearing is held to determine whether the juvenile should remain in the juvenile court. Four criteria must be met for a case to be bound over to adult court. First, the youth must have committed an offense that would be a felony if committed by an adult. Second, the youth must be over the age of 14. Third, probable cause must exist, and finally, the court must determine that the juvenile is not amenable to being rehabilitated in the juvenile system and should be subject to adult sanctions. Rule 30 hearings are also used to classify youth as "Serious Youthful Offenders," which grants the court dual jurisdiction. This new classification, created through Ohio's Senate Bill 179 (S.B. 179), mandates that juveniles have rights equal to that of adults in criminal court. Furthermore, sentencing enhancements have been introduced as a way of increasing the severity of juvenile dispositions if the youth had prior commitments to a detention facility or used a firearm during the commission of their crime.

The Ohio Governor's Council on Juvenile Justice specifically looked at changes that have occurred after S.B. 179 and found that prior to its implementation, the racial distribution of felony admissions was 48 percent white and 47 percent black; after Senate Bill 179 there were 47 percent white, 48 percent black. Albeit slight, the increase in arrests for blacks suggests that S.B. 179 has not had any meaningful impact on reducing racial disparities in juvenile justice. Furthermore, although these punitive efforts may only be intended to reduce juvenile offending, prior research suggests that young, African American males will most likely bear the brunt of harsher sanctions and reduced efforts at rehabilitation.<sup>413</sup>

In addition to arrests, black youth in Ohio are also overrepresented in juvenile detention facilities. Over half (58%) of all juvenile commitments in Ohio are black, primarily young black males. Nationwide, white youth make up 60 percent of the detained population while black youth make up 37 percent of all detainees. Across all offense categories, African American youth were disproportionately detained and were overrepresented in the detained population in 45 states. About two-thirds of all studies on

disproportionate minority confinement showed that race had a negative impact on at least one stage of the juvenile justice process.<sup>414</sup>

### Consequences of Racial Disparity in Crime and Criminal Justice

Large racial disparities in all areas of the criminal justice system illustrate that not all individuals are treated equally under the law. Policy implementation often precedes research and does not always incorporate practice, or account for disparities in opportunity outside of the criminal justice system. To address these issues, it is important to understand the sources and consequences of racial disparity in the criminal justice system, and to ensure that approaches to reducing crime in Ohio are grounded in multi-faceted/dynamic/multi-dimensional research.

**Negative Effects of Victimization** There are many costs and consequences of crime for those victims whose lives are affected by violence. Research shows that victims of child abuse have greater involvement in crime while adolescent victims are more likely to embrace a delinquent lifestyle (often by joining a gang) in response to perceived threats; females that are sexually abused are more likely to engage in prostitution or drug use.<sup>415</sup> This path, which starts in the juvenile years continuing on into adulthood, is commonly referred to as the “cycle of violence.”

In 2005, the Federal Bureau of Investigation (FBI) Uniform Crime Report (UCR) reported that blacks accounted for over 49 % of all U.S. homicide victims. It is important to remember that blacks account for only 12% of the population, in light of those statistics. From 2001-2005 blacks had an annual violent victimization rate of 28.7 per 1,000 persons aged 12 and older. This rate was higher than the rates of violent victimization for whites (22.8), Hispanics (24.3), and Asians (10.6).<sup>416</sup> Both nationally, and in Ohio, Black males, who had never been married, blacks with lower incomes, and blacks in urban areas were at the greatest risk of victimization. Black victims accounted for almost 55 % of violent crimes reported to Ohio police departments and 46 % of property offenses. Among blacks, young males aged 12-19 are the most likely to be victimized by violence, with rates of victimization of over 6,600 per 100,000 persons in the population.

One of the most revealing patterns among victims of crime is that the amount of crime reported to police departments depends on the type of crime committed. Victims are more likely to report violent crimes compared to property crimes with 50 percent and 40 percent of violent and property crimes reported respectively.<sup>417</sup> This pattern also holds true among blacks in Ohio. While reports of violent victimization among young males are similar, female reports of victimization vary by race with black females reporting about 62 percent of violent victimization experiences and White females reporting about 50 percent.

