

The Race Warfare and the United States Justice System

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ABSTRACT

Let us think for a moment, the United State is home to 5% of the world population, but 28% of the world's prisoners. That is more than one out of four human beings in the world, with their hands-on bars, shackled, and locked up in the land of the free. Ninety-seven percent of this incarcerated people never had a trial. So as public support for criminal justice reform continues to build, it is now more important than ever that we get the facts straight and understand the big picture. With a much-needed clarity in crime rate and justice's system, this empirical analysis will be digging deep into available data to offer some much-needed clarity by piecing together the United States' disparate system of confinement. The study emphasizes the need to understand how 2.52 million people ended up in jails or prison and why the majority of those people are poor, and also brown and black. In the end, the reform of the criminal justice system is not about whether or not black lives matters, but it is about changing the way United States understands human dignity.

"The degree of civilization in a society can be judged by entering its prisons."

Fyodor Dostoyevsky,
The House of the Dead (1862)

1. Introduction

History does not just happen by accident. If we are white, we are the products of the history that our ancestors chose. If we are black, we are products of the history that our ancestors most likely did not get to choose. Yet here we all are together, the products of a past set of choices. And we must understand this fact in order to escape from it.

The 13th amendment of the United States constitution makes it unconstitutional for someone to be held a slave. In other words, it grants all Americans the right to freedom. However, there are exceptions, a clause or a loophole in the structure of the constitutional language, so, it is not surprising that these are often used as tools by people in authority or power in the way they deem fit. Even though the 13th amendment says everyone is now free, the end of World War I brought with it a new regime, as being black suddenly became criminalized, consequently, the 13th amendment no longer applies to them. As a result, the criminalization of African Americans led to the U.S prison boom.

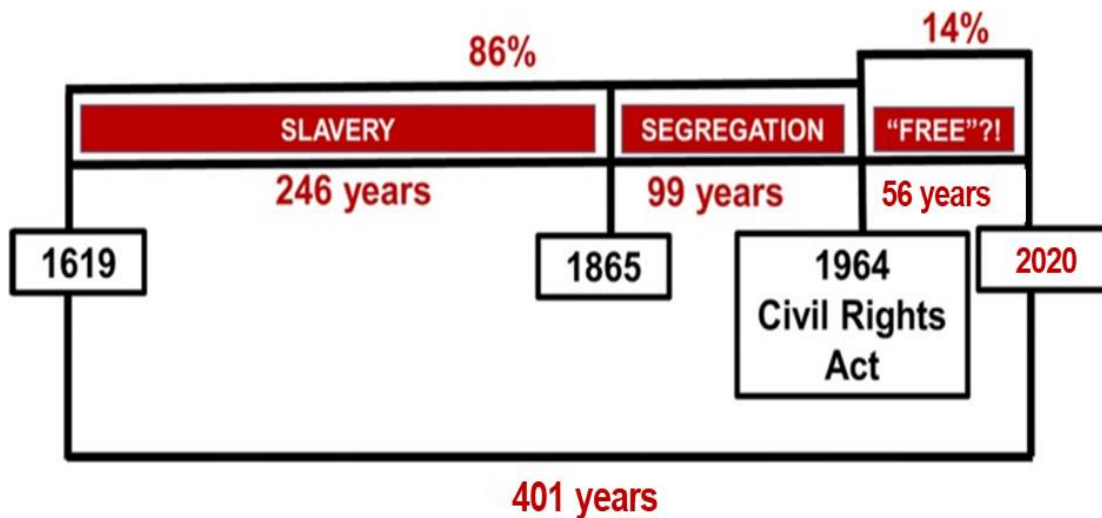
The crime definition that the political elite and mass media have sold to the entire population is that when a crime is committed by a white person against a black person, is self-defense; black to black is drug or gang crime; Muslim to anyone is terrorism; white to white is mental health crisis; and black to white, is murder. This might explain why Black Americans are more likely to be stopped, searched, and arrested than their White counterparts. Among American motorists for example, Blacks and Hispanics always worry about being stopped if they are driving a nice car in a modest or upscale community, even though they were not more likely to be carrying contraband.

The justice system is not just shaped in ways that seem to be distorting around race, it is also distorted by income level. The system treats you much better if you are rich and guilty, than if you are poor and innocent – thus, wealth, not culpability, shapes the outcomes of most criminal trials. And yet, everyone seems to be amazingly comfortable. The politics of fear and

anger have made people believe that these are problems that are not theirs. We have been disconnected. To end mass incarceration, we need to first understand how 2.52 million people ended up in jails or prison and why the majority of those people are poor, and also brown and black.

This research will be incomplete and unreasonable should it tell the story of now without telling the story of the past. After convict leasing system faded away, a Jim Crow system was born, a system that relegated African Americans to a permanent second-class status. And here we are now, decades after the collapse of the old Jim Crow Law, and a new system was born again, a system of mass incarceration that once again strips millions of poor people and overwhelmingly poor people of color, of their very rights, supposedly won in the civil right movement. To fully understand the disproportionate burden of poor health and mortality experienced by African Americans, an understanding of the unique 401 years' history of this group is key. Specifically, only 14% of the 401 years' history of African Americans is after the Civil Rights Act of 1964.

Figure 1: history of African Americans, Pre- and post-Civil Rights Act of 1964



Source: (Subramanian, Delaney, Roberts, Fishman, & McGarry, 2015)

In the 40 years from 1978 to 2018, the number of prisoners held in Federal, State, Local prisons and jails increased by 500%, from 294,400 to 2,515,927 people. Every second at least 1 in 2 adults in the country has a family member that goes to prison or jail. According to a survey by criminal justice non-profit FWD.us and Cornell University, 64% of U.S. adults have had an immediate or extended family member spend time in prison or jail. The situation nationwide can be described as an Incarceration Crisis. The brutal reality of the crisis becomes visible due to the fact that 113 million U.S. adults have had an immediate family member incarcerated while 6.5 million said a member of their family was in prison at the time of the (FWD.us, 2019) research.

