



Uneven Justice: State Rates of Incarceration By Race and Ethnicity

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INTRODUCTION

Since the early 1970s the prison and jail population in the United States has increased at an unprecedented rate. The more than 500% rise in the number of people incarcerated in the nation's prisons and jails has resulted in a total of 2.2 million people behind bars.

This growth has been accompanied by an increasingly disproportionate racial composition, with particularly high rates of incarceration for African Americans, who now constitute 900,000 of the total 2.2 million incarcerated population. The exponential increase in the use of incarceration has had modest success at best in producing public safety,¹ while contributing to family disruption and the weakening of informal social controls in many African American communities. Overall, data from the Bureau of Justice Statistics document that one in six black men had been incarcerated as of 2001. If current trends continue, one in three black males born today can expect to spend time in prison during his lifetime.² The prevalence of imprisonment for women is considerably lower than for men, but many of the same racial disparities persist, with black women being more likely to be incarcerated than white women.³

While the disproportionate rate of incarceration for African Americans has been well documented for some time, a significant development in the past decade has been the growing proportion of the Hispanic population entering

¹ See, for example, Ryan S. King, Marc Mauer, and Malcolm C. Young, *Incarceration and Crime: A Complex Relationship*, The Sentencing Project, 2005.

² Thomas P. Bonczar, *Prevalence of Imprisonment in the U.S. Population, 1974-2001*, Bureau of Justice Statistics, 2003, p. 8.

³ See, for example, The Sentencing Project, *Women in the Criminal Justice System*, May 2007.

prisons and jails.⁴ In 2005, Hispanics comprised 20% of the state and federal prison population, a rise of 43% since 1990.⁵ As a result of these trends, one of every six Hispanic males and one of every 45 Hispanic females born today can expect to go to prison in his or her lifetime.⁶ These rates are more than double those for non-Hispanic whites.

While these national figures are disturbing, they mask the extreme state-level variations in the impact of incarceration on communities of color. This report examines racial and ethnic dynamics of incarceration by state and highlights new information that extends the findings of previous analyses⁷ by including data on jail populations and the impact of incarceration on the Hispanic community.⁸

⁴ Hispanic is considered an ethnic category that is exclusive with the racial categories of black and white. We use the term “Hispanic” rather than “Latino” to follow BJS terminology.

⁵ Louis W. Jankowski, *Correctional Populations in the United States, 1990*, Bureau of Justice Statistics, 1992, p. 86; Paige M. Harrison and Allen J. Beck, *Prisoners in 2005*, Bureau of Justice Statistics, 2006, p. 8.

⁶ Bonczar, *supra* note 2.

⁷ See, among others: Alfred Blumstein, “Racial Disproportionality of U.S. Prison Populations Revisited,” *University of Colorado Law Review*, Vol. 64, No. 3, 1993; Michael Tonry, “Racial Disproportions in US Prisons,” *British Journal of Criminology*, Vol. 34, 1994; Marc Mauer, “Intended and Unintended Consequences: State Racial Disparities in Imprisonment,” The Sentencing Project, January 1997; Jamie Fellner, “Punishment and Prejudice: The Racial Costs in the War on Drugs,” Human Rights Watch, May 2000.

⁸ Data for Native Americans, Asian Americans, and other racial groups are not available for analysis.

Highlights of this analysis include:

- African Americans are incarcerated at nearly six (5.6) times the rate of whites;
- Hispanics are incarcerated at nearly double (1.8) the rate of whites;
- States exhibit substantial variation in the ratio of black-to-white incarceration, ranging from a high of 13.6-to-1 in Iowa to a low of 1.9-to-1 in Hawaii;
- States with the highest black-to-white ratio are disproportionately located in the Northeast and Midwest, including the leading states of Iowa, Vermont, New Jersey, Connecticut, and Wisconsin. This geographic concentration is true as well for the Hispanic-to-white ratio, with the most disproportionate states being Massachusetts, Pennsylvania, New York, New Hampshire, and New Jersey; and,
- States exhibiting high Black or Hispanic ratios of incarceration compared to whites fall into two categories: 1) those such as Wisconsin and Vermont which have *high rates of black incarceration* and *average rates of white incarceration*; and, 2) states such as New Jersey and Connecticut which have *average rates of black incarceration* and *below-average rates of white incarceration*. In both cases, the *ratio* of incarceration by race is higher than average.

