

MOTHERS IN PRISON, CHILDREN IN CRISIS
CAMPAIGN

INFORMATION AND NEWS PACKET



JusticeWorks Community--National Headquarters
Brooklyn, New York

Justice Works Community

JusticeWorks Community, a national nonprofit organization based in Brooklyn, New York, was founded in 1992 by criminal justice experts, ex-prisoners, and religious leaders in response to the social crisis triggered by the dramatic increase of the U.S. female prison population. JusticeWorks focuses advocacy efforts and provides services specifically to women prisoners, ex-prisoners, and their families, who we believe are the most marginalized and under served members of our community. We are also dedicated to educating the public about the practical and ethical consequences of resorting to mass incarceration instead of solving pressing social problems.

Through the Interfaith Partnership for Criminal Justice in New York City and the National Partnership with Women in Jail and Prison – our network of 400 secular and religious organizations – we bring the mainstream community into direct dialogue with female ex-prisoners and their families and organize for change.

STAMP

Justice Works Community
1012 Eighth Avenue
Brooklyn, NY 11215

Please send me more information about
Mothers in Prison, Children in Crisis
Campaign '99

(fill out the form below and mail to:
JusticeWorks Community,
Campaign '99 National Headquarters)

Name: _____

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Enclosed is my tax deductible contribution of
\$ _____ to support the national campaign for
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CAMPAIGN '99 SITES:

Atlanta, GA ■ Boston, MA ■ Boulder, CO ■ Chicago, IL ■ Cleveland, OH ■ Dallas, TX (Pending) ■ Des Moines, IA ■ Hartford/Bolton, CT ■ Indianapolis, IN ■ Jacksonville, FL ■ Little Rock, AR ■ Los Angeles, CA ■ Minneapolis, MN ■ New York, NY ■ Newark, NJ ■ Philadelphia, PA ■ Springfield, MA ■ Pittsburgh, PA ■ San Diego, CA ■ San Francisco, CA ■ St. Louis, MO ■ Syracuse, NY



Street Mother by Paulette DuCharme O.S.U.

MOTHERS IN PRISON, CHILDREN IN CRISIS

Campaign '99 for
ALTERNATIVES TO INCARCERATION

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Local Organizing Site:

What is Campaign '99 ?

Since 1980, the number of women in jail and prison has grown from 10,000 to more than 130,000. The majority are *nonviolent* mothers from poor communities. This alarming increase is the direct result of mandatory minimum sentences for drug law violations. Now in its fifth years, **Mothers in Prison, Children in Crisis** is the first and only national organizing campaign that seeks to establish alternatives to incarceration as the sentencing norm for women with dependent children.

Our national strategy is to develop strong communities of activists in targeted states who can pressure key policy makers to change current state sentencing regulations. Our work is supported by *Women of Substance: A Drug Abuse Education Project*, through which organizers conduct public policy forums on drug dependency and criminal justice policy which are co-led by ex-prisoner women in recovery. The goal of JusticeWorks Community is to foster public understanding of addiction as a medical *not* a criminal problem, to build legislative support for ending the imprisonment of addicted mothers, and to raise public awareness about the crippling social and economic consequences of calling for more prisons and harsher punishment.

On May 7, 1999, the Friday before Mother's Day, thousands of people across the United States – ex-prisoners and their families, criminal justice service providers, lawyers, clergy, elected officials, women's rights and social justice advocates – will join together at rallies, speakouts and vigils to call attention to the plight of women in prison and demand legislative change.



130,043 women are currently incarcerated in U.S. jails and prisons; 75% have dependent children.

Imprisoned Women and Their Children

When a man is arrested, he is usually confident that someone is caring for his children. When a woman is arrested, she does not have this assurance. Because a woman is usually a child's primary care-giver, a mother in prison suffers both the pain of separation and the concern for her children's care.

Children are unfairly punished for the crime of their mother. They may be removed from home, school, and community. They are often shuttled from one care-giver to another. They are deprived of seeing parents and siblings and they are often left on their own to comprehend what is happening to their family. Because having a relative in jail is a social stigma, many children try to hide this from others, compounding the damage to their emotional development. Without community support, children of women prisoners are prone to experience anger, alienation, failure in school, feelings of abandonment and overall dysfunction.

A Brief Overview

- A study by the National Center on Addiction and Substance Abuse at Columbia University revealed that "drug and alcohol abuse and addiction are implicated in the incarceration of 80%" (or 1.4 of the 1.7 million) of the individuals imprisoned today in U.S. jails and prison.
- A recent U.S. poll indicates that 57% of the adult population favors treatment over incarceration. 75% of those surveyed supported allocating more money for treatment. (Brandeis University)
- RAND's Drug Policy Research Center found that treatment is a useful tool for fighting substance abuse. In fact, the study concluded that treatment is 15 times more effective at reducing serious crime than mandatory minimum sentencing.

Alternatives to Incarceration

Alternatives have been legislatively endorsed for more than twenty years. In spite of the evidence that alternatives are cost-effective, they are underfunded. In spite of the evidence that alternatives are enforceable and have a significant effect on recidivism, they are underutilized. In spite of the fact that most Americans view addiction as a disease and overwhelmingly support treatment instead of incarceration, our government continues to uphold discriminatory laws and to pour money into prison construction and maintenance.

The guiding principle behind alternatives is that prisons are destructive to human lives and the community. **Prisons should be the last resort, used only for our society's most violent and dangerous citizens.** Alternatives to incarceration provide creative responses that serve the real needs of the individual and the community.

Alternatives are cheaper and more effective than mass incarceration at reducing and preventing crime.