The racial and ethnic makeup of the country's prisons continues to look significantly different from its demographics. In 2018, black Americans represented 33% of the sentenced prison population, nearly triple their 12% share of the country's adult population, while the whites accounted for 30% of prisoners, that is only about half their 63% share of the country's adult population. Hispanics however accounted for 23% of the prison inmates, compared to 16% of the U.S. adult population.

Most Americans might think that criminal justice system is about judges and juries, but that is not the case. It appears that the system cannot exist, or it is likely to shutdown should everyone decide to go to trial. What typically happens is that the prosecutor says "you can make a deal and we will give you 3 years, or you can go to trial and we will get you 30 years, so do you want to take that chance?" (Keene, 2016). So those without the financial muscle will end up taking the deal. This is why 97% of the people locked up in the United States have plea-bargained (Rangel, 2016) and that is one of the worst violations of human rights in the United States, that you can imagine. So, you have people pleading guilty to crimes they did not commit, just because the thought of going to jail for what the mandatory minimums are is so excruciating.

The next section of this research will explore the prison industry complexity, prison as an industry, prison as a business, and people profiling off punishment.

2. Literature Review

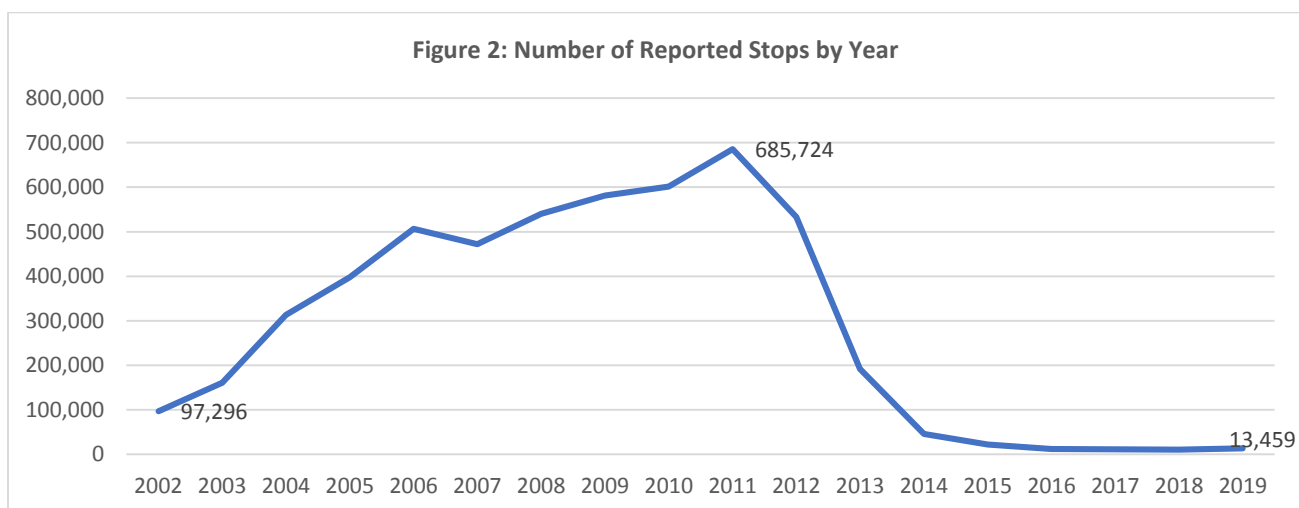
The Institute for Criminal Policy Research formerly known as the International Centre for Prison Studies is the leading source of analysis of incarceration rates internationally. Since the year 2000, the institute has been publishing the World Prison Brief (WPB, 2020). The Council of Europe is a regional body that produces SPACE (Statistiques Pénales Annuelles du Conseil de l'Europe) publication (Council of Europe, 2019). The SPACE project aims to provide an overview of the use of prison and probation in the 47 member states of the Council of Europe (CoE). Even though the reports from these institutes provide insights that are critical for assessing the relative use of imprisonment in an international or regional context, the definition of incarceration however is not always as clear as one might wish. Another issue regarding the interpretation of incarceration rates, relates to the use of a nation's total population. For example, the breakdown demographic data provided by the U.S. Department of Justice shows that the overall rate of imprisonment in state and federal prisons, based on sentences in 2018 was 431 per 100,000 population, or approximately 1 in every 232 residents. By gender, however, the overall male adult rate was 810 per 100,000, 13 times the female rate of 63 per 100,000. However, disaggregated by race, gender, and age, the rate of incarceration is 5,008 per 100,000 black males in the 35–39 years old age group; a stunning 1 in 20 are imprisoned on any given day (BJS, 2020).

Matters like criminal justice reforms are a big umbrella with lots of issues underneath, and have received a lot of attention from scholars (Aarten, 2019; Phelps, 2018; Smith & Berlin, 1988), and policy makers. Even President Trump among policy makers agrees that reform needs to happen, he just differs from every other presidential candidate on the specifics.

Most of the Democratic candidates want a reform on the bail system – legalizing marijuana, reducing mandatory minimums, and discriminating border crossings. Bernie Sanders released a sweeping plan to reform the criminal justice system. He calls for abolishing For-Profit Prisons, reforming policing and prison system, and ending mass incarceration and excessive sentencing, ending the war on drugs and stopping the criminalization of addiction, ensuring a just transition post-release, and treating children like children – by ending the school-to-prison pipeline. Black students, even in preschool, are nearly four times as likely to be suspended compared to white students, hence putting them at greater risk of falling behind and getting caught up in the juvenile justice system (Sanders, 2020).

