

ACLU OF OHIO RESEARCH REPORT

# On the Basis of Punishment

## Women in Ohio Prisons

SUMMER 2022





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Executive Summary ●

- The number of women in Ohio prisons has increased by 600% since 1980.
- Ohio ranked 17th in women’s incarceration in 2019.
- Women entering Ohio prison’s has trended down since 2016, however, gender disparities among certain drug offenses remain high.
- Drug Possession and Trafficking in Drugs are the top two offenses driving both women’s and men’s commitment and incarceration rates.
- In 2020 alone, over 39% of all women sent to prison were committed for drug offenses, and over 26% of women in prison were incarcerated for drug offenses.
- Women in Ohio are sent to prison more often for drug offenses than their male counterparts, at times differing by more than 14% of the population.
- In 2016, women incarcerated for drug offenses peaked at 28.92% — 14.75% higher than incarcerated men.
- In 2020, the percentage of women and men incarcerated for Drug Trafficking differs by over 4.5%.

## Introduction ●

Nationally, women are incarcerated at a growth rate twice as high as their male counterparts.<sup>5</sup> The Sentencing Project found that between 1980 and 2019, the number of incarcerated women in the country grew by more than 700%.<sup>5</sup> The proportion of women convicted for a drug offense has doubled since 1986.<sup>5</sup> Nationwide, the most common offense types in state prisons for women are Violent Offenses (38%), Drug Offenses (26%), Property Offenses (24%), and Public Order Offenses (11%). **In Ohio alone, the number of women in jail and prison has increased by 617% and 600% respectively since 1980.**<sup>6</sup> Ohio ranked 17<sup>th</sup> in women's incarceration in 2019.<sup>5</sup> The number of women who have entered Ohio prison's has trended down since 2016, yet disparities among certain drug offenses remain high (Figure 1, 2).

The number of women entering Ohio prisons has trended down the past few years but gender disparities in certain offenses remains high.

Drug Possession and Trafficking in Drugs are the top two offenses driving both women's and men's commitment and incarceration rates.<sup>3, 4</sup> From 2014-2020, Drug Possession was the top offense for women and men's commitments in the Ohio Department of Rehabilitation and Corrections ("ODRC").<sup>3</sup> However, there are clear disparities between women and men in how frequently they are committed and incarcerated for specific offenses. The total women incarcerated for Trafficking in Drugs peaked in 2020, and comprises the highest percent of the population for incarcerated women since 2012.<sup>4</sup> The total men incarcerated for Trafficking in Drugs peaked in 2010, and then drops and stabilizes through 2020.<sup>4</sup>

This report further reveals why women are committed and incarcerated in Ohio prisons. In Ohio prisons, drug offenses fuel women's commitment and incarceration rates. **In 2020 alone, over 39% of all women committed were committed for drug offenses, and over 26% of incarcerated women were in for drug offenses** (Figures 6, 7). Women in Ohio are sent to prison more often for drug offenses than their male counterparts, at times differing by more than 14% of the population (Figure 6). Women are also more regularly incarcerated for drug offenses than their male counterparts, at times more than double the percent of each respective population, in 2016 for example (Figure 7). The disparity between men and women's commitment and incarceration rates becomes more apparent when looking at specific drug offenses such as Drug Possession and Trafficking in Drugs.

Women in Ohio are sent to prison more often for drug offenses than their male counterparts, at times differing by more than 14% of the population.

Ohio Reformatory for Women - Marysville, Ohio (Photo: ODRC.com)



**This report examines incarceration and commitment rates, trends and gender disparities of women in Ohio prisons.**

## **House Bill 86 ●**

In past years, legislation such as Amended Substitute House Bill 86 (129<sup>th</sup> General Assembly) was passed and enacted. HB 86 was an omnibus bill containing numerous, positive changes across our criminal legal system. A primary, stated goal was to reduce Ohio's decades-long prison overcrowding problem. However, HB 86 has produced mixed overall results since its 2011 enactment for a variety of reasons. These include exemptions within HB 86 that unhelpfully narrowed its application and impact, the ability of some judges and prosecutors to subvert HB 86's intentions, and the ongoing number of other bills passed session after session to send more people to prison and jail.