Ways to Become Involved

- Ask your local religious or community organization to host a *Women of Substance* forum.
- Join the May 7th rally at one of the twenty-five locations. Visit www.justiceworks.org for the rally nearest you!
- Volunteer to organize a year 2000 event.
- Write your legislator in support of alternatives to incarceration as the sentencing norm for mothers.
- Ask your local newspaper, television or radio station to cover the campaign.
- Enroll in a volunteer training program to become an advocate for a mother in prison, or for her child.

Sign and mail three drug dollars to

Governor George E. Pataki, Executive Chamber, Albany, NY 12224

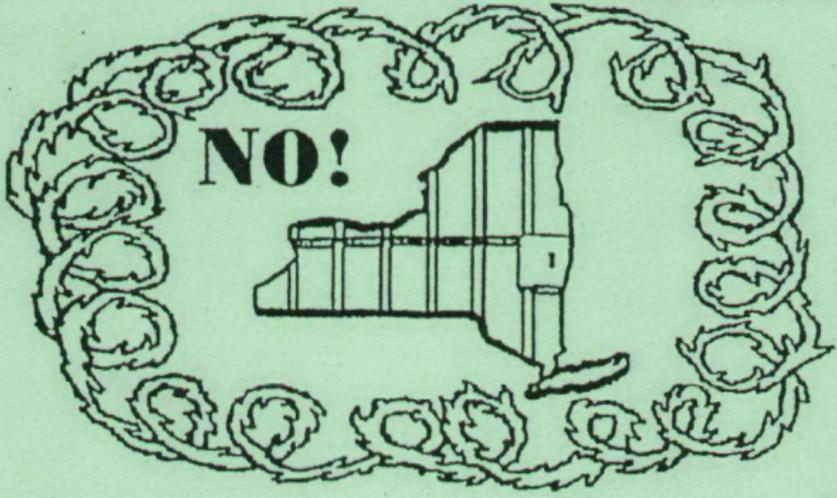
Senator Joseph L. Bruno, 909 LOB, Albany, 12247

Assembly Speaker Sheldon Silver, 932 LOB, Albany, NY 12248

IN BARBED WIRE WE TRUST?

1

1



REHABILITATE
ADDICTS

REPEAL
ROCKEFELLER

1

1

Joe Public
Joe Public, Taxpayer

SAVE OUR DOLLARS!

\$

To: _____

\$

Sorry this dollar isn't real.

The real money has gone to build prisons,
while public schools struggle, health services decline, and tuition at state colleges rises.

The New York Drug Laws are a failure.

Use our dollars for more effective, less costly ways to reduce crime & drugs.

Restore sentencing discretion to judges.

Alternative penalties, drug treatment, and job training work!

\$

Signed _____

Address _____

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**A CALL FOR COMMON SENSE POLICY
IN CRIMINAL JUSTICE:**

**ALTERNATIVES TO INCARCERATION
AS THE SENTENCING NORM
FOR WOMEN WITH DEPENDENT CHILDREN**

A National Campaign:
Mothers in Prison, Children in Crisis

Sponsored by:
JusticeWorks Community
National Headquarters
1012 Eighth Avenue
Brooklyn, New York 11215
(718) 499-6704

JusticeWorks Community
National Headquarters
“Mothers in Prison, Children in Crisis” Campaign

A CALL FOR COMMON SENSE POLICY IN CRIMINAL JUSTICE

JusticeWorks Community has launched a national movement in ten major cities to **end the incarceration of mothers with dependent children** by advocating cost-effective and enforceable alternatives as the standard sentencing policy.

We believe that imprisonment is a harsh and dehumanizing experience and must be imposed only as the last recourse. For the health and safety of our whole society we must work together to alleviate the root causes of crime, redirect monies away from costly prison construction and management to effective and enforceable alternatives, and focus our creative human energies on the strengthening of families and communities.

OUR SOCIAL AND POLITICAL CONTEXT:

Most people agree on one major point: the human race has come to a critical juncture, and only a revolution in the way we think and act can lead us toward human community and renewed concern for the common good. Einstein said we would never solve the problems of the world until we moved from the level of thinking that created them. In these times, efforts to strike deals with the old paradigms will not meet with success. They are part of the problem. We need new paradigms and new strategies. We must change course.

Changing course requires that we find common ground. We will find common ground only by moving to a higher ground. Political leaders can appeal to people’s best instincts (as when Martin Luther King, Jr. proclaimed, “I have a dream”) or manipulate their worst impulses (as when George Bush exploited the case of Willie Horton). Which values or fears are awakened or appealed to is, perhaps, the best test of our political life.

Our country is suffering from a depression. Not an economic depression as in the 1920's and 1930's, but a spiritual and moral depression. The leaders of our time do not speak for us, but against us. They have made us believe that we cannot trust a neighbor, that our youth are beyond hope, and that our social problems cannot be handled through honest dialogue. Instead we get mud-slinging and slandering among political leaders, and public policies designed to tell us that compassion, tolerance, and mercy have no place in our world. Consequently we have lost our political will for the common good.

In this context, public discourse about crime and justice has been debased by the cynicism that made Willie Horton a major participant in a presidential campaign. That cynicism has made it nearly impossible to develop sensible criminal justice policies. For nearly twenty-five years, researchers have shown that manipulation of penalties has relatively little or no effect on crime rates.¹ Nonetheless, from 1981 onward, the Reagan and Bush administrations repeatedly called for tougher penalties-- mandatory sentences, death penalties, more prisons, and reduced habeas corpus rights --as if these policies would make a safer America. Arguing these proposals in the face of emerging statistics, they made claims that defied well-established knowledge.