Elizabeth Warren calls for the repeal of the legacy of the Violent Crime Control Act and Law Enforcement Act of 1994, better known as the Crime Bill (Warren, 2019).

Among the Democratic Party candidates is Michael Bloomberg the former Mayor of New York City, a living proof that changes in sentencing law and policy, not changes in crime rates, explain most of the increase in incarceration rate. During his administration, he supported stop-and-frisk, a policy that gave police officers the power to stop, search and interrogate anyone on the street that they suspected of crime. According to NYPD (2020) available data, 685,724 NYPD stops were recorded in 2011, 88% (605,328) of the people were innocent, 53% (350,743) were Black, 34% (223,740) were Hispanic, and 9% (61,805) were White. Of the 685,724 stopped, 51% (341,581) of them were aged 14-24. Between 2014 and 2017, young Black and Hispanic males between the ages of 14 and 24 accounted for only 5% of the city's population, compared with 38% of reported stops. Young Black and Hispanic males were innocent 80% of the time.



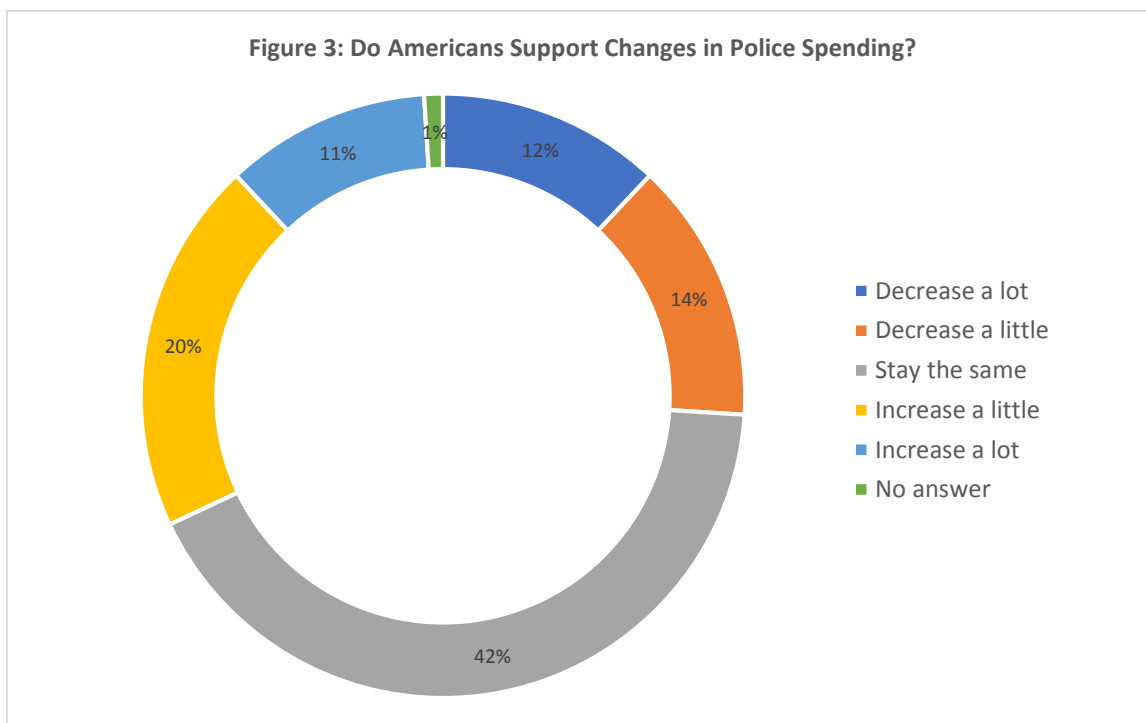
Source: (NYPD, 2020)

Even so, Black and Hispanic people were more likely to be frisked than Whites. Among those frisked, over 93% resulted in no weapon being found. The NYPD used force on over 21,000 Black and Hispanic people and over 2,200 White people. Even among those stopped, Black and Hispanic people were more likely to experience the use of force against them than White people (NYCLU, 2019). Bloomberg continues to support stop and frisk even after federal judge ruling was that it violated constitutional rights of minorities. When Bloomberg announced that he was jumping into the presidential race, he used the opportunity to apologize for stop-and-frisk (AP, 2020). Now he said he wants to cut the number of juveniles and adults who are incarcerated and invest in communities to prevent gun violence.

Then there is Joe Biden, whose criminal justice system is to shift from punishment to prevention – even though he helped write the 1994 Crime Bill (CNBC, 2016). Some critics say it contributed to mass incarceration that disproportionately affected Black Americans (The Atlantic, 2019; The New York Times, 2019). The bill set aside \$8.7 billion over six years for states to build more prisons. About half of that was available to states that enacted “truth-in-sentencing” laws, which limit paroles and require people convicted of violent crimes to serve at least 85% of their sentences; thus encouraging states to build more prisons — with more money coming to them if they increased penalties. Joe Biden however disputes federal funding impact on incarceration. His campaign cited (BJS, 2018) figures showing that from 1980 to 1994, the average annual percentage increase in the incarcerated population was 8.01% and then 5.14% from 1994 to 2000. Meanwhile, another measure to consider is the incarceration rate per 100,000 residents. For many years, until the early 1970s, it was about 100 for 100,000 residents. This rate had increased to 389 per 100,000 by 1994, and kept trending upward after the passage of the crime bill: 470 in 2000, 500 in 2010, and 431 in 2018 (BJS, 2020). The United States now has 5% of the world’s population — more than 1 in 4 (28%) world’s prisoners and yet this number does not include those in jails, house arrest, military detention, juvenile facilities, and immigration detention.