HB 86 was expected to significantly lower Ohio's prison population and did drop the population by 2% in 2018.<sup>1</sup> HB 86 accomplished part of what it sought to do, and successfully stabilized prison population growth in Ohio.<sup>1</sup> However, the introduction and passage of additional bills influencing low-level offenses, coupled with the impact of local practices, diminished the legislation's utility.<sup>1</sup>

## **COVID-19 ●**

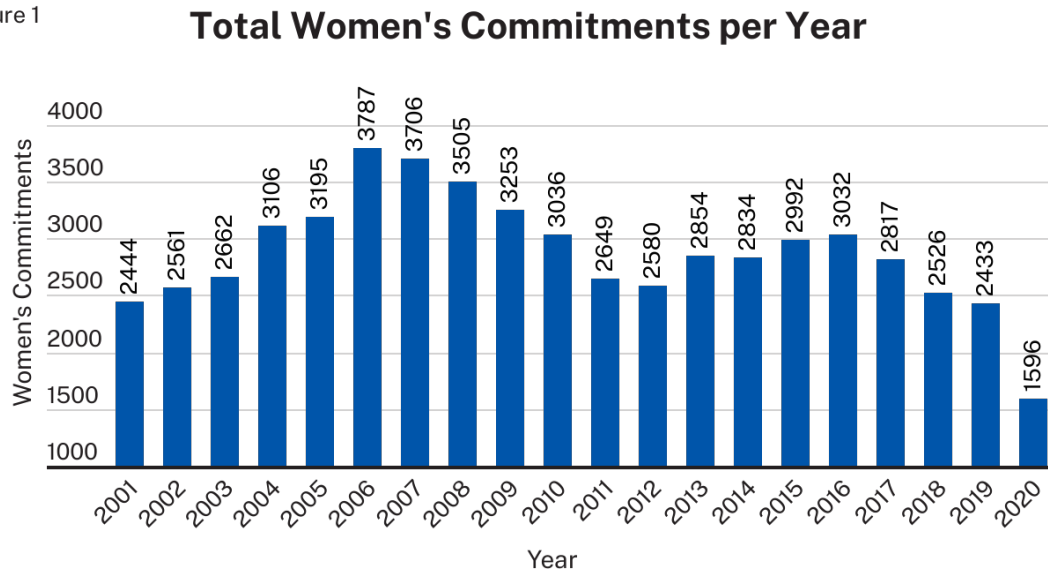
Due to COVID-19, the ODRC and courts across Ohio implemented short-term policy changes to help stop virus spread in our jails and prisons. As a result, many jails and the prison system experienced a decline in population. In 2020, the ODRC hit its lowest population since 2006.<sup>2</sup> This drop in population shown in Figure 1, exemplifies a decrease in women committed in 2020, down 837 women from 2019. The same decrease does not apply when looking at the total women incarcerated in 2020. There was a decrease of only 47 women imprisoned from 2019 to 2020 (Figure 3).

**The same decrease does not apply when looking at the total women incarcerated in 2020. There was a decrease of only 47 women imprisoned from 2019 to 2020.**

## Committed Women ●

Total commitments have dropped since 2016, falling from 3,032 women in 2016 to 2,433 in 2019 (Figure 1). In 2020, the total amount of women committed fell to 1,596, likely due to COVID-19 (Figure 1).

Figure 1



Drug offense commitments for women followed a similar but more dramatic trend (Figure 2). Drug offense commitments steadily rose from 2001 to 2006, when they peaked at 2,396 women. Women drug offense commitments then declined until 2012 before increasing again from 2012 to 2016. After 2016, the number of drug offense commitments decreased again. The trend of women's drug commitments follows a similar trend to overall commitments of women in Ohio — they both rise starting in 2001 and peak in 2006. From 2006 through 2012, both general commitments and drug offense commitments dropped to a low in 2012, and then continued to rise and peak in 2016, only to fall through 2020 (Figures 1, 2).