THE CRIMINAL JUSTICE CONTEXT:

The time has come for the U.S. public to confront the fact that the failed criminal justice policies of the past two decades have increased the prison population four-fold, and have had disastrous consequences for black Americans and women with children. Imprisonment must become the **last** recourse in legal sanctions, not the first, as demonstrated by the skyrocketing jail and prison rates and the draconian prison sentences that have become the prevailing trend in this country. Prison expansion and the spreading epidemic of imprisonment have not reduced the threat of violence in our society. Instead they have given us the second highest incarceration rate in the world (1.5 million behind bars, most of whom have committed nonviolent crimes), siphoned off massive funds to the correctional establishment that could be used to eradicate the

¹ Tonry, Michael. 1995. *Malign Neglect: Race, Crime, and Punishment in America*. New York: Oxford University Press.

roots of crime, fueled the already escalating racial cancer that eats away at our nation's soul, and undermined our cherished principles of democracy. With the passing of the recent federal crime legislation, it is becoming clear to us that the major danger we face in this society is not crime, but the *misconceived fight against crime*.

One thing that neither nature nor humans can tolerate is *chaos*: to survive, we need some semblance of order. The frustrations, fears, and anxieties of our troubled world, however, have produced one particularly problematic and frightening response: a widespread demand for law and order, closeted in language like "anti-crime packages". There are dimensions of the current cry for law and order that need careful scrutiny. Law and order, however important, are not enough. Law and order must be understood as a means to justice, not an end in themselves.

For human beings to *survive*, law and order are indispensable. As Martin Luther King, Jr. once said of the power of the law: "You can't force them to love us, but you can stop them from lynching us." But *beyond* law and order are human well-being, and human community, which demand the love and justice that Dr. King rightly saw could not be forced. Our nation is caught up in a law-and-order, reactionary social trend. We support the *illusion* that greater law and order will satisfy our longing for a more secure and peaceful existence. But control will never be a substitute for the yearning for right-relatedness. Control cannot remove our fears. Unless we keep right-relatedness, or "justice for all", as our overriding goal, our efforts at creating peace within our communities will escape us. Here we must be reminded of the words of W.E.B. Dubois, "*The cost of liberty is less than the cost of repression.*"

As a nation we regard crime as an indicator of the decline in individual morality, or to a lesser extent, as a sign of frustration over individual problems of unemployment and poverty. We don't see it, however, as evidence of flaws in our basic economic and social structures. As long as we don't go behind the "breakdown of values" mentality which is feeding the law and order demands of the day, and acknowledge that the sources of that breakdown are deeply embedded in our nation's economic and social structures, we will *not* be taking crime seriously.

Here's how we read the current debate: conservatives become impatient with those who see individual criminal acts as a product of the social order, and liberals condemn as simplistic the view of crime as the sum of individual moral choices. *In our world we can*

no longer afford this dichotomy. Both ideological options fail to deal with the enormity and complexity of the crime problem we now confront. We must make the critical link between personal responsibility and societal change.

We would advocate that conservatives and liberals come together in a larger, more nuanced view of what generates street crime. Persons who commit street crimes are not only individuals whose particular actions have produced social harm to their victims, requiring individualized recompense. They are also classes of people whose problems flow from institutional arrangements made at levels far removed from their control. Most offenders have, as conservatives allege, chosen their conduct at the individual level; but the *economic and social arrangements that structured their volition were products of choice, too*, made not by their forebears, but by those who hold political and economic power in this society. Our exclusive focus on crime as the product of the individual offender's choice enables us to suppress the evidence that our general ideology and political economy are defective in creating and sustaining peace within our communities.

In addition, white Americans need to confront the evidence that our current criminal justice policies are decimating African American communities and impeding the movement of disadvantaged blacks into the social and economic mainstream of America. In *Malign Neglect*, Michael Tonry demonstrates that the rising levels of African American incarceration rates did not just happen: “they were the foreseeable effects of deliberate policies spearheaded by the Reagan and Bush administrations and implemented by many states. Anyone with knowledge of drug-trafficking patterns and police arrest policies could have foreseen that the enemy troops in the War on Drugs would consist largely of young, inner-city minority males. Blacks in particular are arrested and imprisoned for drug crimes in numbers far out of line with their proportions of the general population, of drug users, and of drug- traffickers.”²

This decimation of African American communities is particularly evident in the increased imprisonment of women with children. *Why Punish the Children?*, a report issued by the National Council on Crime and Delinquency, concluded, “The system has become more rigid, sacrificing the flexibility to consider alternative outcomes for women with young

²Tonry, Michael. 1995. *Malign Neglect: Race, Crime, and Punishment in America*. New York: Oxford University Press.

children. Unfortunately, while policy makers have shown women that they will receive the same consequences as men for their offenses, they have also systematically punished their children.”³

The criminal justice system affects *every* citizen in the U.S.--some certainly more directly than others, but none of us can escape its reach. Without a major shift from the policy and practice of imprisonment as our first response to street crime, we are literally condemning the future of America. The expanding jailhouse state condemns taxpayers to a never-ending spiral of costly prison construction. It condemns state governments to making their main function the policing of a permanent prison class, composed primarily of people of color. It condemns hundreds of thousands of nonviolent adults to overcrowded, racist, disease-ridden institutions that batter the psyche and promote violence. Michael Tonry further adds that “the crime problem is no longer simply a criminal justice system concern. Unless America can devise ways to make crime control policies less destructive of poor black males and poor black communities, there can be no solution to the problems of the black underclass.”

Here lies our common ground: public acceptance that crime has both individual and societal roots, a perspective that will mobilize collective responsibility for creating criminal justice policies and practices that are less socially destructive.

