

# Incarcerated America

Human Rights Watch Backgrounder

April 2003

According to the latest statistics from the U.S. Department of Justice, more than two million men and women are now behind bars in the United States.<sup>1</sup> The country that holds itself out as the “land of freedom” incarcerates a higher percentage of its people than any other country. The human costs – wasted lives, wrecked families, troubled children – are incalculable, as are the adverse social, economic and political consequences of weakened communities, diminished opportunities for economic mobility, and extensive disenfranchisement.

Contrary to popular perception, violent crime is not responsible for the quadrupling of the incarcerated population in the United States since 1980. In fact, violent crime rates have been relatively constant or declining over the past two decades. The exploding prison population has been propelled by public policy changes that have increased the use of prison sentences as well as the length of time served, e.g. through mandatory minimum sentencing, “three strikes” laws, and reductions in the availability of parole or early release.

Although these policies were championed as protecting the public from serious and violent offenders, they have instead yielded high rates of confinement of nonviolent offenders. Nearly three quarters of new admissions to state prison were convicted of nonviolent crimes.<sup>2</sup> Only 49 percent of sentenced state inmates are held for violent offenses.<sup>3</sup>

Perhaps the single greatest force behind the growth of the prison population has been the national “war on drugs.” The number of incarcerated drug offenders has increased twelvefold since 1980. In 2000, 22 percent of those in federal and state prisons were convicted on drug charges.<sup>4</sup>

Even more troubling than the absolute number of persons in jail or prison is the extent to which those men and women are African-American. Although blacks account for only 12 percent of the U.S. population, 44 percent of all prisoners in the United States are black (Figure 1).

Census data for 2000, which included a count of the number and race of all individuals incarcerated in the United States, reveals the dramatic racial disproportion of the incarcerated population in each state: the proportion of blacks in prison populations exceeds the

<sup>1</sup> Department of Justice, Bureau of Justice Statistics, “Prison and Jail Inmates at Midyear 2002,” April 6, 2003, available at: <http://www.ojp.usdoj.gov/bjs/abstract/pjim02.htm>.

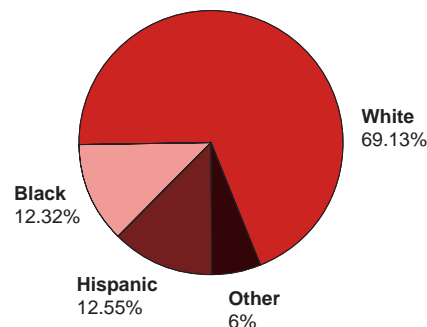
<sup>2</sup> See Human Rights Watch, “Punishment and Prejudice,” at <http://www.hrw.org/reports/2000/usa/>

<sup>3</sup> Department of Justice, Bureau of Justice Statistics, “Prisoners in 2001,” July 2002, p. 12, available at <http://www.ojp.usdoj.gov/bjs/abstract/p01.htm>.

<sup>4</sup> Ibid.

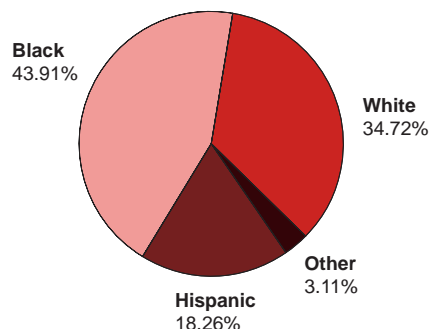
Figure 1  
**Race, Population, and Incarceration**

## U.S. Population by Race



Source: U.S. Census, 2000. White and Black excludes Hispanics.