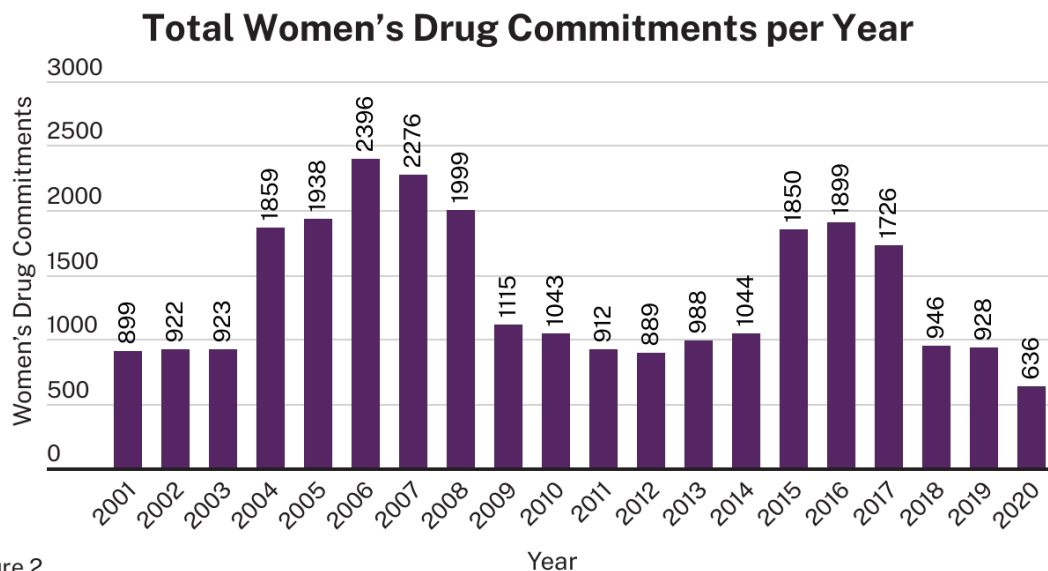
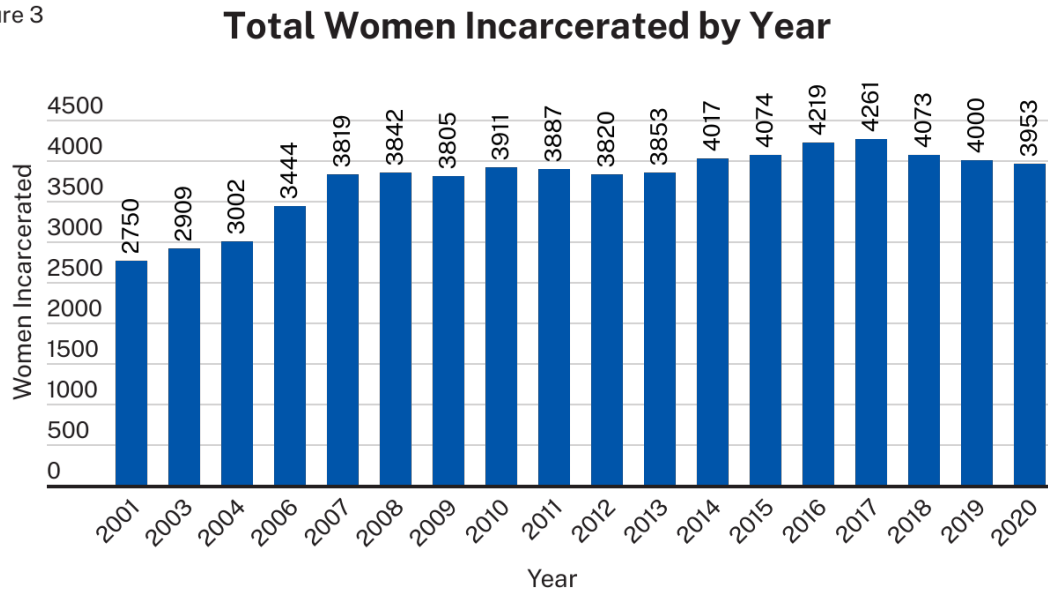


Figure 2

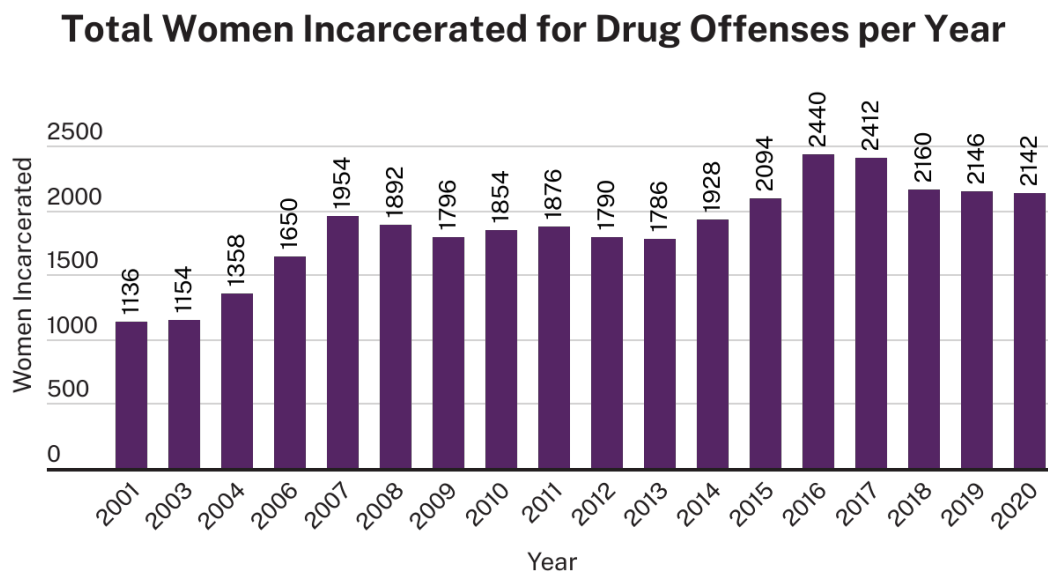
Figure 3



The total number of women incarcerated in Ohio steadily increased from 2001 until 2017 and has since dropped from 2017 (Figure 3). The total number of women incarcerated specifically for drug offenses followed a similar trend, steadily rising from 2001 through 2007, remaining stagnant until 2013, when it began to rise again and peak in 2016 (Figure 3). The total number of women incarcerated for drug offenses has decreased since its peak in 2016. However, in 2020, there was still nearly double the number of women (2,124) imprisoned than in 2001 (1,136) for drug offenses (Figure 4).