THE SPECIFIC IMPACT ON WOMEN AND FAMILIES:

The criminal justice system in the United States is built upon an either-or, over-against mentality. Since the sanctions inflicted by a society reflect its prevailing social relationships, as long as unjust social relationships exist--white people versus people of color, rich versus poor, men versus women, offender versus law-abiding citizen--justice will escape us and human lives will be expendable. The burgeoning prison industry complex is the product of our alienation and reflects our capacity to violate human relational bonds. This is *nowhere more evident* than in the escalating imprisonment of women with dependent children.

³National Crime and Delinquency. 1993. “Why Punish the Children?”. San Francisco: NCCD

The rapid escalation in U.S. incarceration rates during the 1980's has given us the second highest rate of incarceration in the industrialized world, and *the number of women being locked up is increasing at a much greater rate than that of men*. Most sources agree that the rise in the rate of women's imprisonment is not due to any discernable increase in violent crime by women. There are now nearly 90,000 women in our prisons and jails, 76% of whom are mothers, and 1.5 million of our country's children have a parent who is incarcerated. The majority of these women are poor and from communities of color. The crippling social and economic consequences of their incarceration--to individuals, families and communities--are only beginning to be publicly realized.

Beneath the struggles with poverty, illiteracy, and substance abuse that mark the path to jail and prison, lies the reality that many poor women detach early from institutions that most Americans rely on to facilitate lawful participation in society. Beginning in childhood, family violence and neglect lead many young women to break away from dangerous homes and schools, churches and other community institutions which deny the truth of their experience. These women go into the streets seeking refuge, acceptance, and economic options to escape the pain of their existence, finding an altered reality available only through drugs and alcohol. Our society's refusal to acknowledge--in fact, our individual and collective desire to deny--the severe trauma that all too often accompanies growing up poor and female in America only serves to obscure solutions to crime that we all purport to seek.

Women emerging from prison are among the most disadvantaged and forgotten in our cities and nation. When a woman comes out of prison she faces the burden of finding employment, arranging housing, proving to social service agencies that she is capable of taking care of her children, and demonstrating to society that she has worth as a human being--all with the added stigma of a prison record. Her skills are already inadequate (75% lack a high school diploma and 66% were unemployed or underemployed at the time of arrest), her contacts in the community have been severed, her children are traumatized. She has an 80% chance of returning to jail or prison, with the highest likelihood during the first few months after release.

The children of an incarcerated woman suffer severe damage while their mother is behind bars. They are frequently shuttled from one caregiver to another, often in a way that separates them from their brothers and sisters. With the social stigma of a mother in

prison or jail, they are often left alone to try and comprehend what is happening. Incarcerating a mother always punishes her children as well. They experience anger, alienation, hostility towards authority, failure in school, feelings of abandonment and overall dysfunction. Of the troubled children who come in contact with New York's Department of Juvenile Justice, forty per cent have a parent who is incarcerated.

In a 1992 study by the Center For Children of Incarcerated Parents, the findings indicate that the children of women involved in the criminal justice system are significantly poorer than others in the study group.⁴ The study concludes that at least three major life factors place these children at extreme risk in comparison to their peers who are also raised in high-risk environments:

- Children of parents involved in the criminal justice system are traumatized by events related to parental crime and arrest, and to community crime and violence.
- Children of parents involved in the criminal justice system are more vulnerable as the result of separation from their parents. A major role of parents is to help address stressful events and master trauma. When trauma involves parental loss, children also lose their helper, and their ability to overcome the effects of trauma is seriously or permanently impaired.
- Children of parents involved in the criminal justice system experience an inadequate quality of care, largely due to extreme poverty. Poverty is the central underlying fact of these children's lives and a major predictor of crime and incarceration. In addition to contributing to caregiver and family stress, their extreme poverty precludes the stable, nurturing home environment children need in order to survive early trauma without consequence.

Three quarters of the women imprisoned in the United States were sentenced on *nonviolent* crimes. The dramatic increase in the women's population is driven largely by mandatory drug sentences. In 1991, 1 in 3 women in state prisons were serving time for drug crimes, compared to 1 in 8 in 1986. Further research shows that many women who are in prison for drug crimes were unknowingly exploited, coerced, or tricked into

⁴Correctional Association of New York. "Out of Silence". 1993. New York

the drug trade. So called “drug mules” are trapped by mandatory sentencing structures.

These facts, coupled with the severe damage done to innocent children through separation from their mothers, tell us that we must choose alternatives. Punishing women already marginalized from mainstream institutions by locking them away in jails and prisons--casting them further out of relationship with their children, their communities, and society at large--only renders permanent their alienation and despair and engenders the cycle all over again in their children.

ALTERNATIVES TO INCARCERATION:

Alternatives to incarceration are not new--they have been legislatively endorsed in many states for nearly 20 years. The guiding principle of the early movement toward alternatives was that jails and prisons had been proven to be detrimental to the humanity of prisoners, guards, administration, and the community. Alternatives were designed to provide a range of sentencing options to judges rather than relying on imprisonment as the only sentencing recourse. They were created to keep people out of jail or prison who were not a threat to society.

Too often jails and prisons are the first community response to complicated social problems like addictions and poverty. Alternatives to imprisonment provide creative responses that address the real needs of the individual and the community. Alternative programs are cost-effective, enforceable, and they significantly reduce recidivism. They can be used at any point in the criminal justice process: alternatives to pre-trial confinement, alternatives to prosecution, sentencing alternatives, and post-confinement alternatives. Examples of alternative programs include: community work service orders, restitution, employment assistance/job placement, third party advocacy, alcohol and drug treatment, and mental health services.

Unfortunately alternatives have been at the mercy of political winds. We have lost sight of the horrors of prisons and jails. We have allowed imprisonment once again to become our first choice in sentencing options. We have allowed mandatory sentences--which means long terms of imprisonment--rule our sentencing policy. We have allowed politicians to underfund alternative sanctions and judges to under-utilize them. Given this

history, it is clear that alternative programs will always be vulnerable to political maneuvering unless we make them the standard sentencing norm rather than the exception.