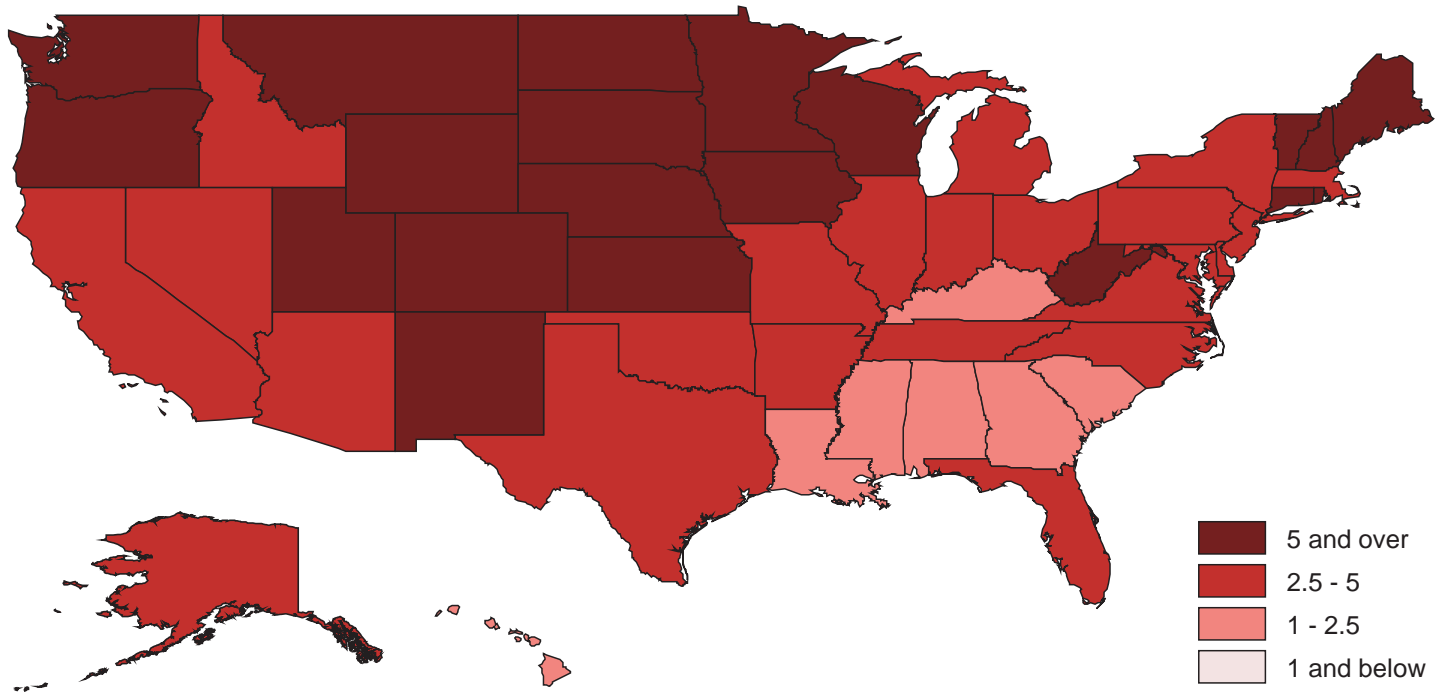
## State and Federal Inmates by Race



Source: Percentages calculated from data in Table 13, Department of Justice, Bureau of Justice Statistics, “Prison and Jail Inmates at Midyear 2002,” April 6, 2003. White and Black excludes Hispanics.

Figure 2

### Ratio of Percent of Blacks Among Resident Population to Blacks Among Incarcerated Population



	Black Percentage of State Residents	Black Percentage of Incarcerated Population	Ratio		Black Percentage of State Residents	Black Percentage of Incarcerated Population	Ratio
Alabama	26%	61.9%	2.4	Montana	0.3%	2.0%	6.6
Alaska	3.5%	10.6%	3.0	Nebraska	4.0%	25.5%	6.4
Arizona	3.1%	13.3%	4.3	Nevada	6.8%	27.3%	4.0
Arkansas	15.7%	44.4%	2.8	New Hampshire	0.7%	6.5%	8.9
California	6.7%	28.7%	4.3	New Jersey	13.6%	59.7%	4.4
Colorado	3.8%	22.1%	5.7	New Mexico	1.9%	10.0%	5.3
Connecticut	9.1%	46.1%	5.1	New York	15.9%	54.3%	3.4
Delaware	19.2%	63.1%	3.3	North Carolina	21.6%	61.1%	2.8
District of Columbia	60.0%	92.8%	1.5	North Dakota	0.6%	3.3%	5.4
Florida	14.6%	48.1%	3.3	Ohio	11.5%	50.2%	4.4
Georgia	28.7%	61.7%	2.2	Oklahoma	7.6%	31.3%	4.1
Hawaii	1.8%	3.9%	2.2	Oregon	1.6%	11.1%	6.8
Idaho	0.4%	1.7%	3.9	Pennsylvania	10.0%	49.7%	5.0
Illinois	15.1%	62.9%	4.2	Rhode Island	4.5%	35.9%	8.0
Indiana	8.4%	37.8%	4.5	South Carolina	29.5%	67.2%	2.3
Iowa	2.1%	19.7%	9.3	South Dakota	0.6%	6.9%	11.1
Kansas	5.7%	34.0%	5.9	Tennessee	16.4%	49.0%	3.0
Kentucky	7.3%	35.3%	2.2	Texas	11.5%	36.8%	3.2
Louisiana	32.5%	72.1%	2.2	Utah	0.8%	5.9%	7.4
Maine	0.5%	4.1%	7.7	Vermont	0.5%	5.2%	10.3
Maryland	27.9%	72.3%	2.6	Virginia	19.6%	61.7%	3.1
Massachusetts	5.4%	26.3%	4.9	Washington	3.2%	18.1%	5.6
Michigan	14.2%	48.9%	3.4	West Virginia	3.2%	34.9%	11.0
Minnesota	3.5%	28.5%	8.2	Wisconsin	5.7%	38.8%	6.8
Mississippi	36.3%	70.5%	1.9	Wyoming	0.8%	5.9%	7.8
Missouri	11.2%	41.2%	3.7	<b>National</b>	<b>12.3%</b>	<b>43.7%</b>	<b>3.5</b>