**In 2020 there was still nearly double the number of women imprisoned in 2001 for drug offenses.**

Figure 4





## Commitments vs. Incarcerated for Drug Offenses per Year

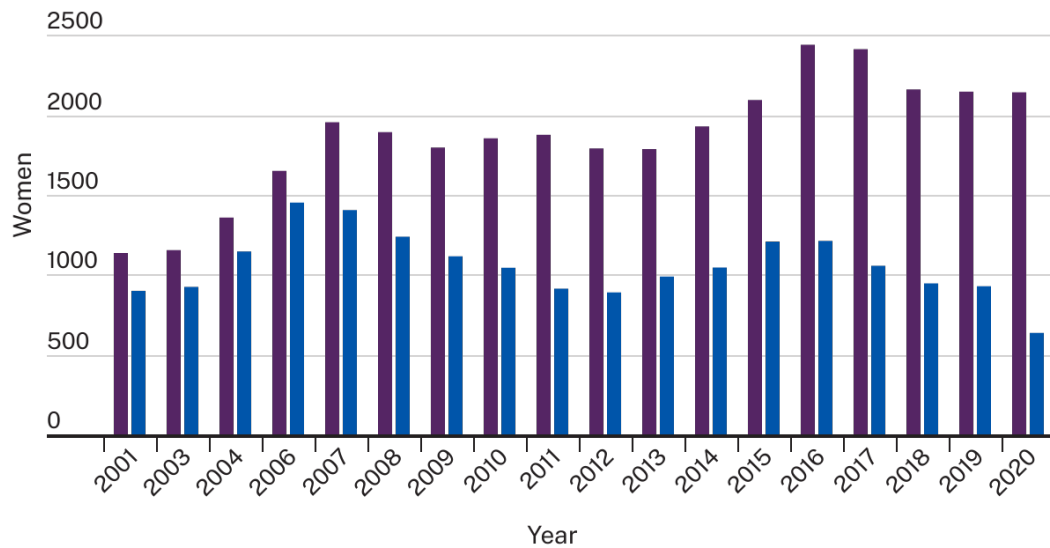


Figure 5

● Incarceration ● Commitments

While the total number of women committed in Ohio prisons has declined, certain commitment offenses, like drug offenses, have increased (Figure 6). When looking at the percentage of women committed and incarcerated specifically for drug offenses, the disparity between men and women becomes more evident, as does why women are in Ohio's prison system.

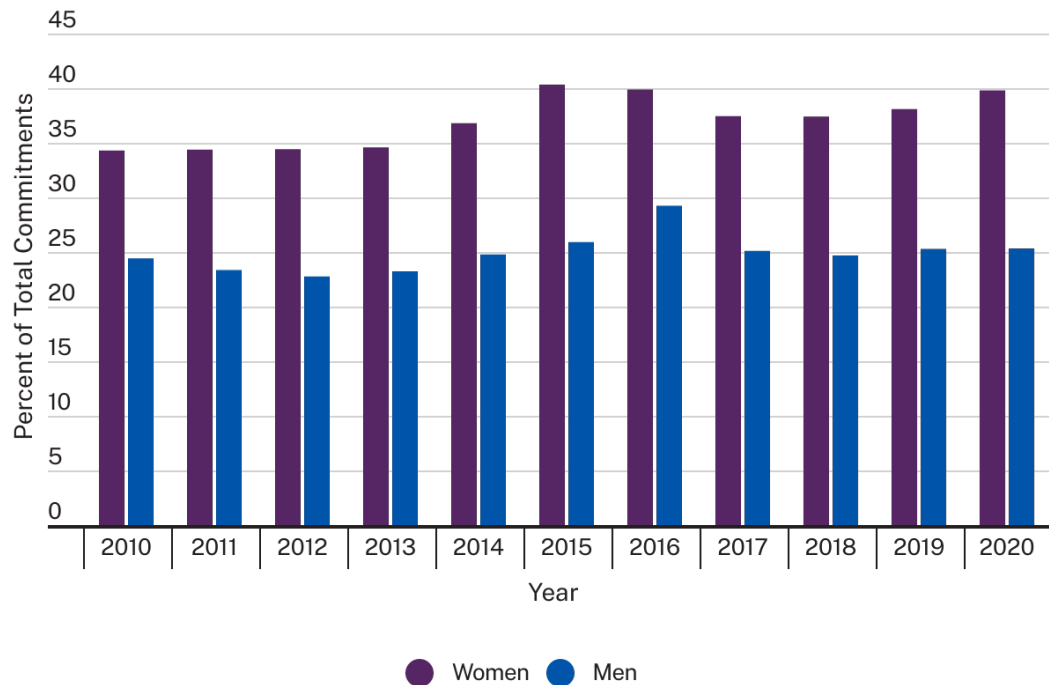
## Commitments and Incarceration: Drug Offenses ●

Drug offense commitments have remained high in both women's and men's populations between 2010 and 2020. Drug offenses account for 34-40% of all women's prison commitments from 2010 to 2020. Women's drug commitments peak in 2015 at 40.37% and fluctuate from 37% to 39.85% through 2020 (Figure 6). These percentages contrast with men's drug offense commitments, ranging from 22-29% of all men's commitments. Men's drug commitments peak in 2016 at 29.28%, and then drop and remain around 25% through 2020 (Figure 6).