It is not surprising that the high level of the country’s incarceration rate often makes the news and gets the attention of both social and mainstream media just as that of scholars and politicians. Yet the most common form of criminal justice supervision is not imprisonment but probation and parole — and that is just as true for juveniles as it is for adults. Both probation and parole set people up to fail (The New York Times, 2015) with long supervision terms, strict conditions, and intense surveillance. Only about half of people who exit parole or probation do so after successfully completing their supervision terms; many supervision “failures” result in revocation which in turn can lead to incarceration, and this happens a lot: annually, nearly 350,000 people are shifted from community supervision to prison or jail (BJS, 2018). According to a report by (Ronald P. Corbett, 2015), in order to remain in good standing with the probation department, there are 18 to 20 daily requirements that people on probation must comply with. Any violation of these conditions may result in prison or jail time. Sixty-two years old, Marilyn Jane Hartman, was sentenced to 177 days in jail for violating her probation terms (Hamilton, 2014). There are many circumstances that might lead to the violation of probation, this could be as simple as getting arrested for a mild offense, regardless of whether criminal or not; visiting certain people or places, or traveling out of state without the permission of the probation officer; not reporting to the probation officer at the scheduled time or place; not appearing during a scheduled court appearance on a set date and time; or not paying any required fines or restitution (to victims) as ordered by a court. As consequences for violating probation, the court may extend the probation, impose additional probation terms, order the violator to serve a brief time in jail, or revoke the probation altogether and require the violator to serve out any remaining time of the original sentence in prison.

In recent times, the American communities are intensely feeling unsafe due to police heavy-handedness. This has led to the “Defund the Police” movement which quickly gained traction across the country as part of the broader “Black Lives Matter” movement, where those seeking justice for the killings of innocent Black Americans believe too much of the country’s budget goes toward policing. A Pew Research Center survey conducted between 16th – 22nd June 2020 shows that support for decreasing spending on policing is higher among younger adults age 18 to 29 (45%), Black adults (64%), and Democrats and Democratic leaners (41%).



Source: (Pew Research Center, 2020)

Two-thirds of Americans said they favor the ability for civilians to sue police officers in situations of misconduct and excessive use of force – a practice that is nearly impossible in many parts of the country due to qualified immunity. More than eight-in-ten of the surveyed population, or 84% White, 89% Black and 82% Hispanic, say that civilians should have the power to sue police. Nonetheless, 42% of the country’s adults still believe local police spending across the country should stay the same. Of those who believe it should increase, 20% are in favor of increasing police spending by a little and 11% would increase spending by a lot. When it comes to decreasing police spending, just 14% would decrease spending by a little and 12% by a lot.

3. Methodology

This research is a quantitative analysis with primary data drawn from several government agencies. The database includes the United States Bureau of Justice Statistics (BJS), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Department of Homeland Security, and the American Immigration Council. The study will empirically analyze the incarceration and black injustice rate. It will be digging deeper into the available data from the above institutions, by taking an analytics approach in visualizing the data to provide a much-needed insight.

Concerning the data structure, the archive project of BJS developed race estimates for 4 race groups (White, Black/African-American, American Indian/Alaskan Native, and Asian/Pacific Islanders) without consideration of ethnicity; that is, during 1985-2004, persons of Hispanic ethnicity can be of any race and are included within each of the four racial groups. Beginning with the 2005 data year, persons of Hispanic ethnicity are treated as a distinct race group and are excluded from the other race groups. For this reason, race estimates for the 1985-2004 data period are not comparable to the race estimates for the 2005-present data period. An important exception must be noted. Data provided to the project did not always allow for identification of Hispanic ethnicity for cases involving American Indian youth. Specifically, data from many jurisdictions did not include any means to determine the ethnicity of American Indian youth. Rather than assume ethnicity for these youth, they are classified solely on their racial classification; as such, the American Indian group includes an unknown proportion of Hispanic youth (Sickmund, Sladky, & Kang, 2020).