FISCAL CONCERNS:

We live in a time of grave budgetary constraints on our federal and state governments. The national debt is astounding and our states face budget gaps that call for serious fiscal monitoring. The harsh reality is we must decrease spending. In all of the media coverage and political bickering over the national budget, however, no one seriously challenged the obscene amount of money that this nation spends on prisons, prison expansion, and crime control. In 1994, Congress approved a 28 billion dollar crime package that is heavy on punishment and slim on crime prevention. Within that astonishing number, 9 billion dollars was allocated for prison expansion. *This is worse than a waste of money.* It aggravates public panic about violent crime at a time when it is not increasing. And once states have made the investment in such prisons, there will be an inevitable urge to *fill* them. On the local level taxpayers in New York City are paying a particularly high price. In addition to the staggering \$59,000 cost per year of incarcerating a single woman, it costs at least an additional \$20,000 for each of her children to be placed in foster care.

If the combined prison and jail population was lowered to 1980 levels, adjusted for population increase, \$10 billion to \$20 billion a year could be saved on institutional correctional budgets, and additional billions could be saved on police, prosecutorial, and court operations.⁵

Our current sentencing policies are fiscally draining our nation. We need this money in our communities, schools, health care and social service systems.

⁵ Tonry, Michael. 1995. *Malign Neglect: Race, Crime, and Punishment in America.* New York.: Oxford Press.

RECOMMENDATIONS:

The folly and fiscal irresponsibility of locking up more and more nonviolent felons has been apparent for years. But the political imperative to be tough on crime has overcome common sense. The political winds must shift and common sense must make a comeback. JusticeWorks Community is creating a national movement to engage our citizenry in advocating a common sense sentencing policy for women. Our recommended policy change is:

Community-based alternatives must become the sentencing norm for women with dependent children.

Most women are in jail and prison on nonviolent crimes. The majority of women charged with violent crimes were defending themselves against abusive spouses--they are not a threat to public safety. Incarcerating these women satisfies our punitive mindset to the detriment of strong families and communities. We must break through our walls of voluntary ignorance and see the destruction white Americans are imposing on families and communities of color, and especially on innocent children. We cannot afford this rage to punish.

In order to achieve this policy change, other actions must be undertaken. They are essential elements for creating a common sense approach to criminal justice policy. These actions are as follows:

- **We must come clean with the American public and acknowledge that prisons are not the antidote for drug crimes.**
We must concede that the policy of harsh punishment does not work. Drug users abound, so there has been no deterrence effect; in-prison treatment programs rarely exist, so there is no prisoner rehabilitation; and most prisoners are small-time users or sellers, so massive imprisonment hasn't made a dent in drug-trafficking or in our country's drug problem. Meanwhile, we have wreaked greater havoc on poor families and communities of color by separating children from their parents and by diverting precious dollars from communities to corrections. We cannot develop the political will among the people for a new direction until our leaders--political, judicial and religious--admit that our policies are misguided and have failed.

- **We must repeal mandatory sentencing laws retroactively for nonviolent felons.**

In her book, *The Rage To Punish*, Lois G. Forer, former trial judge in Pennsylvania stated, "Mandatory sentencing laws and guideline sentencing laws enacted in the late 1970's and 1980's have transmogrified the criminal law from a justice system to a crime control system.... It soon became evident that these laws drastically increased the number of prisoners and the length of prison sentences. They also exacerbated the disparities in treatment between the affluent and the indigent, women and men, whites and non-whites, young offenders and older persons."

This sentiment has been echoed by criminal justice and social justice professionals for many years. The evidence is overwhelming that this sentencing experiment has failed: crime has not been materially reduced and the results have been disastrous to offenders and their families and to taxpayers. These laws must be repealed.

- **We must demand that incarceration be imposed only as the last recourse.** By limiting the use of jails and prisons, we can redirect the monies saved to enhance cost-effective and enforceable community based alternatives such as substance abuse programs and residential programs for mothers and children. And we would have money left over to put state and federal budgets back in balance.
- **We must formulate criminal justice policies with an eye to the foreseeable effects on members of minority groups.**

The disproportionate number of people of color in our criminal justice system is a well-known fact. Although crimes by African Americans are not increasing, and violent crimes committed by African Americans have been level for more than a decade, disproportionate punishment of African Americans has worsened. The number of African Americans in prison has tripled since 1980.

Conventional ethics demand that we hold ourselves accountable for the consequences of our public policies. In *Malign Neglect*, Michael Tonry recommends, "When policies are likely to burden members of minority groups disproportionately, and, through them their families and communities, we must reconsider the policy." He goes on to cite the example of the 100-to-1 distinction made between crack and powder cocaine in federal law and federal sentencing

guidelines. Federal guidelines direct judges to multiply quantities of crack by 100 in order to determine the amount on which the presumptive sentence will be based. As could have been foreseen, African Americans convicted of crack offenses receive much harsher sentences than whites convicted of powder offenses.

Other examples of policies with foreseeable racially disparate effects include the refusal to make drug treatment available on demand, under-investment in other treatment programs, capital punishment, and sharp increases in punishment for crimes that are more likely to be committed by African Americans.

Routinely asking the race-effects question in policy decisions will seldom provide easy answers. We believe, however, that it will bring scrutiny to punishment differentials among races that when challenged, will be hard to defend.

CONCLUSION:

“The rage to punish is a costly American obsession. Punishment is defined as ‘subjecting a person to pain for an offense or fault.’ In any other context the desire to cause pain is considered sadism, a psychiatric disorder. One must ask why Americans and their elected representatives believe that punishment is moral, what justification there is for laws that do not reduce crime but cost billions of dollars each year. These practices will continue despite the burden on taxpayers and the tragic consequences to the imprisoned and their families unless the public demands change.” The late Honorable Lois G. Forer

JusticeWorks Community and our national partners are demanding change.