Figure 6

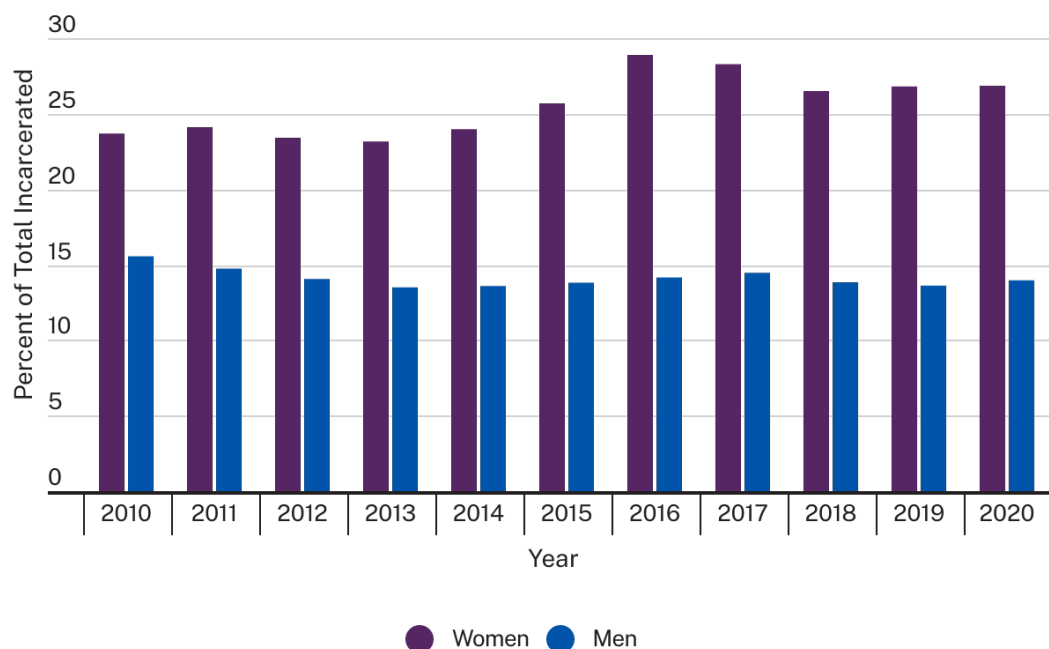
## Total Commitments: Drug Offenses



Women's commitment rates for drug offenses have been on the rise from 2017 (37.49%) to 2020 (39.85%) (Figure 6). Men's commitment rates for drug offenses have remained stagnant in their commitment percentages from 2017 (25.14%) through 2020 (25.36%) (Figure 6). Women and men's commitment rates for drug offenses differ by over 14% in some years, such as 2015 and 2020 (Figure 6).

Figure 7

## Percentage of Incarcerated for Drug Offenses



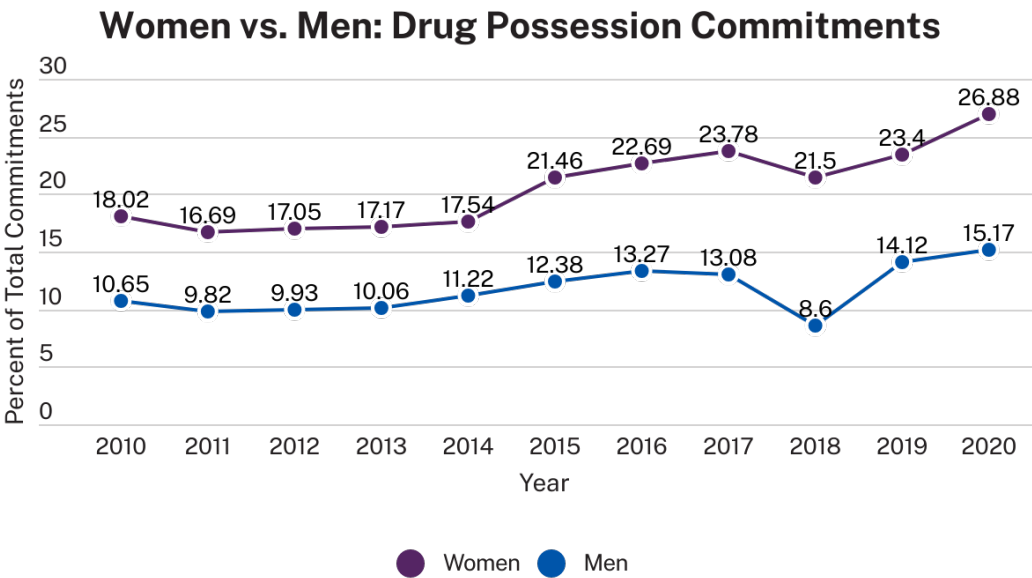
Since 2010, anywhere from 23.18 to 28.92% of all incarcerated women are in prison for drug offenses (Figure 6, 2022). From 2010 on, the percentage of total women incarcerated for all types of drug offenses has remained significantly high, never dropping under 23.18% of all women incarcerated (Figure 7). In 2016, the total number of women incarcerated for drug offenses peaked at 28.92% — 14.75% higher than incarcerated men were in the same year. The percentage of women incarcerated for drug offenses remained high through 2020, hovering around 26% from 2018 to 2020 (Figure 7). An apparent disparity exists when looking at the difference between women and men and the percentage of each incarcerated for drug offenses. The men’s population ranges from 13.51% to 15.57% for those incarcerated for drug offenses (Figure 7, 2022). **That is a difference of 13.35% when comparing women’s peak in 2016 with their male counterparts’ peak in 2010.**