NATIONAL PICTURE: SUBSTANTIAL RACIAL DISPARITY

The American prison and jail system is defined by an entrenched racial disparity in the population of incarcerated people. The national incarceration rate for whites is 412 per 100,000 residents, compared to 2,290 for African Americans, and 742 for Hispanics.⁹ These figures mean that 2.3% of all African Americans are incarcerated, compared to 0.4% of whites and 0.7% of Hispanics.

TABLE 1 – Racial and Ethnic Rates of Incarceration

RACIAL/ETHNIC GROUP	RATE PER 100,000
White	412
Black	2,290
Hispanic	742

While these overall rates of incarceration are all at record highs, they fail to reflect the concentrated impact of incarceration among young African American males in particular, many of whom reside in disadvantaged neighborhoods. One in nine (11.7%) African American males between the ages of 25 and 29 is currently incarcerated in a prison or jail.¹⁰ Moreover, the uneven geographic distribution of incarceration in communities of color means that the effects of this situation radiate beyond the individual to the

⁹ Except as otherwise noted, all incarceration data presented in this report are from Paige M. Harrison and Allen J. Beck, *Prison and Jail Inmates at Midyear 2005*, Bureau of Justice Statistics, 2006, p. 11

¹⁰ William J. Sabol, Todd D. Minton, and Paige M. Harrison, *Prison and Jail Inmates at Midyear 2006*, Bureau of Justice Statistics, 2007, p. 9

broader community. For example, criminologists James Lynch and William Sabol found that three percent of a single Ohio county's census block groups¹¹ comprised 20% of the state prison population.¹² This concentration among young males presents profound long-term consequences for employment prospects, family formation, and general quality of life.

SIGNIFICANT STATE VARIATION IN RATES OF INCARCERATION BY RACE

As is true for overall rates of incarceration, so too do racial and ethnic rates of incarceration vary significantly by state, as seen in Table 2. In addition to crime rates, the discretion of policymakers and practitioners in decisions related to arrest, conviction, sentencing, and severity of statutory punishment all play a key role in determining state rates of imprisonment. Moreover, it underscores the importance of *where*, and for *what* offense, a person has been convicted.

¹¹ Census block groups represent between 1,000 and 3,000 residents.

¹² James P. Lynch and William J. Sabol, *Prisoner Reentry in Perspective*, The Urban Institute, 2001, p. 16.

TABLE 2 – Prison & Jail Incarceration Rates, 2005
Rate of Incarceration per 100,000 Population

State	White	Black	Hispanic	State	White	Black	Hispanic
Alabama	542	1916	/	Missouri	487	2556	587
Alaska	500	2163	380	Montana	433	3569	846
Arizona	590	3294	1075	NATIONAL	412	2290	742
Arkansas	478	1846	288	Nebraska	290	2418	739
California	460	2992	782	Nevada	627	2916	621
Colorado	525	3491	1042	New Hampshire	289	2666	1063
Connecticut	211	2532	1401	New Jersey	190	2352	630
Delaware	396	2517	683	New York	174	1627	778
District of Columbia	56	1065	267	North Carolina	320	1727	/
Florida	588	2615	382	North Dakota	267	2683	848
Georgia	623	2068	576	Ohio	344	2196	613
Hawaii	453	851	185	Oklahoma	740	3252	832
Idaho	675	2869	1654	Oregon	502	2930	573
Illinois	223	2020	415	Pennsylvania	305	2792	1714
Indiana	463	2526	579	Rhode Island	191	1838	631
Iowa	309	4200	764	South Carolina	415	1856	476
Kansas	443	3096	/	South Dakota	470	4710	/
Kentucky	561	2793	757	Tennessee	487	2006	561
Louisiana	523	2452	244	Texas	667	3162	830
Maine	262	1992	/	Utah	392	3588	838
Maryland	288	1579	/	Vermont	304	3797	/
Massachusetts	201	1635	1229	Virginia	396	2331	487
Michigan	412	2262	397	Washington	393	2522	527
Minnesota	212	1937	/	West Virginia	392	2188	211
Mississippi	503	1742	611	Wisconsin	415	4416	/

* Incarceration rates based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity.

Table 3 shows that the black rate of incarceration ranges from a high of 4,710 per 100,000 (4.7% of the population) in South Dakota to a low of 851 (0.85% of the population) in Hawaii. Comparing the rates of incarceration for African Americans (Table 3) with those for whites (Table 4) reveals profound patterns of racial disparity. For example, the state with the *lowest* rate of incarceration for African Americans – Hawaii, at 851 per 100,000 population – maintains a rate 15% higher than the state with the *highest* rate for whites – Oklahoma, at 740 per 100,000 population. While more than 1% of African Americans in 49 states and the District of Columbia are incarcerated, there is not a single state in the country with a rate of incarceration that high for whites.