While many estimate the cost of crime in terms of property lost, hospital bills, or other economic measures, crime is also costing Ohio victims by diminishing their chances of successful personal and social development. Considerable research documents the consequences of victimization and shows that being the victim of crime influences long-term trajectories of psychological distress and inhibits educational and socioeconomic attainment, all of which are predictors for future involvement in crime.<sup>418</sup> If blacks are disproportionately experiencing victimization, it is not surprising that blacks have higher rates of depression, and achieve less in the areas of education and employment.

**Black Male Mass Incarceration** Across the nation, the prison boom has had a detrimental effect on the lives of young black men. By 2002, almost 12 percent of black men in their twenties were in jail or prison. For young, African American males, incarceration has become so pervasive that it is an expected right of passage in many inner-city communities. High rates of incarceration among African American males have damaging effects on familial structures, marriage rates, and life outcomes for children. Family structures have changed dramatically in recent decades and the percent of black children living with a single parent is expected to continue to increase. Mass incarceration of young black men reduces the number of eligible, male, marriage partners for African American women, thereby reducing the African American marriage rate and increasing the rate of out-of-wedlock births. In 1960, only 6 percent of children in the U.S. resided with a single parent. Today, over half of all children can expect to live in a single-parent household while they are a minor, which is strongly related to a host of negative outcomes for children including receiving less supervision, lower socioeconomic status, and lower grades, all of which are associated with greater involvement in crime and deviance. 419 In addition, children of single parents are more likely to have sex at an earlier age, and girls are more likely to bear a child before marriage.420

While 9 percent of all males will go to prison at sometime throughout their lives, the imprisonment rate for black men is 28.5 percent compared to 4.4 percent for white men. The imprisonment rate for young, black, male, dropouts is even higher; 60 percent can expect to go to prison. In fact, incarceration is becoming so commonplace that for black men in their 30s, prison records are twice as common as college degrees and military service.421

The practice of mass incarceration has long-term implications for ex-offenders. Racial disparities with respect to incarceration serve to exacerbate racial disparities in socioeconomic conditions, since economic and employment opportunities are diminished for people with criminal records, even after they have been released from prison. . Ex-prisoners earn lower wages, and experience higher rates of unemployment than men who have never been incarcerated. This limiting of opportunity may actually force ex-offenders back into offending.422

In Ohio, among incarcerated fathers, a higher proportion of fathers were black (53.4%) than white (46.6%).423 Most of these incarcerated fathers are between the ages of 20-39, an age where family formation is commonplace.424

**Felony Disfranchisement** Disfranchisement has emerged as a major issue of public concern because currently in the United States, 48 states limit voting rights based on a felony conviction. Although on the surface such a policy seems to be “race-neutral,” the historical and social context surrounding felony disfranchisement suggests that the practice must be closely linked to race, particularly to the post-Reconstruction period of racial retrenchment in the American social order.425 A recent study examining the changes to state felony disfranchisement laws from 1850-2002 found that higher percentages of non-white prisoners were strong predictors for passing more restrictive disfranchisement laws.426

The impact of felony disfranchisement has numerous policy implications because it dilutes the electorate voting strength of African Americans, further marginalizing a significant portion of the voting age population. In the 2004 presidential election, over 8% of African Americans were disenfranchised as a result of a felony conviction compared to 2% of all non-African Americans.427 More importantly, the size of the disenfranchised population has increased tremendously, so much so that this form of

disfranchisement has a measurable impact on the outcome of close elections. For example, in the absence of disfranchisement laws, researchers predicted that seven races for seats in the U.S. senate would have turned out differently. This could have changed the overall racial composition of Congress during the 1990s just as the “get tough on crime” legislation was popular.<sup>428</sup> Similarly, the 2000 presidential election was decided by less than 600 votes in the State of Florida.<sup>429</sup> If Florida allowed at least felons who had completed their sentences to vote, Al Gore would have likely been president in 2000, defeating George Bush by at least 30,000 votes.<sup>430</sup> Unless changes are made by states, felony disfranchisement will continue to silence political voices by excluding mostly low-income minorities, altering the political climate and disrupting a fair democracy. Although Ohio allows felons to vote, the process of reinstating voting rights is complex and difficult, and ex-offenders are too often uninformed about voting rights and procedures. In the future, as the nation’s political parties compete for votes in close elections, the issue of criminal disfranchisement and reforming of stringent policy requirements will be of particular importance in swing states such as Ohio, where margins of victory may be extremely small.