From 2010 on, the percentage of total women incarcerated for all types of drug offenses has remained significantly high, never dropping under 23.18% of all women incarcerated. In 2016, the total number of women incarcerated for drug offenses peaked at 28.92% — 14.75% higher than incarcerated men were in the same year.

## Offense-Specific Commitments and Incarceration ●

The disparity between men and women becomes more evident when looking at specific drug offenses. The top three offenses for both women and men are Drug Possession, Trafficking in Drugs, and Illegal Manufacture of Drugs. A closer look at the top two drug offenses, Drug Possession and Trafficking in Drugs, reveals a clear disparity between men and women.

Figure 8

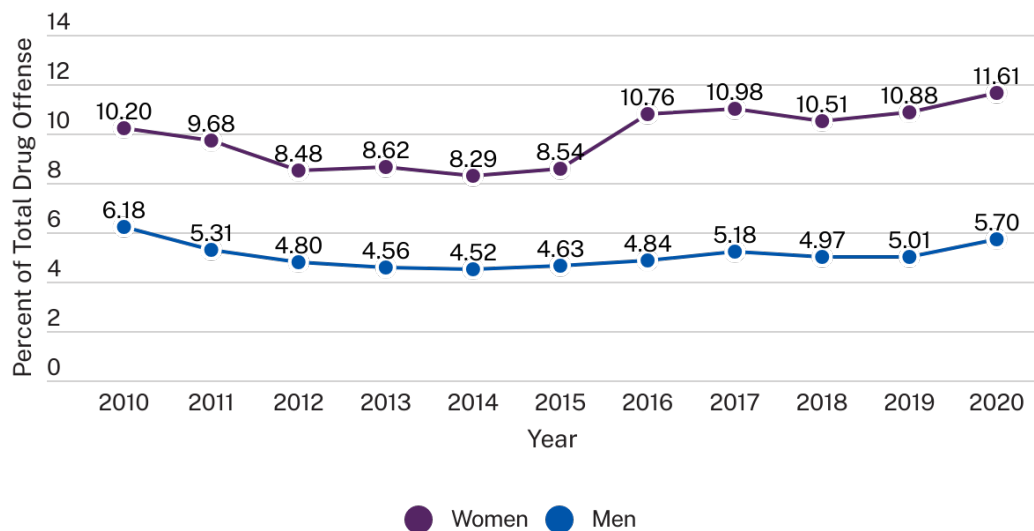


Following the enactment of HB 86 in 2011, women commitment rates for Drug Possession rose from 16.69% to 26.88% in 2020 (Figure 9, 2022). Men’s commitments for Drug Possession experienced a similar increase, from 9.82% in 2011 to 15.17% in 2020. However, women are being committed for Drug Possession at a much higher rate than their male counterparts (Figure 9, 2022). **Women’s Drug Possession commitments peak in 2020 at 26.88%. Men’s Drug Possession commitments also peak in 2020 at 15.17%.** Both men and women’s Drug Possession commitments experienced a drop in 2018, more notably for men, dropping from 13.08% in 2017 to 8.60% in 2018 (Figure 8). Both women and men’s Drug Possession commitments increase from 2018 through 2020 (Figure 8).