**TABLE 3 – Prison & Jail Incarceration Rates, 2005, By BLACK Incarceration Rate
Rate of Incarceration per 100,000 Population**

State	White	BLACK	Hispanic
South Dakota	470	4710	/
Wisconsin	415	4416	/
Iowa	309	4200	764
Vermont	304	3797	/
Utah	392	3588	838
Montana	433	3569	846
Colorado	525	3491	1042
Arizona	590	3294	1075
Oklahoma	740	3252	832
Texas	667	3162	830
Kansas	443	3096	/
California	460	2992	782
Oregon	502	2930	573
Nevada	627	2916	621
Idaho	675	2869	1654
Kentucky	561	2793	757
Pennsylvania	305	2792	1714
North Dakota	267	2683	848
New Hampshire	289	2666	1063
Florida	588	2615	382
Missouri	487	2556	587
Connecticut	211	2532	1401
Indiana	463	2526	579
Washington	393	2522	527
Delaware	396	2517	683

State	White	BLACK	Hispanic
Louisiana	523	2452	244
Nebraska	290	2418	739
New Jersey	190	2352	630
Virginia	396	2331	487
NATIONAL	412	2290	742
Michigan	412	2262	397
Ohio	344	2196	613
West Virginia	392	2188	211
Alaska	500	2163	380
Georgia	623	2068	576
Illinois	223	2020	415
Tennessee	487	2006	561
Maine	262	1992	/
Minnesota	212	1937	/
Alabama	542	1916	/
South Carolina	415	1856	476
Arkansas	478	1846	288
Rhode Island	191	1838	631
Mississippi	503	1742	611
North Carolina	320	1727	/
Massachusetts	201	1635	1229
New York	174	1627	778
Maryland	288	1579	/
District of Columbia	56	1065	267
Hawaii	453	851	185

* Incarceration rates based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity.

**Table 4 – Prison & Jail Incarceration Rates, 2005, By WHITE Incarceration Rates
Rate of Incarceration per 100,000 Population**

State	WHITE	Black	Hispanic
Oklahoma	740	3252	832
Idaho	675	2869	1654
Texas	667	3162	830
Nevada	627	2916	621
Georgia	623	2068	576
Arizona	590	3294	1075
Florida	588	2615	382
Kentucky	561	2793	757
Alabama	542	1916	/
Colorado	525	3491	1042
Louisiana	523	2452	244
Mississippi	503	1742	611
Oregon	502	2930	573
Alaska	500	2163	380
Missouri	487	2556	587
Tennessee	487	2006	561
Arkansas	478	1846	288
South Dakota	470	4710	/
Indiana	463	2526	579
California	460	2992	782
Hawaii	453	851	185
Kansas	443	3096	/
Montana	433	3569	846
South Carolina	415	1856	476
Wisconsin	415	4416	/

State	WHITE	Black	Hispanic
NATIONAL	412	2290	742
Michigan	412	2262	397
Delaware	396	2517	683
Virginia	396	2331	487
Washington	393	2522	527
Utah	392	3588	838
West Virginia	392	2188	211
Ohio	344	2196	613
North Carolina	320	1727	/
Iowa	309	4200	764
Pennsylvania	305	2792	1714
Vermont	304	3797	/
Nebraska	290	2418	739
New Hampshire	289	2666	1063
Maryland	288	1579	/
North Dakota	267	2683	848
Maine	262	1992	/
Illinois	223	2020	415
Minnesota	212	1937	/
Connecticut	211	2532	1401
Massachusetts	201	1635	1229
Rhode Island	191	1838	631
New Jersey	190	2352	630
New York	174	1627	778
District of Columbia	56	1065	267

*Incarceration rates based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity.

An examination of the ratio of black-to-white incarceration rates by state illustrates not only the heightened use of imprisonment for African Americans, but also regional differences in how incarceration policies produce disparities. While the national black-to-white ratio of incarceration is 5.6, among the states the ratio ranges from a high of nearly 14-to-1 in Iowa to a low of less than 2-to-1 in Hawaii.¹³

In seven states – Iowa, Vermont, New Jersey, Connecticut, Wisconsin, North Dakota, and South Dakota – the black-to-white ratio of incarceration is greater than 10-to-1.