The Facts

Mothers in Prison

Children in Crisis

Women of Substance

Alternatives Work

Mothers in Prison

National facts:

- There are now 130,043 women incarcerated in U.S. prisons and jails. (The Council of State Governments)
- The number of women in prisons and jails is increasing at a faster rate than that of men. (U.S. Department of Justice: Office of Justice Programs)
- By the end of 1995, 828,100 women were under correctional supervision (either in prison, jail, on probation or parole). (U.S. Department of Justice: Office of Justice Programs)
- 75% of women in prison are mothers. Two-thirds of these women have children under the age of 18. (U.S. Department of Justice: Bureau of Justice Statistics)
- 25% of adult women in prison have either given birth at some point during the year prior to their incarceration or are pregnant at the time of their arrest. A survey of state prison wardens found that “less than 50% [of their facilities] had written policies specifically relating to medical care for pregnant women [and] only 48% offered prenatal services. Of the facilities in this second category, 21% offered prenatal counseling, 15% offered counseling to help mothers find suitable placements for their infants after birth and 15% had policies for lighter or no work during pregnancy.” (U.S. Department of Justice: Office of Justice Programs)
- Most women who use illegal drugs while pregnant are white, yet in several studies, the vast majority of the women either reported or arrested for drug use are women of color. (The Guttmacher Report, 1998)
- The Departments of Justice and Health and Human Services reported that, *nationally*, there are currently 17.7 million American women who have been raped or have been the victim of attempted rape. 75% of the women knew their attacker. Nearly half of the women were under age 18 at the time of the attack. (*New York Times*, 11/19/98)
 - 78% of women in prison report that they have been physically or sexually abused. 50% of these women were abused by someone they knew, in contrast to 3% of men. 56% reported that the abuse included rape. (U.S. Department of Justice: Bureau of Justice Statistics)
 - Women who were abused or neglected as children face a 77% higher chance of arrest than a comparison group of women who did not experience abuse or neglect. (U.S. Department of Justice: Office of Justice Programs)
- Of those prisoners who commit violent acts, women are two times more likely than men to know the other person involved. (U.S. Department of Justice: National Institute of Justice) In fact, nearly two-thirds of the women serving a sentence for a violent crime knew the other person involved in the crime. (U.S. Department of Justice: Bureau of Justice Statistics) The vast majority of these women were defending themselves or their children from abuse. The average prison time for a woman who kills her spouse/partner is twice that of a man who kills his spouse/partner. (*Turning the Tide*, 1998)
- Black women are incarcerated at a rate eight times that of white women. (The Sentencing Project)
- 5.1% of black and Hispanic females are likely to go to prison or jail at least one time during their lifetime, as compared to .5% of white females. (The Sentencing Project)
- 22.3% of women in prison held no job prior to incarceration. Of those who had jobs, two-thirds reported never receiving more than \$6.50 per hour. (Wellisch, Anglin and Prendergast, *Journal of Drug Issues*, 1993)



- While children usually remain with their mother during the incarceration of their father, children of incarcerated mothers are much more likely to experience a change in primary caretaker. (The Osborne Association)
- 1.5 million children have a parent in jail or prison. (National Council on Crime and Delinquency) An estimated 10 million more children have parents who have spent time in prison or jail at some point in their lives. (*City Limits*, 1995)
- Women currently in prison or jail are mothers to nearly 250,000 children, the majority of whom are under 18 years of age. (U.S. Department of Justice: Office of Justice Programs)
- The National Council on Crime and Delinquency estimates that conservatively 9% of women in U.S. prisons and jails are pregnant. As such, given that more than 130,000 women are currently incarcerated, we can assume that at least 11,700 of incarcerated women are currently pregnant.
- Yet another National Council on Crime and Delinquency study found that 36% of the women interviewed had been separated from at least one child during the child's first three years of life. This correlates with the common finding that women who give birth while incarcerated often have to relinquish care of their child to a relative, friend or foster parent within 24 hours of the child's birth.
- The majority of children separated from their mother because of her incarceration subsequently live with their maternal grandmother. Only 17% of the children stay with their father. The remaining children live with other relatives, friends or in foster care. (National Council on Crime and Delinquency)
- Many states do not recognize family relations as legitimate foster care and deny them financial support and social services. (National Council on Crime and Delinquency)
- More than half of the women in state prisons never see their children during their incarceration. An additional 21% have less than monthly visits. (*City Limits*, 1995)
- Over 60% of mothers in prison are incarcerated more than 100 miles from their children making visitation difficult, financially prohibitive and often impossible. (National Council on Crime and Delinquency)
- Children of prisoners can experience anger, alienation, hostility to authority, feelings of abandonment and overall dysfunction. "Without the proper community support, children of prisoners can suffer an array of behavioral problems which can lead to truancy, early pregnancy, drug abuse and juvenile delinquency." (The Osborne Association)
- Nationally, foster care for a prisoner's child costs between \$15,000 and \$20,000 per year, adding to the cost of incarcerating their care-givers. (*City Limits*, 1997)
- Mothers in prison can literally lose their children in the foster care system as the child is shifted from family to family. The woman prisoner must depend on prison officials who are often indifferent to the child's whereabouts or needs.

