

SENTENCING IN ALABAMA

Due in large part to the continuing campaign to “get tough” on crime, over the last thirty years Alabama’s inmate population soared 600%. Alabama currently boasts the fifth highest incarceration rate in the nation, and is also among the top five states with regard to the length of sentence imposed for violent, non-violent and drug offenses alike. There is now a massive overflow of inmates: in 2003, Alabama incarcerated 27,727 people,

Alabama has the fifth highest incarceration rate in the country, and its penal facilities are operating at more than 200% capacity.

more than twice as many as its facilities were designed to hold. This has created an enormous financial strain, despite the fact that Alabama spends less per inmate than any other state in the country: \$9,073 compared to a national average of

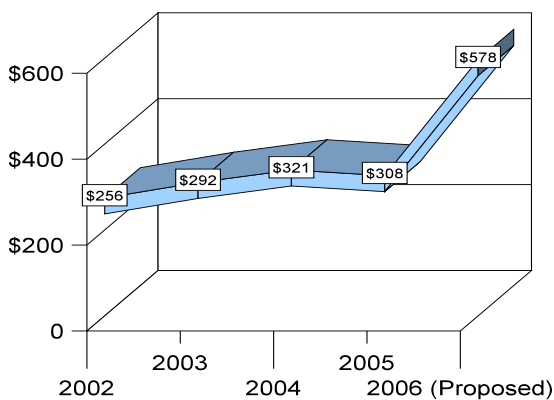
\$31,073. The Alabama Department of Corrections Commissioner recently requested \$580 million—nearly double the previous year’s budget—in appropriations from the Alabama Legislature to pay for the growing costs of maintaining such a large incarcerated

population. The Alabama Sentencing Commission estimates that the cost of building facilities to house the current inmate population is \$933 million, not counting operating costs. Whereas inmates cost the state \$26.07 per day, individuals in community corrections or probation/parole programs require only \$10.33 and \$2.27 per day, respectively.

The Habitual Felony Offender Act (“HFOA”), was one of the Alabama Legislature’s attempts to “get tough” on crime; it responded to the perceived problem of recidivism by imposing increasingly severe sentences on repeat offenders. Due to its broad drafting, the statute has resulted in life sentences for people with prior convictions for such things as writing bad checks, simple drug possession, and theft of

The cost of building new facilities to house the current number of inmates exceeds \$933 million.

Department of Corrections Budget (in Millions)



property. All told, nearly 8000 inmates are currently serving enhanced sentences under the HFOA, with close to 2000 of those serving life or life without the possibility of parole.

Alabama’s stringent drug laws likewise produce

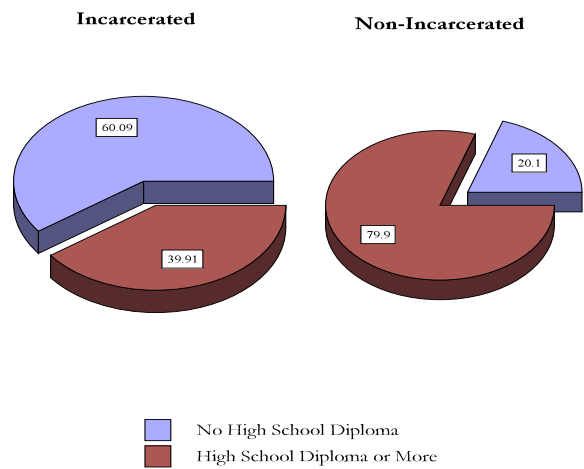
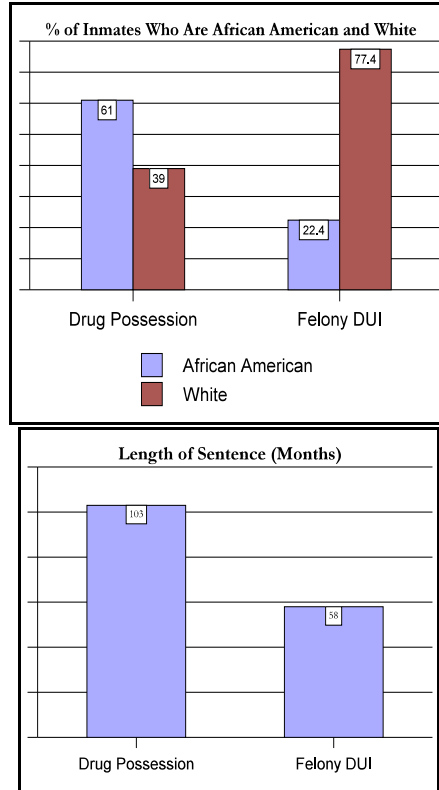
severe results. With low quantity thresholds and mandatory minimum sentences for all trafficking offenses, as well as mandatory five-year enhancements for conducting drug business within three miles of a school or public housing facility, Alabama's drug laws expose individuals to large amounts of prison time, even for first-time offenders. For example, Theresa Wilson, a first-time offender who had sold a single vial of morphine, was convicted of trafficking. Because of the low thresholds in Alabama she was considered a "drug baron" and sentenced to life in prison without the possibility of parole, the only sentence the judge could legally impose. While Wilson's sentence was eventually overturned, the law which mandated life without parole is still in force.

A comparison of Alabama's sentencing scheme for felony drug possession and DUI offenses provides another example of how the state's current system produces uneven results. Looking at the data, two things are apparent: (1) African Americans are incarcerated at a far higher rate than whites for drug possession crimes, while the reverse is true for felony DUI offenses; (2) the average length of sentence for simple drug possession is nearly twice as long as

Nearly 8000 inmates are currently serving sentences enhanced by the Habitual Felony Offender Act.

that for felony DUI.

Finally, there is a telling inverse correlation between education attainment and incarceration rates. Individuals without a high school diploma are vastly over-represented among the correctional population—less than 40% of inmates have completed high school, compared to nearly 80% of Alabama's population as a whole. Furthermore, whereas 45% of people over the age of 25 in Alabama have at least some college experience, only a little over 8% of inmates have attended classes beyond high school. Despite this relationship, Alabama annually spends only \$6,029 per student compared to \$9,643 per inmate. From 2000-2004, spending on corrections rose by nearly 45%, while appropriations for K-12 education increased by only 7.5%.



Percentage of incarcerated and non-incarcerated individuals who have a high school diploma or equivalent