TABLE 5 – States with Highest and Lowest BLACK-TO-WHITE RATIO

STATE	BLACK-TO-WHITE RATIO	STATE	BLACK-TO-WHITE RATIO
Highest		Lowest	
Iowa	13.6	Hawaii	1.9
Vermont	12.5	Georgia	3.3
New Jersey	12.4	Mississippi	3.5
Connecticut	12.0	Alabama	3.5
Wisconsin	10.6	Arkansas	3.9

¹³ We include data for the District of Columbia in each of the tables, but not in the discussion since as a wholly urban jurisdiction it is not comparable to state populations. Also, note that there are no racial and ethnic data available for New Mexico and Wyoming.

TABLE 6 – Prison & Jail Incarceration Rates, 2005, By BLACK-TO-WHITE RATIO
Rate of Incarceration per 100,000 Population

State	White	Black	B-TO-W RATIO
District of Columbia	56	1065	19.0
Iowa	309	4200	13.6
Vermont	304	3797	12.5
New Jersey	190	2352	12.4
Connecticut	211	2532	12.0
Wisconsin	415	4416	10.6
North Dakota	267	2683	10.0
South Dakota	470	4710	10.0
Rhode Island	191	1838	9.6
New York	174	1627	9.4
New Hampshire	289	2666	9.2
Pennsylvania	305	2792	9.2
Utah	392	3588	9.2
Minnesota	212	1937	9.1
Illinois	223	2020	9.1
Nebraska	290	2418	8.3
Montana	433	3569	8.2
Massachusetts	201	1635	8.1
Maine	262	1992	7.6
Kansas	443	3096	7.0
Colorado	525	3491	6.6
California	460	2992	6.5
Washington	393	2522	6.4
Ohio	344	2196	6.4
Delaware	396	2517	6.4
Virginia	396	2331	5.9
Oregon	502	2930	5.8
Arizona	590	3294	5.6
West Virginia	392	2188	5.6
NATIONAL	412	2290	5.6
Michigan	412	2262	5.5
Maryland	288	1579	5.5
Indiana	463	2526	5.5
North Carolina	320	1727	5.4
Missouri	487	2556	5.2
Kentucky	561	2793	5.0
Texas	667	3162	4.7
Louisiana	523	2452	4.7
Nevada	627	2916	4.7
South Carolina	415	1856	4.5
Florida	588	2615	4.4
Oklahoma	740	3252	4.4
Alaska	500	2163	4.3
Idaho	675	2869	4.3
Tennessee	487	2006	4.1
Arkansas	478	1846	3.9
Alabama	542	1916	3.5
Mississippi	503	1742	3.5
Georgia	623	2068	3.3
Hawaii	453	851	1.9

* Incarceration rates based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity.

HISPANIC RATES OF INCARCERATION HIGHER THAN WHITES, LESS THAN AFRICAN AMERICANS

The national rate of incarceration for Hispanics – 742 per 100,000 – is nearly double that of whites (see Table 1), but considerably less than that of African Americans.¹⁴ As seen in Table 7, the range of incarceration rates extends from a high of 1,714 per 100,000 in Pennsylvania to a low of 185 in Hawaii. A comparison between Tables 4 and 7 documents the degree of ethnic disparities in the use of imprisonment. More than 1% of Hispanics in seven states are incarcerated, and 16 states have Hispanic rates of incarceration higher than the highest state rate (Oklahoma) for whites.

As with African Americans, there is broad variation among the states in the rate of incarceration compared to the non-Hispanic white population. A comparison of Hispanic rates of incarceration at the state level with those of whites reveals similar patterns of ethnic-based disparity to that between African Americans and whites. The Hispanic-to-white ratio of incarceration ranges from a high of 6.6 in Connecticut to an under-representation of Hispanics relative to whites in nine states (see Table 8).¹⁵

¹⁴ These data must be interpreted with caution. Reporting on Hispanics in the criminal justice system has been limited and often inaccurate over many years, as evidenced by the fact that 11 states in this analysis do not provide any data on Hispanic inmates. Because of this history, there is reason to believe that the comparatively low rate of incarceration of Hispanics compared to whites in some states may be a function of undercounting rather than a reflection of actual practice.

¹⁵ The states with the lowest Hispanic-to white ratio are not included because many of the figures are likely to be artificially low and reflect undercounting rather than actual state practices.