Figures calculated on basis of U.S. Census Bureau data from Census 2000 on state residents and incarcerated population.

proportion among state residents in every single state. In twenty states, the percent of blacks incarcerated is at least five times greater than their share of resident population (Figure 2).

The official figures confirm what those who live in African-American communities know full well – too many blacks are behind bars, particularly black men. Indeed, nearly five percent of all black men, compared to 0.6 percent of white men, are incarcerated.<sup>5</sup> In many states the rate is far worse. According to Human Rights Watch’s calculations based on the 2000 U.S. Census, in twelve states more than ten percent of black men ages 18 to 64 are incarcerated.<sup>6</sup> The Justice Department reports that nationwide, a similar percentage of black men in the ages 20-29 are behind bars.

The absolute level of black incarceration should be cause for national concern. But so should the striking disparity with white incarceration. Nationwide, black men of all ages are incarcerated at more than seven times the rate of white men, according to the Justice Department.<sup>7</sup> Again, shocking as such a national average is, it masks even worse racial disparities in individual states. In thirteen states, black men are incarcerated at more than ten times the rate of white men.<sup>8</sup> No state is free of significant disparities.

The national war on drugs has perhaps been the primary factor behind the extraordinary rates at which blacks are incarcerated. Drug offenses account for nearly two out of five of the blacks sent to state prison. More blacks are sent to state prison for drug offenses (38 percent) than for crimes of violence (27 percent). In contrast, drug offenders constitute 24 percent of whites admitted to prison and violent offenders constitute 27 percent (Figure 3).

African-Americans are arrested, prosecuted, and imprisoned for drug offenses at far higher rates than whites. This racial disparity bears little relationship to racial differences in drug offending. For example, although the proportion of all drug users who are black is generally in the range of 13 to 15 percent, blacks constitute 36 percent of arrests for drug possession. Blacks constitute 63 percent of all drug offenders admitted to state prisons. In at least fifteen states, black men were sent to prison on drug charges at rates ranging from twenty to fifty-seven times those of white men. (Figure 4 and Figure 5).

The high and disproportionate rate of minority incarceration, particularly in the context of the war on drugs, is a grave challenge to the country. It exposes and deepens the racial fault lines that weaken the country; contradicts principles of justice and equal protection of the laws; and undermines faith among all races in the fairness and efficacy of the criminal justice system.

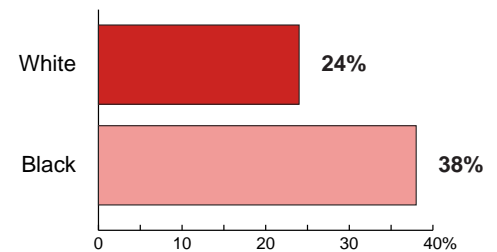
<sup>5</sup> Department of Justice, “Midyear 2002,” p. 11, Table 14.

<sup>6</sup> Human Rights Watch, “Race and Incarceration” at: <http://www.hrw.org/backgrounder/usa/race/pdf/table3.pdf>

<sup>7</sup> Data calculated from Department of Justice, “Midyear 2002,” p. 11, Table 14.