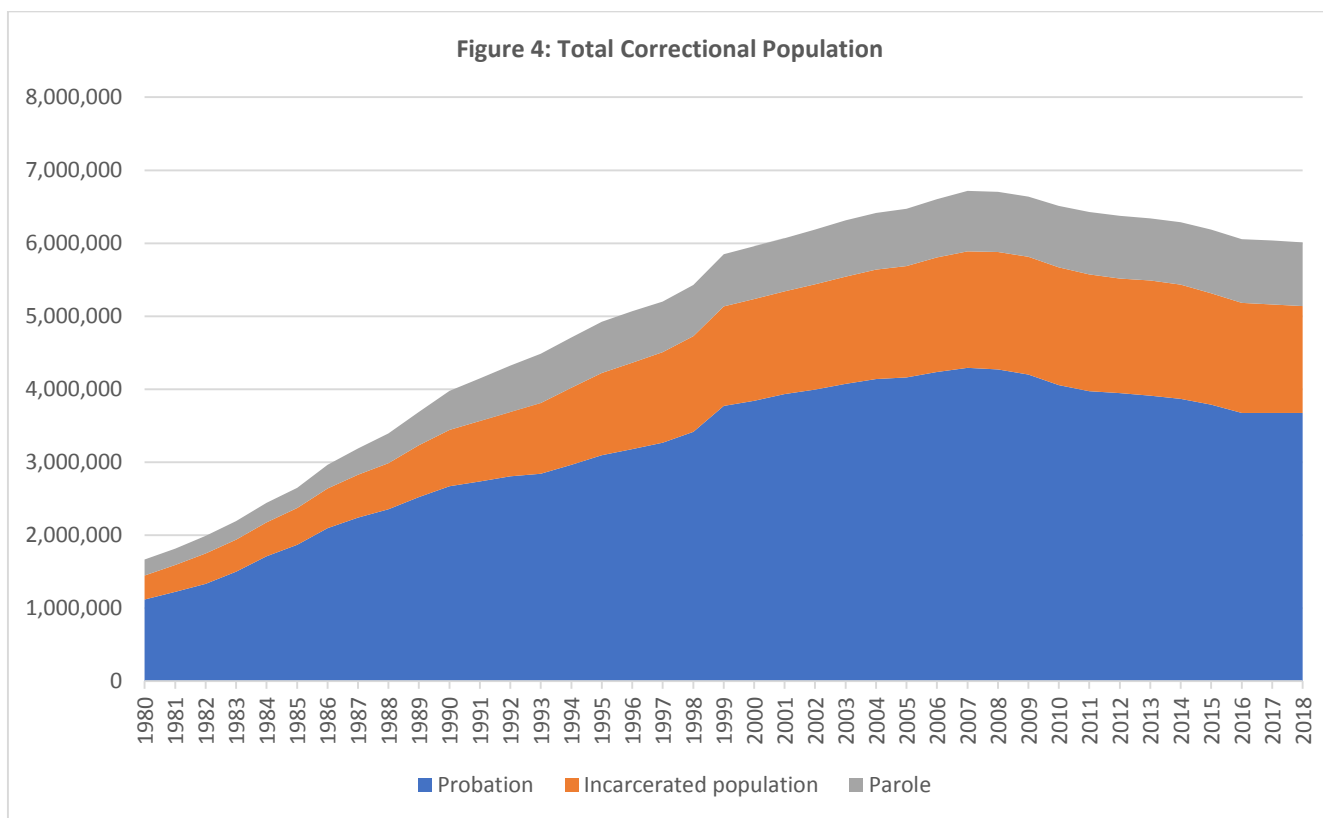
Local Jail data are based on the inmate population confined on the last weekday in June, unless specified, and are adjusted for non-response and rounded to the nearest 100 (BJS, 2020). Meanwhile, due to the availability of relevant data, the study will focus attention on the incarcerated population – people in jails and prisons.

4. Results and Discussion

The various government agencies involved in the justice system, collect a lot of critical data, but it is not designed to help policymakers, or the public in understanding what is going on. As public cry for criminal justice reform continues to build, it is important now more than ever to get the facts straight and understand the big picture. This research provides a comprehensive and in-depth analysis in reviewing why and where people are locked up in the United States. The study will also be dismissing some modern myths in order to focus attention on the real drivers of mass incarceration, including exceedingly punitive responses to even the most minor offenses.

It is true that there is a lot of interesting and valuable research out there, but definitional issues and incompatibilities make it hard to get the big picture for both people new to criminal justice and for experienced policy wonks. In attempt to have a much-needed clarity, this study pieced together the country’s disparate systems of confinement. It provides a detailed look at where and why people are locked up in the U.S. Beyond the federal and state prison data as most research will present to you, other agencies and many local facilities confine people for the federal government. The people incarcerated in these agencies and local facilities represent 58.5% of the total data collected for this study.

An estimated 4.5 million adults are under community supervision, nearly twice the number of people who are incarcerated in jails and prisons combined. People on parole and probation are often not considered in incarceration reports. In 2018, 3.7 million people were reported to be under probation, that is 61.1% of the correction facility population if we are not considering those in military, immigration, territorial, private, and juvenile facilities not to mention local jails. The below figure reveals the number of persons under correctional supervision from 1980-2018.