**Table 7 – Prison & Jail Incarceration Rates, 2005, By HISPANIC Incarceration Rate
Rate of Incarceration per 100,000 Population**

State	White	Black	HISPANIC
Pennsylvania	305	2792	1714
Idaho	675	2869	1654
Connecticut	211	2532	1401
Massachusetts	201	1635	1229
Arizona	590	3294	1075
New Hampshire	289	2666	1063
Colorado	525	3491	1042
North Dakota	267	2683	848
Montana	433	3569	846
Utah	392	3588	838
Oklahoma	740	3252	832
Texas	667	3162	830
California	460	2992	782
New York	174	1627	778
Iowa	309	4200	764
Kentucky	561	2793	757
NATIONAL	412	2290	742
Nebraska	290	2418	739
Delaware	396	2517	683
Rhode Island	191	1838	631
New Jersey	190	2352	630
Nevada	627	2916	621
Ohio	344	2196	613
Mississippi	503	1742	611
Missouri	487	2556	587

State	White	Black	HISPANIC
Indiana	463	2526	579
Georgia	623	2068	576
Oregon	502	2930	573
Tennessee	487	2006	561
Washington	393	2522	527
Virginia	396	2331	487
South Carolina	415	1856	476
Illinois	223	2020	415
Michigan	412	2262	397
Florida	588	2615	382
Alaska	500	2163	380
Arkansas	478	1846	288
District of Columbia	56	1065	267
Louisiana	523	2452	244
West Virginia	392	2188	211
Hawaii	453	851	185
South Dakota	470	4710	/
Wisconsin	415	4416	/
Vermont	304	3797	/
Kansas	443	3096	/
Maine	262	1992	/
Minnesota	212	1937	/
Alabama	542	1916	/
North Carolina	320	1727	/
Maryland	288	1579	/

* Incarceration rates based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity.

**TABLE 8 – Prison & Jail Incarceration Rates, 2005, By HISPANIC-TO-WHITE Ratio
Rate of Incarceration per 100,000 Population**

State	White	Hispanic	H-TO-W RATIO	State	White	Hispanic	H-TO-W RATIO
Connecticut	211	1401	6.6	Virginia	396	487	1.2
Massachusetts	201	1229	6.1	Mississippi	503	611	1.2
Pennsylvania	305	1714	5.6	Missouri	487	587	1.2
District of Columbia	56	267	4.8	Tennessee	487	561	1.2
New York	174	778	4.5	South Carolina	415	476	1.1
New Hampshire	289	1063	3.7	Oregon	502	573	1.1
New Jersey	190	630	3.3	Oklahoma	740	832	1.1
Rhode Island	191	631	3.3	Nevada	627	621	1.0
North Dakota	267	848	3.2	Michigan	412	397	1.0
Nebraska	290	739	2.5	Georgia	623	576	0.9
Iowa	309	764	2.5	Alaska	500	380	0.8
Idaho	675	1654	2.5	Florida	588	382	0.6
Utah	392	838	2.1	Arkansas	478	288	0.6
Colorado	525	1042	2.0	West Virginia	392	211	0.5
Montana	433	846	2.0	Louisiana	523	244	0.5
Illinois	223	415	1.9	Hawaii	453	185	0.4
Arizona	590	1075	1.8	Vermont	304	/	/
NATIONAL	412	742	1.8	Wisconsin	415	/	/
Ohio	344	613	1.8	South Dakota	470	/	/
Delaware	396	683	1.7	Minnesota	212	/	/
California	460	782	1.7	Maine	262	/	/
Kentucky	561	757	1.3	Kansas	443	/	/
Washington	393	527	1.3	Maryland	288	/	/
Indiana	463	579	1.3	North Carolina	320	/	/
Texas	667	830	1.2	Alabama	542	/	/

* Incarceration rates based on data from the Bureau of Justice Statistics, *Prison and Jail Inmates at Midyear 2005*. New Mexico and Wyoming have been excluded due to lack of data on race and ethnicity.

RACIAL AND ETHNIC DISPARITIES PRODUCED IN DIVERSE WAYS

As is evidenced by the data presented in this report, there is substantial variation in both the overall rate of incarceration among states as well as the racial and ethnic differential in the use of incarceration. In addition, states with a high black-to-white differential in incarceration rates reflect one of two types of sentencing practices.

- In some states – Vermont, Wisconsin, South Dakota – the more than ten-fold difference in rates of incarceration is largely due to a *high black rate* of incarceration, double that of the national average.
- Other states – Connecticut, New Jersey, New York, Rhode Island – maintain black rates of incarceration that are near or below the national average, but have *white rates of incarceration that are less than half the national average*. Thus, an average black rate of incarceration and a low white rate of incarceration results in a high black-to-white ratio.