**Women are being committed for Drug Possession at a much higher rate than their male counterparts.**

Figure 9

### Total Drug Offense: Drug Possession



The percent of women incarcerated for Drug Possession since 2010 ranges from 8.29% to 11.61% (Figure 9). The women’s population experienced a decrease in those incarcerated for Drug Possession from 2010 to 2014. There is then an increase from 2014 through 2020, experiencing a 3.32% increase in those six years (Figure 9). The men’s population follows a similar trend, though to a much lower degree. Men experience a decrease in those incarcerated for Drug Possession from 2010 to 2014, with a slight increase of only 1.18% from 2014 to 2020 (Figure 9).



## Women vs. Men: Drug Trafficking Commitments

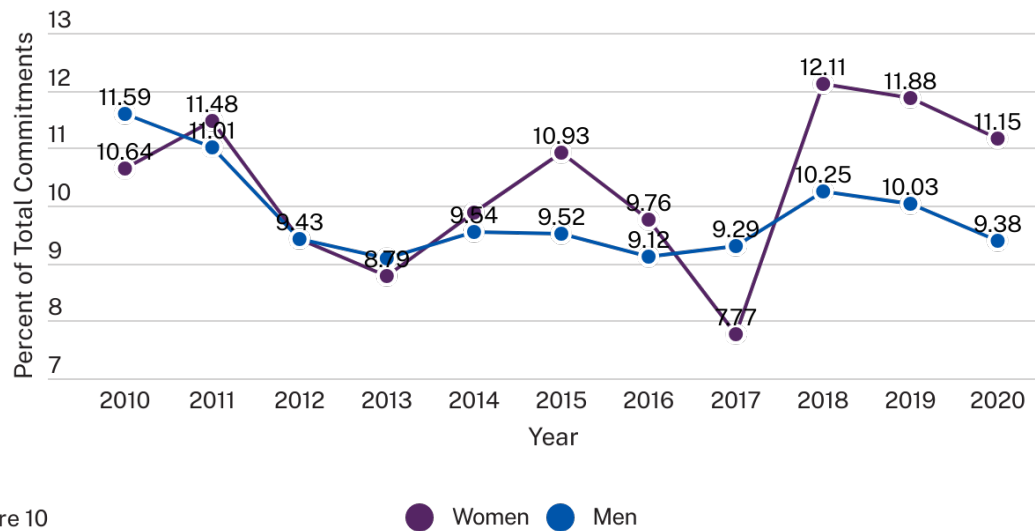


Figure 10

When looking at women's Trafficking in Drugs commitments, the trajectory experiences peaks and falls over time. Women's commitments for Trafficking in Drugs were 11.01% in 2011 and fell as low as 7.77% in 2017. Commitments then peak again in 2018 at 12.11% of all women's commitments (Figure 10). There is a stark decrease in 2017 for women, falling over 3% from 2015. Men's commitments for Trafficking in Drugs follow a similar yet much less severe pattern, starting at 11.48% in 2011, falling to its lowest at 8.79% in 2013, and peaking in 2018 at 10.25% of all men's commitments (Figure 10). Men's commitments for Trafficking in Drugs then continue to fall through to 2020 (Figure 10).