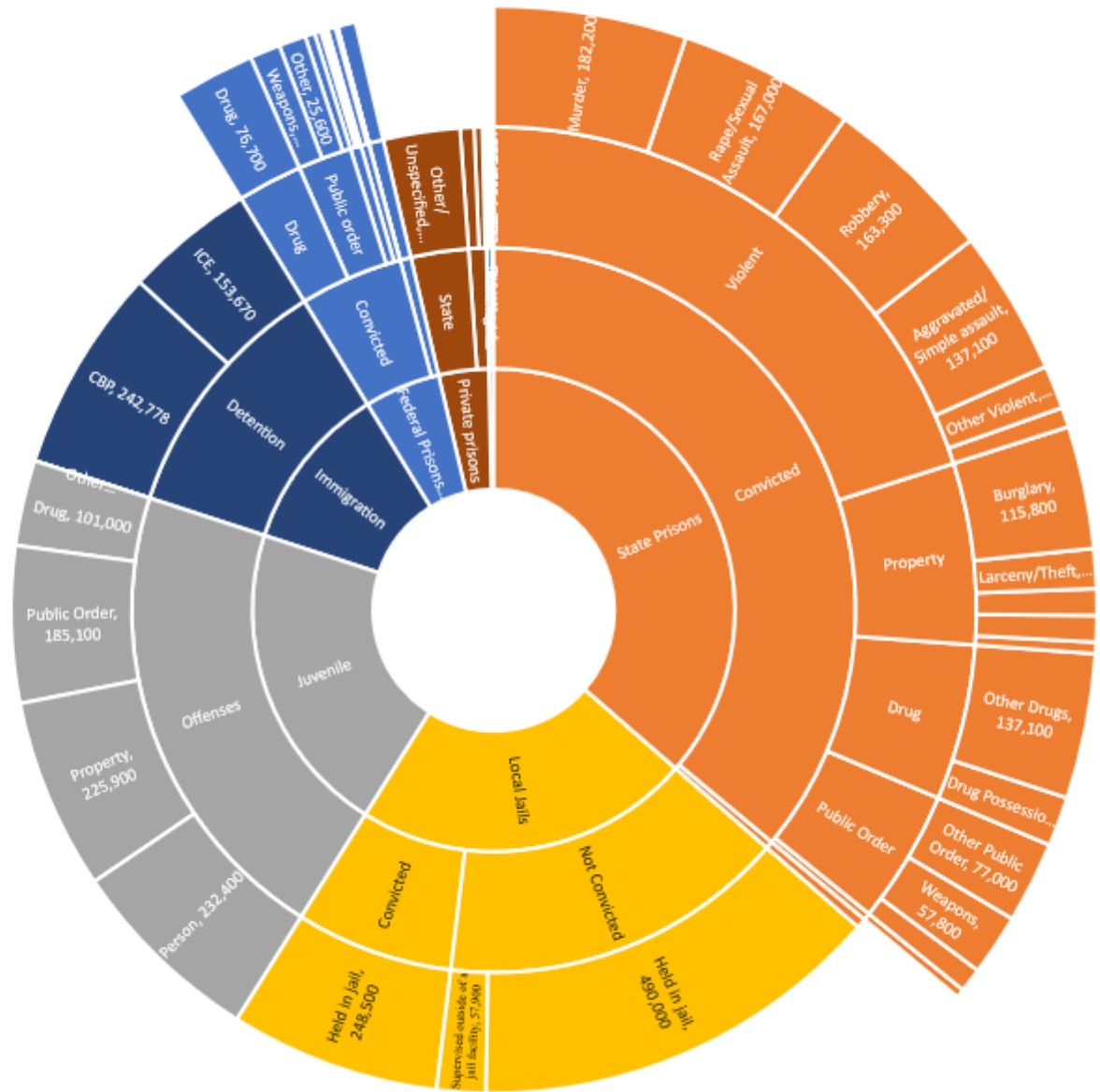


Source: (BJS, 2018)

Figure 5 reveals a better breakdown picture of the incarceration population in 2018. It accounts for the 3.53 million people who are in federal prisons & jails, state prisons, territorial prison, private prisons, juvenile facilities, local jails, military correctional authority, and immigration detention facilities. Figure 5 provides a detailed look at why and where people are locked up in the U.S., and emphasizes the key drivers of mass incarceration, including extremely punitive responses to even the most minor offenses. This broad perspective view of the below figure allows us to focus our attention on the most important drivers of mass incarceration and identify important, but often ignored, systems of confinement. The detailed view allows us to see these overlooked systems, from youth confinement to immigration detention and civil commitment.

Figure 5: Prison & Jail Population

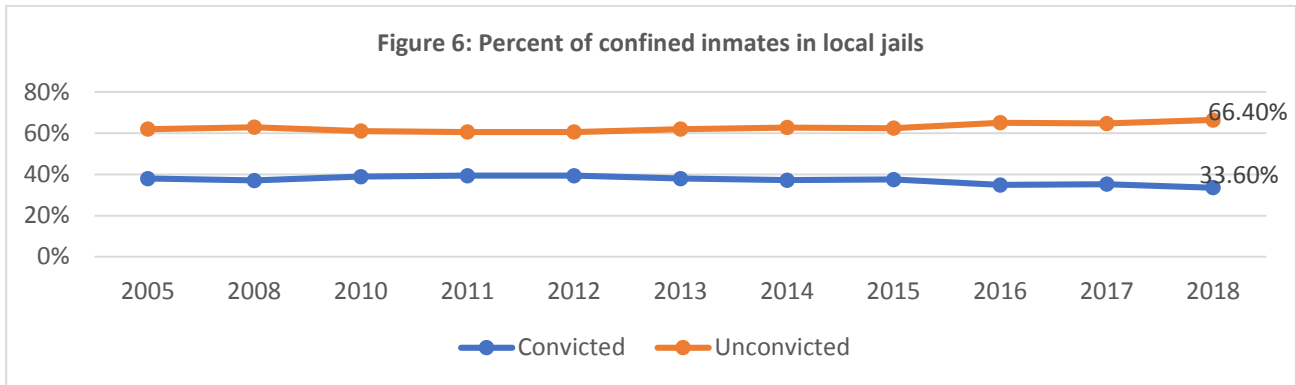
- Federal Prisons & Jails
- State Prisons
- Juvenile
- Local Jails
- Territorial Prison
- Military
- Immigration
- Private prisons



Data Source: BJS, ICE, OJJDP

The misuse of jails is part of a system that is neither economically sustainable nor beneficial to public safety, community well-being, and individual rehabilitation (Subramanian, Delaney, Roberts, Fishman, & McGarry, 2015). Specifically, local jails hardly receive attention in the scheme of things when discussing about criminal justice, but they play a serious role as “incarceration’s front door” and have a much greater effect than the daily population suggests. The annual admissions to jail alone was 10,675,400 persons in 2018, a decrease of 21.3% from 2008 record, but 0.9% increase from 2017. This number

does not include that of people supervised outside of a jail facility. Figure 6 shows that there is an urgent need for bail reform.

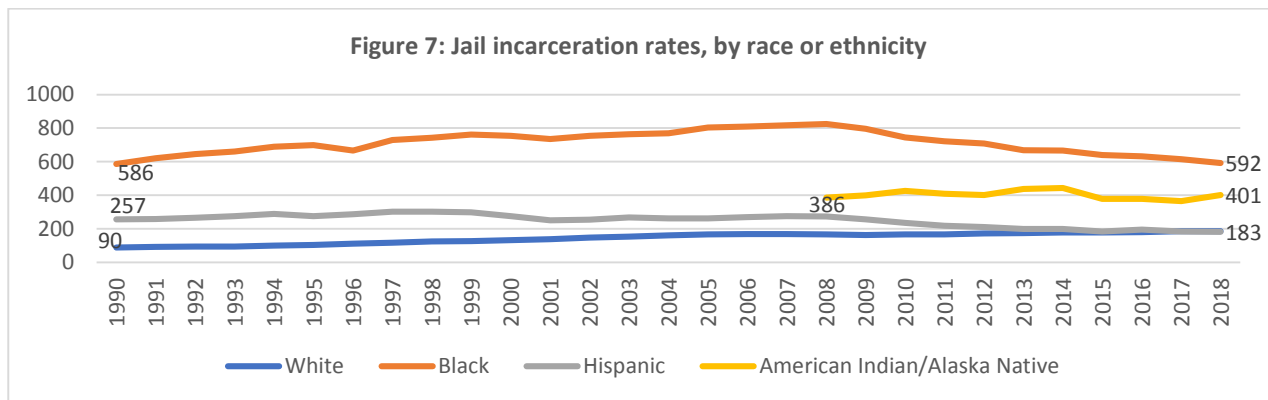


Source: (BJS, 2020)