Women of Substance

National facts:

- A study by the National Center on Addiction and Substance Abuse at Columbia University revealed that “drug and alcohol abuse and addiction are implicated in the incarceration of 80%” (or 1.4 of the 1.7 million) of the individuals imprisoned today in U.S. jails and prison.
- Women in prison are more likely than men to have ever used drugs, to have used drugs daily the month before their offense, to have been under the influence of drugs while committing the offense and to have committed the offense to get drugs. (U.S. Department of Justice: Office of Justice Programs)
- Less than 10% of those who need substance abuse treatment in prison actually receive it. 75% of the general population who seek substance abuse treatment, never receive it. (*Substance Abuse: The Nation's Number One Health Problem* prepared by Brandeis University)
- If current incarceration trends continue, by the year 2000 the nation will spend \$100 million dollars *per day* to incarcerate individuals with serious substance abuse problems. (National Center on Addiction and Substance Abuse at Columbia University)
- Women currently convicted of drug offenses were often only couriers or “front” people. (U.S. Department of Justice: Office of Justice Programs) Many of these women were unknowingly exploited, coerced or tricked into the drug trade. So-called “drug mules” are trapped by mandatory minimum sentencing structures. (Queens Legal Aid)
- Providing treatment to all those addicted to a substance could save more than \$150 billion in social costs over the next 15 years, while requiring just \$21 billion in treatment costs. (RAND Corporation)
- According to The Sentencing Project, “while blacks make up 13% of the national population and 13% of the country's monthly drug users, they account for 35% of arrests for drug possession, 55% of convictions and 74% of prison sentences.” (*Rolling Stone*, 5/4/98)
- “From 1980 to 1995, drug law violators accounted for 68% of the increase in the federal prison population, making drug law violators by far the largest group of federal inmates.” (National Center on Addiction and Substance Abuse at Columbia University)
- “Arrests for drug law violations grew at more than 10 times the rate of property crime arrests and more than twice the rate of violent crime arrests.” (National Center on Addiction and Substance Abuse at Columbia University)
- AIDS incidences (the number of new cases) among state and federal prisoners is approximately 362 cases per 100,000 people, or 20 times the rate of the general population. (AIDS in Prison Project, The Osborne Association)

Alternatives Work

- Alternatives to incarceration have been legislatively endorsed for more than twenty years.
- The understanding which guided the early movement toward alternatives was that penal institutions are destructive to the humanity of prisoners, guards, administrators, and the community. Thus alternatives were designed to keep people out of jail and prison.
- Alternatives have been underfunded and underutilized. Moreover, alternatives have become “add-ons” to increase punishment of the offender.

For example, a period of jail time may be followed by probation, accompanied by mandatory community service, restitution to the victim, plus a condition of drug treatment while on probation. Thus four alternatives have been added to a jail sentence and not kept the person out of jail.
- Alternatives work! They are cost-effective, enforceable and significantly reduce recidivism. Alternatives can be used at any point in the criminal justice process: alternatives to pretrial confinement; alternatives to prosecution; sentencing alternatives; post-confinement alternatives. Examples of alternative programs are:
 - Community service orders
 - Restitution
 - Employee assistance / job development
 - Third-party advocacy
 - Alcohol and drug treatment
 - Mental and other health services
- RAND’s Drug Policy Research Center found that treatment is a useful tool for fighting substance abuse. In fact, the study concluded that treatment is 15 times more effective at reducing serious crime than mandatory minimum sentencing. In addition, drug treatment programs increase an individual’s ability to hold a job. (The Correctional Association)
- A recent U.S. poll indicated that 57% of the adult population favored treatment over incarceration. 75% of those surveyed supported allocating more money for treatment. (*Substance Abuse: The Nation’s Number One Health Problem* prepared by Brandeis University)
- Prison should only be used for the most violent and dangerous citizens in the community. Too often, jails and prisons are our community’s first response to complicated social problems like addiction and poverty. Alternatives to incarceration provide creative responses that address the real need of individuals and communities.

Mothers in Prison
 Children in Crisis
 Alternatives Work
 Women of Substance

General Overview

From economics to education to policy:

- A 1991 National Council on Crime and Delinquency survey found that the 63.6% of women in prison had incomes under \$10,000 per year.
- In 1998, the U.S. federal government will spend over \$16 billion on its “war on drugs” – that’s \$508 per second. In 1999, the total figure is expected to reach past \$17 billion. (Office of National Drug Control Policy)
- Someone is arrested every 20 seconds and 117 people are locked up every day on a drug law offense. (Office of National Drug Control Policy)
- 43.7% of working black women earn wages below the poverty line. (Urban Justice Center)
- One in ten inmates in U.S. prisons and jails suffers from a severe mental illnesses such as schizophrenia, manic depression or major depression. (*New York Times*, 3/5/98)
- 3.9 million adults (2% of the eligible voting population) are currently or permanently disenfranchised as a result of a felony conviction. (The Sentencing Project)
- “Education is proven to reduce recidivism. However, a 1994 Congressional Act eliminated Pell grants to prisons even though they comprised a mere 1% of the total annual allocation of funds. Since then, sixteen states have reduced funding for education. In 1995 New York State actually eliminated government funding for higher education. At present, nationwide, an average of 41% of people entering prison do not have a high school diploma or its equivalent.” (The Correctional Association)
- In 1994, \$8.2 billion of a federal drug control budget of \$13 billion was spent on supply reduction (curtailing imports, interdiction, investigation, intelligence, prosecution and corrections). Demand reduction received only the remaining \$4.8 billion. Studies show that despite these efforts, the flow of illicit drugs has not slowed and world-wide production of drugs has increased. (*Substance Abuse: The Nation’s Number One Health Problem* prepared by Brandeis University)
- California and Florida spend more on incarcerating people than they do to educate their college-age population. In recent years California’s universities have had to lay off 10,000 employees, many of them professors, while during the same period of time, the number of state prison guards has increased by 10,000. (*New York Times*, 9/28/97)
- From 1981 to 1996, New York State spent nearly \$4 billion adding 39,651 beds to its prison system at an average cost of \$100,000 per bed. In addition, in 1997 the legislature approved the construction of 3,100 additional two-person cells designed for those accused of disciplinary infractions. The estimated cost of *this* construction is \$300 million. (The Correctional Association and the Institute of Justice Policy)

QUESTIONS AND ANSWERS
Mothers in Prison, Children in Crisis—Campaign
JusticeWorks Community

What is the motivation behind our national campaign action and our political goal that alternatives to incarceration become the sentencing norm for mothers? Why aren't we simply asking legislators for more alternatives and/or more money?