## Total Drug Offense: Trafficking in Drugs

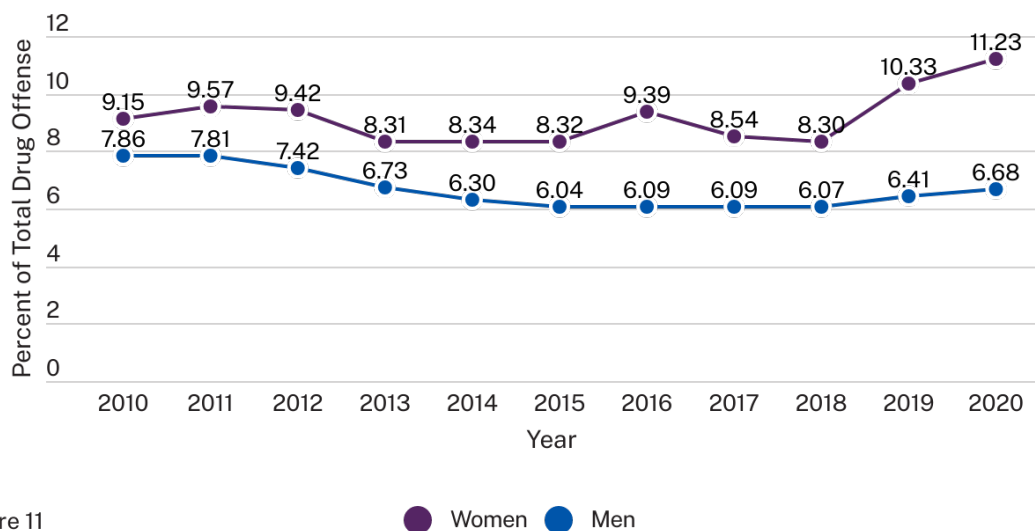
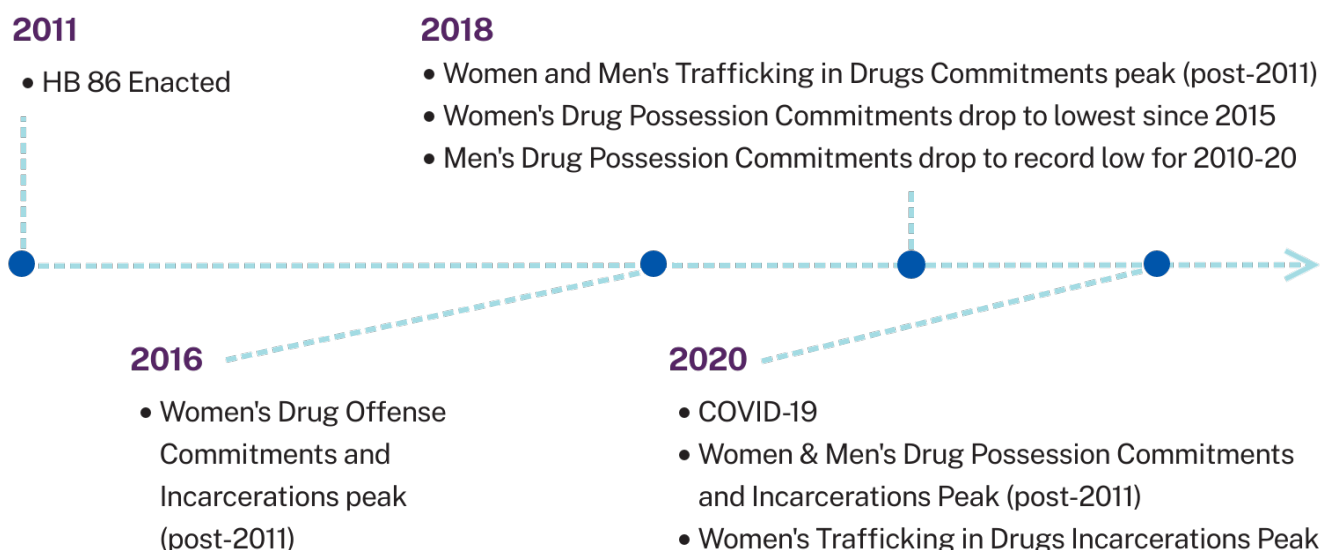


Figure 11

Women incarcerated for Trafficking in Drugs range from 9.15% in 2010, dropping to 8.30% in 2018, and peaking in 2020 at 11.23% of all women incarcerated. The incarcerated women's population of individuals for Trafficking in Drugs experienced peaks in 2011 and 2016, dropping slightly in 2018 and then rising nearly 3% through 2020 (Figure 11). When looking at rates of men incarcerated for Trafficking in Drugs, the percentage of the total population over the past ten years falls no lower than 6% and reaches as high as 7.86% of the population (Figure 11). The incarcerated men's population of individuals for Trafficking in Drugs decreases from 2010 through 2015 and then fluctuates less than 1% through 2020. In 2020, the percentage of women and men incarcerated for Drug Trafficking differs by over 4.5%, further exemplifying the disparity between men and women (Figure 11).

In 2020, the percentage of women and men incarcerated for Drug Trafficking differs by over 4.5%, further exemplifying the disparity between men and women.



## Conclusion ●

As this report demonstrates, the War on Drugs is primarily responsible for Ohio's rise in, and continued incarceration of, women in prison. Even more troubling is the data cited showing women are far more likely to be committed to, and spend time in, prison than men for drug offenses. There are surely multiple factors contributing to this discrepancy and our hope is *On The Basis Of Punishment: Women In Ohio Prisons* spurs further examination and action. Our drug laws and policies cause enough harm; now we have a clearer idea how much more harm is caused to women in particular.

## Notes ●

- The ODRC uses the terms Women and Men when reporting data on their prison population. Subsequently, we also use Women and Men throughout this report. We acknowledge this may not represent the population's true gender identities and expressions and is limiting our ability to be more fully gender inclusive.
- The phrases “committed to,” “who is sent to” and “who is in” or “in” prison will be utilized. We are distinguishing between persons committed versus incarcerated. We define “committed” as those who enter the ODRC population, aka “who is sent to.” We define “incarcerated” as those in the ODRC population regardless of time entered, aka “who is in” or “in.”
- The ODRC Census and Commitment reports are representative of only a person's most serious offense.

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## Acknowledgements ●

This report was researched and written by Anna Crouser, MSW, Policy Fellow, ACLU of Ohio. Jocelyn Rosnick, Policy Director, ACLU of Ohio, Celina Coming, Communications Director, ACLU of Ohio, Gary Daniels, Chief Lobbyist, ACLU of Ohio, provided project oversight, writing assistance and editorial feedback on the report. Dan Rogan, Communications Strategist, ACLU of Ohio, provided report design. Ben Guess, Executive Director, ACLU of Ohio, provided additional feedback and technical edits.





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