***Racial Differences in Capital Punishment*** Although whites are executed more frequently than blacks in Ohio, racial disparity exists and persists through the way in which the victim’s race in the crime typically influences the decision to be sentenced with the death penalty. Since the death penalty was reinstated in 1981, 269 offenders have been sentenced to death; as of April 1, 2008, twenty-six prisoners have been executed. Today, there are currently 175 individuals on death row, including one woman.<sup>431</sup> Of those receiving the death penalty in Ohio, 64% were white and 36% were black compared to the national average of 55% for Whites and 43% for Blacks. Blacks and whites are murder victims in nearly equal numbers of violent crimes, but 80% of those executed have been executed for murdering white victims.

An astounding fact is that most of Ohio’s executed offenders were under the age of 30 at the time of their offense. African American offenders on death row tend to be younger than their white counterparts – over 50% of blacks on death row were under the age of 30 at the time of the murder. Whites on death row under the age of 30 made up less than 40%; they were more likely to be over the age of 30 at the time of their offense (64%).<sup>432</sup> The average length of time on death row for all offenders sentenced to death was 5.6 years, ranging from less than one year to over 19 years. Among all executed offenders, the average stay on death row was 15.9 years. However, blacks remain on death row about 17 years, which is well over 2 years longer than whites (14.41 years).

Between 1981 and 2007, 98 offenders have left death row in Ohio for various reasons; most (41) were overturned by an appellate court, many (14) died of natural causes, and some died as a result of suicide, and drug overdoses. Whites were more likely to leave death row alive compared to African Americans. Among those removed from death row, 57 percent were white and 43 percent were ethnic minorities.<sup>433</sup> Nationwide, from 1973 to 2003, of the over 100 people who have been exonerated, 45 percent were black.<sup>434</sup> The average length of stay on death row for those leaving alive was 8.6 years.

***Reentry: Punishment and Rehabilitation*** Over the past two decades, the prison boom has dramatically increased the number of inmates being released from prisons. The fact is, about 95 percent of all state prisoners will ultimately be released from prison.<sup>435</sup> Nationwide, nearly 600,000 individuals will be released from state and federal prisons annually to return to their communities. Upon their release, ex-prisoners face numerous challenges in their transition from confinement in a correctional institution to some greater degree of freedom within a community. While most prisoners can be assured that they

will regain liberty, many will return to society ill-prepared for the difficulties they will encounter as they attempt to (re)connect with jobs, housing, and family members. Many will face substance abuse, mental health and physical health problems, and have few resources to successfully reintegrate into society. Reentry is a critical and pivotal moment for prisoners who will return to society; in Ohio, many agencies have already made it a priority.

Ignoring the enormous impact of thousands of inmates being released to communities does not seem to be a viable option. Every year, hundreds of thousands of inmates are landing on the doorsteps of family members, halfway houses, and homeless shelters. In many cases, they are returning to the same neighborhoods they resided in prior to incarceration. Many of these neighborhoods are plagued with high levels of unemployment, crime, and have few legitimate opportunities available for ex-offenders to sustain themselves.

Notably, a small number of communities are taking on disproportionately large percentages of released offenders. Although prisoners exiting Ohio's prisons are spread rather evenly throughout the major cities in the State, Cleveland has the largest share of returned inmates, with 28% returning to only 5 of Cleveland's 36 communities. These communities range from 93-98% black and are characterized by scarce resources and high rates of vacant houses, high-school drop-outs, unemployment, drug use, poverty, violent crime, and female-headed households.<sup>436</sup> Of the 5,358 prisoners released to Cleveland in 2001, 78 percent were Black and 18 percent were white, reflecting the overall racial distribution of Cleveland residents.<sup>437</sup> The locations to which many ex-prisoners are returning raises important policy questions regarding how to successfully reintegrate ex-offenders who are being released to areas characterized by extreme disadvantage, in order to overcome the disadvantage plaguing the area, rather than simply allowing the disadvantage to be reinforced.

***Differences in Employment Opportunities*** In recent decades, urban areas have experienced huge declines in manufacturing jobs and as a result inner-city families have felt the brunt of this transformation. Lack of employment opportunities for both adults and adolescents has been linked to offending and other criminological outcomes.<sup>438</sup> The concentration of low-wage jobs and unemployment in poor inner-city communities lowers family income, thus threatening family formation and stability. When traditional sources of establishing masculinity such as being the breadwinner are absent, family disintegration is more likely, thereby reducing the number of dual-parent households. Black women are more likely to be poor, single parents, with limited resources that undermine their ability to effectively parent. Inadequate parenting then serves to weaken attachments producing higher delinquent outcomes in neighborhoods occupied largely by blacks. In Ohio, the median household income for whites is almost \$43,000 while the median household income for blacks is less than \$27,000 a year.<sup>439</sup> When employment prospects are dim for racial segments of the population, individuals within these groups may learn that they cannot rely on legitimate opportunities and thus be more likely to engage in crime.