<sup>8</sup> Human Rights Watch, “Race and Incarceration” at: <http://www.hrw.org/backgrounder/usa/race/pdf/table2a.pdf>

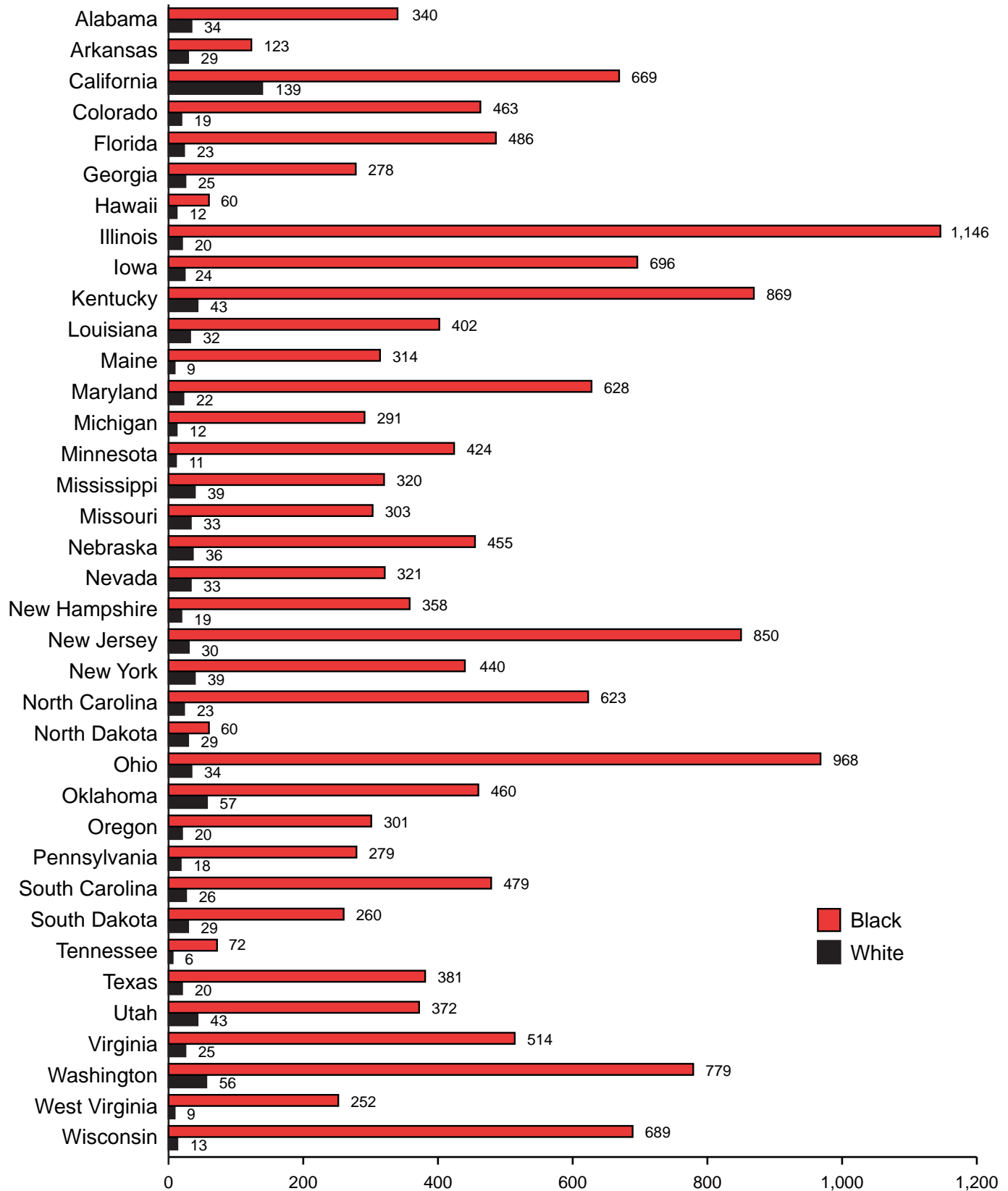
Figure 3  
**Drug Offenders as a Percent of State Admissions by Race**



Source: Calculated from National Corrections Reporting Program, 1996 data.