This misuse of jails is therefore helping to drive mass incarceration. Jail incarceration rates are driven largely by local bail practices. Sixty-nine percent of the people in jails are not convicted – this includes those supervised outside of a jail facility. Even though police and jails are supposed to promote public safety, at least 1 in 4 people who go to jail will be arrested again within the same year – often those dealing with poverty, mental illnesses, and substance use disorders, whose problems only worsen with incarceration. According to (Jones & Sawyer, 2019), 88% of re-arrested people are arrested for non-violent offenses. Over the last 15 years, jail churn was particularly high as a result of the increase in the pre-trial population.

Of the 737,900 daily average number of persons in more than 3000 jails, about two-thirds, 490,000 people are held awaiting trial, most of whom are in jail because of their inability to afford bail or a bail agent refused to post a bond. Their wealth determines whether they are incarcerated or not.

The negative implication of the jail system is significantly affecting the younger population. Young people can spend hundreds of days in jail, only to be acquitted – yet the severe damage to their lives cannot be undone. We will not be wrong, should we argue that this is a fundamentally broken criminal justice system, a system that punishes people for being poor, and subject individuals to inhumane treatment. Jails have become massive warehouses primarily for those too poor to post even low bail or too sick for existing community resources to help. The burden of jail incarceration is disproportionately impacting low-income black communities. According to the available data as presented in figure 7, Black Americans are jailed 3.2 times the rate of White Americans. If we are to use the Asian American which are the less likely to be jailed as benchmark, then Black Americans are 23 times more likely to be jailed, American Indian/Alaska native 15 times, while White and Hispanics are 7 times more likely to be jailed. Even when bail is set at \$500 or less, 85% of defendants irrespective of their color were unable to afford bail (The New York Times, 2015), hence putting them at risk of losing their jobs, custody of their children, or even their lives. Figure 7 shows the rates based on the number of confined inmates at midyear in local jails per 100,000 U.S. residents of a given demographic group.

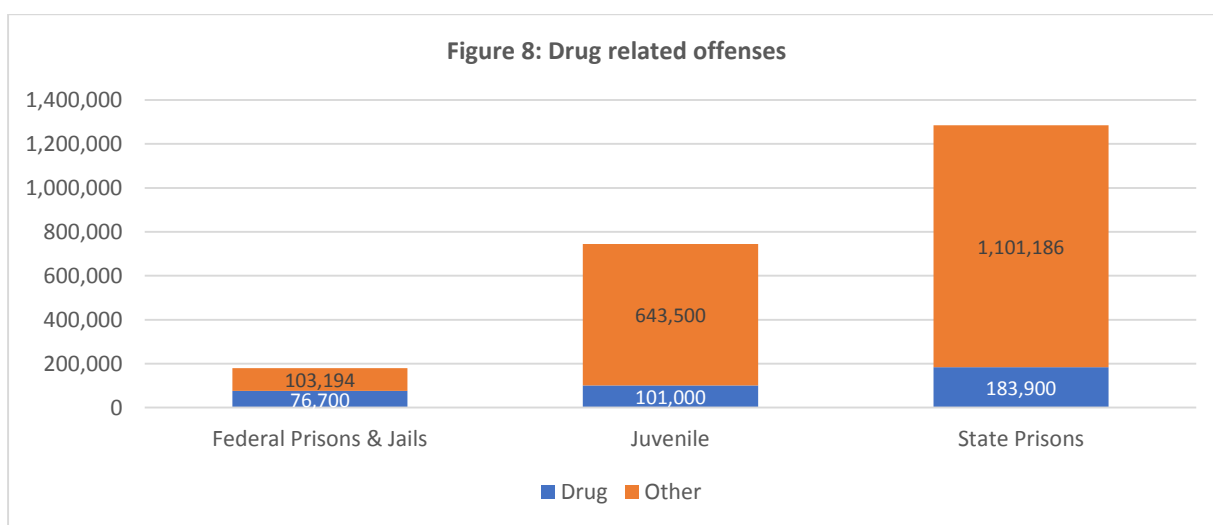


Source: (BJS, 2020)

A twenty-one percent decline was registered in the annual jail incarceration population in 2018 to reach 10.7 million admissions, resulting in a 12% decrease in the jail incarceration rate from 258 to 226 inmates per 100,000 U.S. residents. This might as well explain the 57,900 offenders who are supervised outside of a jail facility. This number excludes persons supervised by a probation or parole agency, but includes offenders who serve their sentences of confinement on weekends only (i.e., Friday to Sunday); persons under electronic monitoring; persons in work-release programs, work gangs, and other alternative work programs; and persons in drug, alcohol, mental health, and other medical treatment.

In 2018, given the decrease in both annual admission rate and incarceration rate, the Black residents incarceration rate was the lowest since 1990, recording a downward trend of 28.2% to reach 592 per 100,000 residents, remaining though the highest incarcerated demographic. American Indian/Alaska natives recorded the second highest jail incarceration rate at 401 inmates per 100,000 U.S. residents – this was 4% increase from 2008 record. The Hispanics saw 33.3% decrease in the same period. Inmates spent 25 days in jail on average in 2018. From gender structure, the male inmate population recorded 9% decrease in jail time from 2008 to 2018, while the time spent by female inmate population increased by 15%.