***Changes Surrounding Prisoner Reentry in Ohio*** Ohio has experienced fluctuations in its prison population over recent decades as a result of changes in crime and sentencing policies. From 1982 to 2002, Ohio's prison population followed the annual average rate of nationwide state prison populations and increased an average of seven percent per year. By the end of 2002, Ohio had the 7th largest prison population in the nation and the 22nd highest incarceration rate, and an average of 398 prisoners were released per 100,000 residents annually.<sup>440</sup> Increases in incarceration rates during this period primarily stemmed from increases in the number of non-violent drug offenders sentenced to prison and increases

in lengths of sentences for serious offenses. Prior to 1996, most inmates were released via the parole board's discretion and only about one-third of offenders were released to supervision. However, after the implementation of Senate Bill 2 in 1996, most inmates were released via mandatory release at the end of their sentences and supervision rose to about 60 percent in 2002.<sup>441</sup> Whether on supervision or not, many return to prison for committing new crimes or violating the terms of their supervision. In recent years, the Ohio Criminal Sentencing Commission assessed the impact of Senate Bill 2 and found that there has been progress towards improving the management of Ohio's prison populations. Consistent with its goals, Ohio is imprisoning more repeat offenders, and low-level felons are being steered into community sanctions.<sup>442</sup> The Ohio Adult Parole Authority (APA) supervises ex-offenders in the community and classifies all ex-offenders under supervision in one of five levels (i.e., Intensive, Basic High, Basic Medium, Basic Low or Monitored Time), based on how often they are required to contact their supervision officer.

***Criminal Sanctions*** Research on the effectiveness of community supervision typically focuses on whether supervision in community reduces offending among ex-offenders on probation or parole. A collective examination of the research suggests that supervision reduces recidivism anywhere from 2-8 percent compared to those who are not supervised in the community. Other research has focused on the length of prison sentences and overall, most studies found that longer incarceration was associated with increased rates of recidivism. In general, research on sanctions show that it fails to deter criminal behavior. In fact, leniency is associated with lower rates of recidivism; those with community supervision are less likely to re-offend compared to those sent to prison and similarly, those with shorter prison sentences are less likely to offend than those with longer sentences. <sup>443</sup> Thus, community-based sanctions are producing better outcomes compared to detention-based sanctions.<sup>444</sup>

***Rehabilitation Efforts*** Rehabilitation efforts are different from sanctions in that they seek to motivate and guide offenders by supporting behavioral and cognitive changes to promote prosocial behavior. Often accompanied by some sort of sanction, the effect of rehabilitation has been studied among adults and juveniles. As a whole, the research suggest that rehabilitation efforts reduce recidivism from a low of 10 percent upward to nearly 40 percent; with an average of over 20 percent. Moreover, among the studies on recidivism, the lowest reduction in recidivism among those in rehabilitative programs is greater than the highest reduction reported by studies focusing on sanctions. <sup>445</sup> Unfortunately, although a preponderance of the evidence suggests that rehabilitation treatment is capable of reducing rates of offending among convicted offenders, there is a disjuncture between practice and policy and too often policy is implemented with little guidance from research.

## Life After Prison

***Recidivism Trends Among Released Offenders*** After a decline in the early 1990s, the proportion of ex-prisoners returning to Ohio prisons increased. The overall three-year return to prison rate for technical violations and new offenses increased from 32 percent in 1996 to 37 percent in 1998.<sup>446</sup> While the three-year return to prison data showed increases in recidivism, the one-year return to prison rate was about 17 percent from 1999-2002.<sup>447</sup>

Recent studies using national data indicate that nearly one-third (29%) of inmates released from prison were rearrested within 6 months, well over half (59.2%) within the first year and over two-thirds (67.5%) within 3 years.<sup>448</sup> A recent study by the Bureau of Justice Statistics followed 30,000 prisoners who were released from prisons in 15 states, including Ohio. The study found that within three years of their

release, over half (52%) of these prisoners were back in prison for new charges or technical violations of the conditions of their release. Ohio's three-year recidivism rate for all prisoners released in 1994 was 35 percent.

