



## ACLU Policy Priorities for Prison Reform

### Reduction in Incarceration

Over 2 million men, women and juveniles in the United States live behind bars. The majority of them were not convicted of a violent crime. Unfortunately, the political will of a few lawmakers has locked these people up. Many sentences could have been better served outside prison walls and saved millions in taxpayer dollars. Despite this reality, "tough on crime" agendas encouraged the development of mandatory minimum sentencing and "three-strikes-and-your-out" legislation causing soaring rates of incarceration which have overwhelmed an already burdened prison and jail system. Alternatives to incarceration for nonviolent offenders are necessary to reduce overcrowding, to constructively and appropriately sentence convicts, to minimize financial costs and to protect offenders families from upheaval.

### Improvements in Conditions of Confinement

Despite political rhetoric comparing prisons to hotels and resorts, the reality is that most prisons are overcrowded, often dangerous, provide sub-standard medical and mental health care and do nothing to prepare prisoners for when they return to the free world. For the past 30 years, the federal courts provided the last recourse for prisoners right to constitutional conditions of confinement. Now, the power of the federal courts is being restricted. Prisoners right of access to the courts is being limited, as a result, prison conditions will become harsher and more punitive. In Georgia, a senior prison official watched while guards brutally beat handcuffed inmates. Correctional officers in California encouraged combat between prisoners by placing rival gang members together in the prison yard and then shot inmates when they fought. The practice of overcrowding cells and subjecting prisoners to unsafe and unsanitary living conditions also continues to exist. The Constitution protects prisoners from cruel and unusual punishment; it is essential that their rights be protected and that inhumane treatment be prevented.

### Emphasis on Rehabilitation and Treatment Programs

Educational and vocational training as well as substance abuse treatment services are crucial for proper rehabilitation to offenders and they reduce recidivism. National surveys indicate: 70% of inmates entering state prisons have not graduated from high school, 19% are completely illiterate and 40% are functionally illiterate.<sup>(1)</sup> Prison programs that seek to change these statistics make an important difference in the lives of prisoners and for the outside community. Prisoners accorded the opportunity to acquire knowledge and skills are better equipped to resist a life of crime once outside of prison and more likely to gain employment and become self-sufficient. Programs treating alcohol and drug addiction have a similar impact in rehabilitating prisoners. Eighty percent of prisoners are convicted of crimes because of substance abuse.<sup>(2)</sup> Assisting and treating these addicted individuals will help them stay off drugs and away from crime.

### Halt Transfers of Child Offenders to Adult Facilities

Children locked up in adult facilities are eight times more likely to commit suicide, five times more likely to be sexually attacked and twice more likely to be assaulted by staff than juveniles confined in a juvenile facility. Adult institutions also lack the same type of programs and services that juvenile facilities provide to rehabilitate young offenders. Essentially, by incarcerating child offenders with adults we are giving up on the future of these children. The likelihood they will return to crime rises when they are initially imprisoned in an adult institution.

## Attention to Concerns of Female Prisoners

Women comprise only 6.4% <sup>(3)</sup> of adult inmates, but they constitute the fastest growing segment of the inmate population. Women's increasing numbers require special examination of the issues particular to their confinement. Seventy-eight percent of women in prison have children.<sup>(4)</sup> Many of these mothers run single-headed households and leave their children behind when they enter prison. If female inmates do not have family members who can care for their children while they are in prison, they may lose them to foster care and have their parental rights eventually terminated. Additional obstacles exist for pregnant inmates because of medical concerns and their rights to reproductive choice. Correctional facilities often do not provide proper gynecological care; have limited prenatal and postpartum care and no abortion services. Inmates who wish to terminate their pregnancy usually must go outside the facility and pay all expenses. Growing attention and awareness of sexual misconduct among corrections staff towards female inmates is also important. In California, women were harassed by prison guards who unlocked their cell doors at night and permitted male prisoners to enter and abuse them. One female prisoner complained to the facility's administration and was later beaten, sodomized and raped by three men who had been told of her grievances. Issues facing female inmates are often overlooked because their numbers are not as large as that of male prisoners; however, their concerns are just as legitimate.

## Decriminalization of Mental Illness

Ten percent of adult inmates and 20 percent of juveniles are known to suffer from severe mental illness.<sup>(5)</sup> Correctional institutions have replaced mental hospitals as the largest warehouse of this community. The impact and influence of an individual's mental illness affects their likelihood of arrest and incarceration. The majority of arrests are for nonviolent offenses. When the mentally ill are incarcerated they encounter prisons and jails inadequately equipped to serve them. Untrained staff, limited medical care and access to medication, and inappropriate facilities and treatment put mentally ill prisoners in an extremely vulnerable situation. A prisoner in Utah returned from the hospital after an attempted suicide and was cut off from his psychiatric medication and restrained on a metal table for 12 weeks. The inmate developed pressure sores, defecated on the table and was bathed with a hose while shackled. He wore only undershorts and usually was denied a blanket. Only after a court order did the inmate finally return to a mental hospital. These horrifying conditions only exacerbated his illness.

## Elimination of Private Prisons

Decisions to place an offender in prison, and the decision to impose a particular length of sentence, are critical social policy decisions that should not be contaminated by profit considerations. Encouraging rehabilitation and establishing productive instructional programming in a safe and secure facility for prisoners and protecting the surrounding community should be the top priority of a prison. Cost-conscious private industry has little financial incentive to meet constitutional standards. A company's loyalty lies primarily with its stockholders. A 1998 Department of Justice report cited the inexperience and lack of training of staff at an Ohio private prison and detailed the resulting excessive use of force by staff. After two stabbing deaths, several escapes and medically-related deaths, a lawsuit resulted in a \$1.65 million settlement to be paid by the private corporation to the prisoners.

---

### Notes

1. The Center on Crime, Communities & Culture, *Education as Crime Prevention: Providing Education to Prisoners*, Research Brief: Occasional Paper Series 2 (Sept. 1997).
2. The National Center on Addiction and Substance Abuse at Columbia University, *Behind Bars: Substance Abuse and America's Prison Population* (Jan. 1998).
3. Darrell K. Gilliard, *Prison and Jail Inmates at Midyear 1998*, Bureau of Justice Statistics, U.S. Department of Justice (March 1999).
4. Steven R. Donziger, *The Real War on Crime: The Report of the National Criminal Justice Commission* (New York, N.Y.: Harper Perennial, 1996), p.153.
5. Fox Butterfield, "By Default, Jails Become Mental Institutions," *The New York Times*, 5 March 1998.