Conversely, some southern states – Alabama, Mississippi, Georgia – maintain black incarceration rates below the national average, but have a higher than average white rate of incarceration, thereby producing a lower black-to-white differential than other states.

A final note on the black-to-white differentials regards the relative mix of prison and jail populations in the overall data. At a national level, whites are more likely to be incarcerated in local jails (44% of the total population) than prisons (35% of the total). Since jail stays are relatively short compared to prison terms, the collateral consequences of incarceration – separation from family, reduced employment prospects – are generally less severe than for persons spending a year or more in state prison.

POLICY ISSUES

While the number of people incarcerated in a given state is in part a reflection of crime rates, it is also related to a variety of policy decisions both within and outside the criminal justice system. In addition, many of these decisions have implications for the racial and ethnic composition of a state's prisons and jails. Within the criminal justice system sentencing policy choices have a significant effect on these outcomes, including:

Drug Policy

Incarceration rates and racial distributions are affected by resources devoted to policing and prosecution initiatives that emphasize large-scale drug arrests, as well as policing in communities of color, at the expense of drug treatment and diversion programs.

Policy Responses: Both federal and state policymakers should revisit the domestic drug control strategy, taking into account the wealth of empirical evidence demonstrating the efficacy of investing in prevention and treatment, rather than a law enforcement-centered approach. Sentencing laws, such as the federal cocaine statutes, should be recalibrated to ensure that they are targeted toward high-level distribution and sale offenses, as opposed to the current emphasis that results in disproportionate numbers of low-level offenders being prosecuted.

Sentencing Policy

The proliferation of mandatory and determinate sentencing initiatives of recent decades has contributed significantly to higher rates of incarceration. These harsh punishments have often exacerbated racial and ethnic disparities due to the targeting of particular offenses and/or discretionary decisionmaking within the criminal justice system.

Policy Responses: Sentencing laws should be amended to reflect the evolving national consensus in favor of prevention and treatment. Efforts should be made to reinstate judicial discretion into the sentencing process to permit judges to craft sentences that accurately reflect the charged conduct and circumstances of the offense and defendant. Policymakers should follow the lead of legislatures in states such as Louisiana, Mississippi, and Delaware and revisit the wisdom of mandatory minimum sentencing.

“Race Neutral” Policies

Whether intended or not, a variety of seemingly “race neutral” policies have contributed to growing racial disparity. Due to the intersection of racially skewed policing and sentencing policies, the federal crack cocaine mandatory sentencing laws, for example, have produced highly disproportionate rates of incarceration for low-level offenses. Similarly, school zone drug laws produce severe racial effects due to housing patterns, whereby drug offenses committed near the urban areas that contain many communities of color are prosecuted more harshly than similar offenses in rural communities populated largely by whites.

Policy Responses: In order to identify the potential impact of a policy on racial disparity before it is passed into law, state and federal policymakers should mandate a process by which all legislation that will have an effect on the prison population be accompanied by a *Racial Impact Statement* to document the projected consequences for persons of color. Such statements would not preclude the adoption of new policies, but would add an important component of analysis to the legislative discussion.

Resource Allocation

The overlap between effects of race and class can be seen most directly by the ways in which limited resources produce disparate outcomes within the justice system. Since people of color are disproportionately low-income they are more likely to rely on an overburdened public defense system and live in communities with limited access to treatment and alternative sentencing options.

Policy Responses: Policymakers should establish enforceable and binding standards for indigent defense that ensure the provision of quality representation for all defendants; state and local public defender systems should meet minimum criteria established by the American Bar Association; defense attorneys and judges should be trained to effectively make use of appropriate alternatives to incarceration for defendants.

Policies that produce high rates of incarceration for racial and ethnic minorities affect not only the persons who are incarcerated, but their families and communities as well. Such impacts include the growing number of children with incarcerated parents, gender imbalances in communities experiencing high incarceration rates, and declining political influence through high rates of felony disenfranchisement.

Thus, policymakers should have an interest in reducing disproportionate rates of incarceration in ways that are consistent with promoting public safety. Within each state, such initiatives should include an assessment of the various factors contributing to disparity as well as an exploration of sentencing options.

FURTHER READING

Reducing Racial Disparity in the Criminal Justice System: A Manual for Practitioners and Policymakers

<http://www.sentencingproject.org/PublicationDetails.aspx?PublicationID=379>

Race to Incarcerate

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