Figure 4

### Prison Admissions for Male Drug Offenders by Race

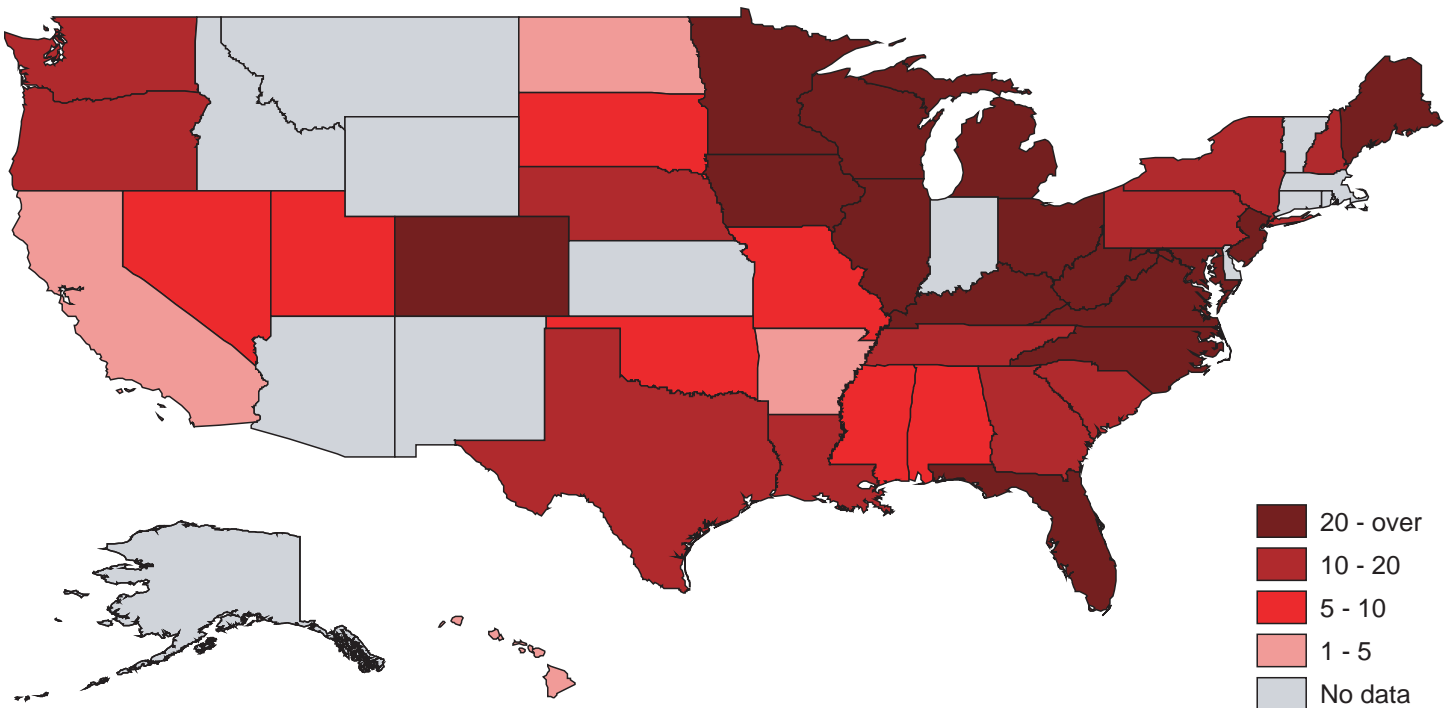


Source: Calculated from National Corrections Reporting Program, 1996, and Bureau of Census, 2000 data.

Figure 5

### Male Drug Offender Admissions by Race: Ratio of Black and White Rates

Rates calculated per 100,000 residents



Source: Calculated from National Corrections Reporting Program, 1996, and Bureau of Census, 2000 data.

States have choices in the means by which to promote community well-being, protect public safety and curb the drug trade. Over the last two decades, the choice was imprisonment. Prison is, of course, a legitimate criminal sanction, but it should be used as a last resort – i.e. used only for serious crimes -- and the length of the sentence should be commensurate with the conduct and culpability of the offender. Unfortunately, too many states have opted instead for sentencing policies that mandate long sentences even for nonviolent, low-level drug offenders.

The budgetary demands of swollen prison populations at a time of fiscal crisis are currently forcing states to reconsider their sentencing policies. We believe they should examine the cost-effectiveness, fairness, and wisdom of adopting shorter sentences, eliminating mandatory minimums and increasing the use of alternatives to incarceration. Although financial pressures now compel the reassessment of sentencing policies, public officials should take the opportunity to consider the damage caused by unnecessary and excessive incarceration, and the consequences of dramatic racial disparities among those who are placed behind bars.

Extensive statistical data on prison and jail populations can be found at the Department of Justice, Bureau of Justice Statistics Web site: <http://www.ojp.usdoj.gov/bjs/>

**Related Human Rights Watch Reports:**

Race and Incarceration in the United States, February 2002, <http://www.hrw.org/backgrounder/usa/race/>

Punishment and Prejudice: Racial Disparities in the War on Drugs, May 2000, <http://www.hrw.org/reports/2000/usa/>

Collateral Casualties: Children of Incarcerated Drug Offenders in New York, June 2002, <http://www.hrw.org/reports/2002/usny/>

Cruel and Usual: Disproportionate Sentences for New York Drug Offenders, March 1997, <http://www.hrw.org/reports/1997/usny/>

Losing the Vote: The Impact of Felony Disenfranchisement Laws in the United States, October 1998, <http://www.hrw.org/reports98/vote/>