While the number of ex-prisoners returned to Ohio's prisons is an important way to assess how well reentry efforts are working, the amount of time spent in prison for a violation is also important for understanding reentry trends in Ohio. Another one of the changes mandated by Senate Bill 2 was a strict limit on the amount of time that ex-prisoners who commit technical violations of post-release control (PRC) can serve in prison. Under SB2, ex-prisoners on PRC can be returned to prison for up to nine months for each technical violation not to exceed half of the inmate's original sentence.<sup>449</sup> In 2001, the median time served in prison for PRC technical violators was 2.5 months, while for parole technical violators, it was 14.0 months. Since 2001, the average time served for parole technical violators has declined, in part, through efforts to reduce differences in time served between parole and post-release control violations. These efforts have been somewhat effective: in 2002, the length of time spent in prison for parole technical violations decreased to roughly 9.5 months.<sup>450</sup>

In an effort to determine what works, researchers have relied heavily on whether sanctions and supervision work to effectively reduce subsequent offending and whether the length of time served is related to recidivism. Overall, research suggests that punishments have little or no effect on recidivism. The number of youth who return to ODYS institutions was greater than the number of adults admitted to adult prisons. Among all the youth released in 2004, 24 percent returned within one year and 5 percent were re-incarcerated at an adult institution. Black youth had higher rates of recidivism than any other racial category. After one year, 26 percent of whites versus 33 percent of black youth returned to ODYS; after two years, 39 percent of whites returned versus 48 percent of blacks; and after three years, 43 percent of whites versus 57 percent of blacks were recommitted to an ODYS facility.

**Youth Crime Prevention** Greater emphasis must be placed on prevention to reduce the incidence of violence among black youth in Ohio. Risk factors for juvenile delinquency include early child-bearing, low school achievement, low socioeconomic status, delinquent peers, and disorganized neighborhoods. Interventions to prevent youth violence typically address one or more of these risk factors. In general, the research on curtailing juvenile delinquency supports three general conclusions. First, interventions applied in early childhood appear to be more effective than interventions in adolescents. This suggests that providing parents of young children with training in parental skills and providing quality early childhood education may be effective strategies for reducing delinquency. Second, most interventions applied during adolescence have limited short-term benefits for reducing violence. Although short-term reductions in violence are beneficial, more time and resources are needed to redirect the attitudes and behaviors of youth. Finally, community-based interventions may be more effective than secure-based interventions for reducing recidivism and marginalization among young offenders.<sup>451</sup>

The best approach will likely involve some combination of efforts focusing on various aspects of prevention, addressing structural, educational, and economic disparities, and reducing the consequences of crime for communities.

### Policy Recommendations and Future Research

This report provides a glimpse into the status of blacks in crime and criminal justice in Ohio. While "Equal Justice Under the Law" is the foundation of our legal system, the justice system is far from

equitable in its treatment of African Americans. Throughout the system, blacks in Ohio receive different and harsher treatment for similar offenses. As a result, disproportionate numbers of African Americans, particularly young males, are too often subjected to all of the collateral consequences of arrests, convictions, and incarcerations. The problem of racial disparity in the criminal justice system deserves immediate attention. Ignoring such harmful disparities reiterates common stereotypes of the “criminal black man” as the face of modern crime. These recommendations will hopefully serve to reduce the structural disparities that plague the African-American community with regard to crime and criminal justice in Ohio.

***Eliminating Racially Patterned Structural Inequalities*** Blacks are still more likely to live in areas characterized by concentrated disadvantage. In fact, there is such disparity in living in disadvantaged areas that “the worst urban contexts in which whites reside are considerably better off than the average context of black communities.”<sup>452</sup> Moreover, studies have found support for the racial invariance thesis which asserts that environmental factors predict crime the same for all racial groups. This pattern of community context has explained racial differences in offending in several studies. For example, using a national sample of young adolescent males, research found that young black males who do not reside in an underclass neighborhood have offending rates that are similar to young white males.<sup>453</sup> This finding that structural inequities are linked to crime is also evident in Ohio. The Ohio counties with the highest rates of offending correspond to the counties with the largest inner-city disadvantaged areas (i.e., Cuyahoga [Cleveland], Hamilton [Cincinnati], and Franklin [Columbus]). Thus, efforts to invest in the structural locations of communities seem to be promising approaches for reducing racial disparities in offending. Disadvantaged neighborhoods should be the beneficiaries of financial investment that will create legitimate opportunities for members to raise their communities out of disadvantage and the accompanying problems.