The basic premise of JusticeWorks Community and the national Partnership is that imprisonment must become our last recourse in legal sanctions, not the first, as is now demonstrated by the skyrocketing jail and prison rates throughout the United States. Prison expansion and the spreading epidemic of incarceration have not reduced the threat of violence in our society. Instead they have given us the second highest incarceration rate in the world (1.7 million people behind bars, most of whom have committed nonviolent crimes), siphoned off massive funds to the correctional establishment that could be used to eradicate the roots of crime, fueled the already escalating racial cancer that eats away at our nation's soul, and undermined our cherished principles of democracy.

With the passing of the 1994 federal crime bill, it is becoming apparent that the major danger we face in this society is not crime, but the misconceived fight against crime. We believe that the time has come for the U.S. public to confront the failure of our criminal justice policies of the past two decades, which have increased the prison population fourfold. We, the American people, urgently need a humane, constructive, and cost-effective response to our national crime problem.

Alternatives to jail and prison have been legislatively endorsed for more than twenty years. However, in spite of documented research that alternatives are cost-effective they have been underfunded. In spite of ample evidence that alternatives are enforceable and have a significant affect on recidivism, they have been underutilized. Lastly, and perhaps most important, alternatives have been manipulated and abused, to service a "widening of the net" of state observation, surveillance and control. At the center of this problem are the courts which are susceptible to the cross pressures of public fears, police anger, victims' frustrations, and their own desire to avoid bad press.

Over the past two decades, courts have constantly found new ways to use alternatives as mechanisms to increase punishment and control of the offender, instead of administering alternatives as genuine means to keep people out of jail and prison. Relatively minor offenses are responded to with a smorgasbord of alternatives, on top of, not in lieu of, a jail or prison sentence. When a period of jail time is followed by probation, accompanied by mandatory community service, restitution to the victim, and a condition of drug treatment during probation, four alternatives have been added to a jail sentence.

One of the definitions of the word "alternative" in Webster's dictionary is, "existing outside traditional or established institutions or systems; espousing or reflecting values that are different from those of the establishment." We need to reclaim the term "alternative sentencing" with a clear agenda that reflects our inherent values. To demand alternatives as the sentencing norm requires that we simultaneously express our underlying value that imprisonment become our last recourse to crime.

Why is the campaign focused on mothers rather than on women in general or nonviolent men and women?

Since 1992, JusticeWorks Community has reclaimed Mother's Day as a day for affirming and celebrating the well-being of women, by organizing ordinary citizens, particularly but not exclusively those who are members of religious congregations, to remember mothers in prison and their children

who are in crisis.

Mother's Day is probably the most celebrated day in the nation, with symbolic power among all races and classes. Organizing around Mother's Day is a non-threatening vehicle for bringing major issues of the criminal justice system before many citizens who heretofore have never thought about it. In addition, the theme of mothers and children connects directly to the growing social concern (or in some cases rhetoric) for families and communities. Lastly, the campaign is a catalyst for enabling citizens to see the destructive aspects of the criminal justice system, especially imprisonment, on women and children. Through the campaign, we seek to reframe the issues around mothers, families, and communities and, in the process, to expose and oppose the current "vengeance and imprisonment" mentality. By extension, we will begin to challenge imprisonment and other criminal justice concerns for all women and men in the system and demonstrate that the changes we advocate will benefit all segments of our society.

What are alternative sanctions?

We have all suffered—those who are involved in crime, victims of crime, and the larger society—from overly punitive responses to crime. According to the law, the ends of sentencing are clear; a sentence should punish, deter future crime, protect society, and rehabilitate the offenders. The purpose in exacting penalties must change radically if we are to create responses that seek justice and reconciliation between those who commit crimes and the larger society. This requires a shift in the public perception of crime as a sole one-on-one act to a phenomenon resulting from existing injustices in the social fabric.

No one doubts that all races and classes of society commits crimes, but we reserve our jails and prisons—our harshest penalties—for African-Americans, other people of color, and the poor.

Some alternatives are used informally and routinely for middle and upper-class offenders, who often never set foot in a courtroom. But those who are poor have to wait for formal programs to be established. Ultimately, alternatives will be just only when we have removed biases from our mechanisms for apprehension, adjudication, and sentencing. By insisting on the use of alternatives as the first response to crime, as the sentencing standard, we decrease the opportunities for bias.

What are some alternatives to incarceration?

Alternatives to incarceration include community service work, restitution, employment/job training assistance, alcohol and substance abuse treatment, probation, deferred sentencing, suspended sentence, conditional or supervised release, dispute resolution, fines, house arrest, residential care, and counseling.

What is the cost of alternatives versus imprisonment?

Imprisonment is the most expensive of all legal sanctions ranging from \$25,000 to \$60,000 annually per prisoner. For women with children the cost is higher. On the average, mothers in prison have two or more children. To place these children in foster care costs an additional \$20,000 per child. Alternatives can cost less and support family values by keeping families together. However, alternatives will not reduce or replace the cost of incarceration until they are implemented widely enough to reduce or replace the use of incarceration. Hence, the movement for alternatives to become the sentencing norm.