***Increased Use of Community-Based Corrections*** A recent study in Ohio explored whether community-based alternatives such as half-way houses, probation, and electronic monitoring programs are more effective and cost efficient methods for reducing recidivism compared to jails and prisons. Overall, the study found that participants in community correction programs produce less recidivism compared to prison inmates and generally stay under the supervision of the State for shorter periods. They note that “high risk” offenders benefit the most from intensive community-based treatment programs while “low risk” offenders do not benefit as much from such programs and, in some cases, actually exhibit increases in recidivism. In addition, the State saves anywhere from \$2,000 to \$11,000 per person when using community corrections instead of prisons.<sup>454</sup>

Unfortunately, in November 2002, Ohio voters defeated a proposal to amend the Ohio Constitution to allow, with some restrictions, first and second-time drug offenders to be referred to a residential treatment facility in lieu of incarceration. Years later, Ohio is experiencing the devastating cost of mass incarceration above and beyond the fact that community corrections are cheaper than prison. It only seems logical that public policy should reconsider how to respond to offenders that research suggests benefit little from incarceration. Nevertheless, Ohioans have reasons to be optimistic: Ohio already diverts a significant number of offenders to community-based corrections compared to other states (North Carolina, Virginia, and Oregon), and the prison population has declined in recent years without reports of dramatic impacts on public safety.<sup>455</sup> Since the State has already had some success with rehabilitation and treatment programs, policy makers should develop more community-based programs and expect some cost savings and community benefits.

***Increase Residential Mobility Programs that Reduce Segregation*** Another promising approach to addressing structural inequality has been residential mobility programs that place poor, black, inner-city families in higher-income more racially diverse neighborhoods. Notably, research on this approach has yielded some promising results. For example, residents that volunteered to move to lower crime suburban areas showed improvement in neighborhood economic conditions and two-thirds who initially moved to the suburbs continued to live in the suburbs years later.<sup>456</sup> Furthermore, this study demonstrates that helping disadvantaged families move to racially diverse communities that are more economically prosperous serves to lower their neighborhood crime rates. As a result, victimization and the resulting negative consequences are reduced.

***Increase Environmental and Situational Crime Prevention Efforts*** It is common knowledge that “place” is associated with rates of violence. Frequently referred to as “hot spots,” studies have shown that over half of all calls requiring a police response involved only 3 percent of places.<sup>457</sup> This line of research suggests that some places are safer than others in part because of their environmental characteristics. This line of research suggests that altering the environment can be an effective way to reduce the opportunity for crime. Some examples of some promising strategies include increased lighting on city streets, encouraging the legitimate use of space by designing buildings with windows overlooking sidewalks, and using city streets for mixed uses such as residential housing, restaurants, and retail stores to increase the detection of crime through natural surveillance.<sup>458</sup> Over 100 studies suggest that opportunity reducing measures are an effective approach for reducing crime, particularly in areas of public housing. Given the overrepresentation of blacks in crime, it seems plausible that altering the environment in inner-cities may be an effective strategy for reducing the prevalence of offending in crime-prone areas.

***More Evaluation Research*** The problem of addressing racial disparity in the criminal justice system needs immediate attention. One of the most effective ways to understand this is to inquire about the effects of policy and programs before and after implementation. Prior to policies and laws being implemented, policy makers should consider the role race may play when deciding which behaviors to make illegal, what laws to enforce, and what punishments to assign to law infractions. The notorious disparities between the punishment for possession of cocaine versus the punishment for crack is a notable example of how the legal system responded to a crime epidemic before considering how it would differentially affect racial groups in society. Since law enforcement activities typically target crime-prone areas occupied by minorities, whites are better able to avoid detection and thereby reduce their likelihood of receiving a criminal sanction.

Once implemented, intervention strategies should be evaluated based on the degree they meet their goals of incarceration, reentry, rehabilitation and the like. For any conclusions to be drawn there needs to be more evaluations of existing programs, and strategies to analyze the extent to which the justice system is meeting the needs of the community and the populations they serve -- in a way that is fair to all racial groups.