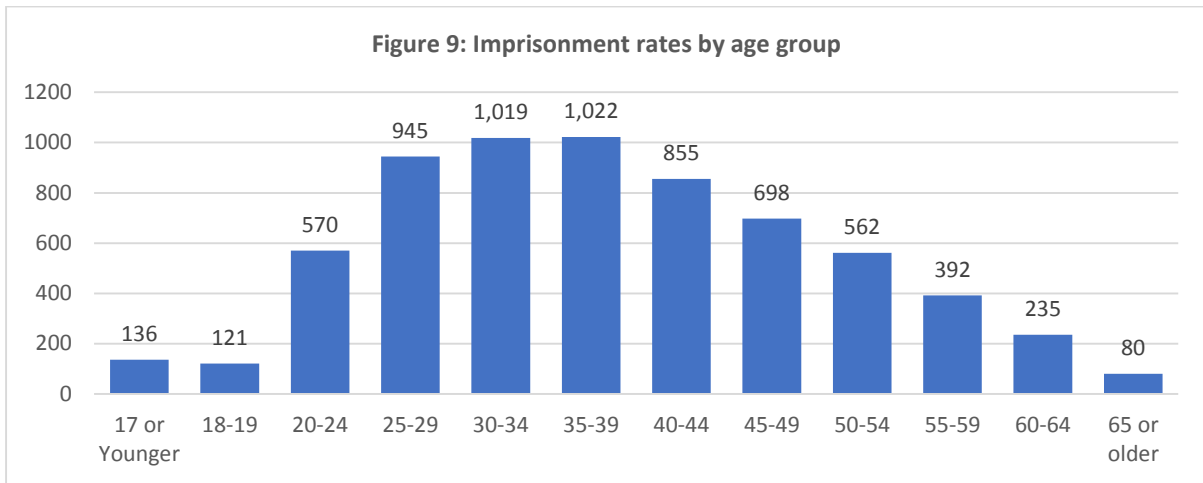
How much of mass incarceration is a result of the war on drugs? This question is not as hard as politicians would want you to think. Even though the systems of confinement are so fragmented, figure 8 reveals that only 10.2% of the incarcerated population accounts for drug related offenses.



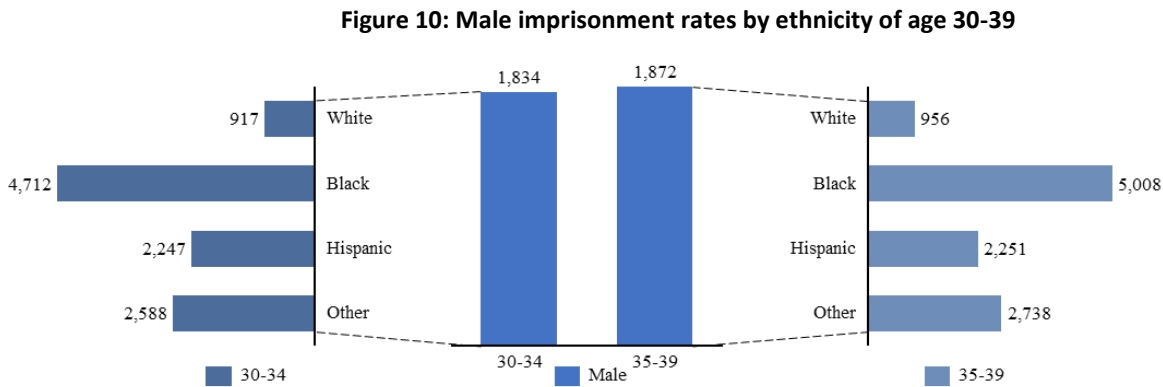
Source: BJS, OJJDP

Despite reforms, drug offense is still a defining characteristic of the federal system. The incarcerated people on a drug conviction at the federal level make up 42.6% of the prison population. At the state prison level where the most drug cases are recorded, although a nine-fold increase in the number of drug offenders between 1980-2018 was registered, only 183,900 prisoners were sentenced for drug-related offenses accounting for roughly 14.3% of all state prisoners' offenses. The most common cause of imprisonment in state prisons is violence such as murder (182,200), rape/sexual assault (167,000), and robbery (163,300) representing 14.2%, 13%, and 12.7% of all state imprisonment cases, respectively. The juvenile correctional facilities population as a result of drug offenses represents 13.6% of juveniles locked up. On any given day, one in 136 juveniles is locked up in jail facilities away from home as a result of juvenile/criminal justice involvement, most of which are held without even having had a trial in restrictive, correctional-style facilities.

The imprisonment rates of U.S. residents based on sentenced prisoners under jurisdictions of state and federal correctional authorities is presented in figure 9.



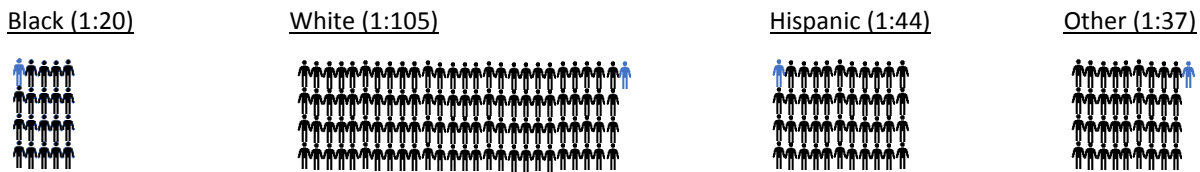
Source: (BJS, 2020)



Source: (BJS, 2020)

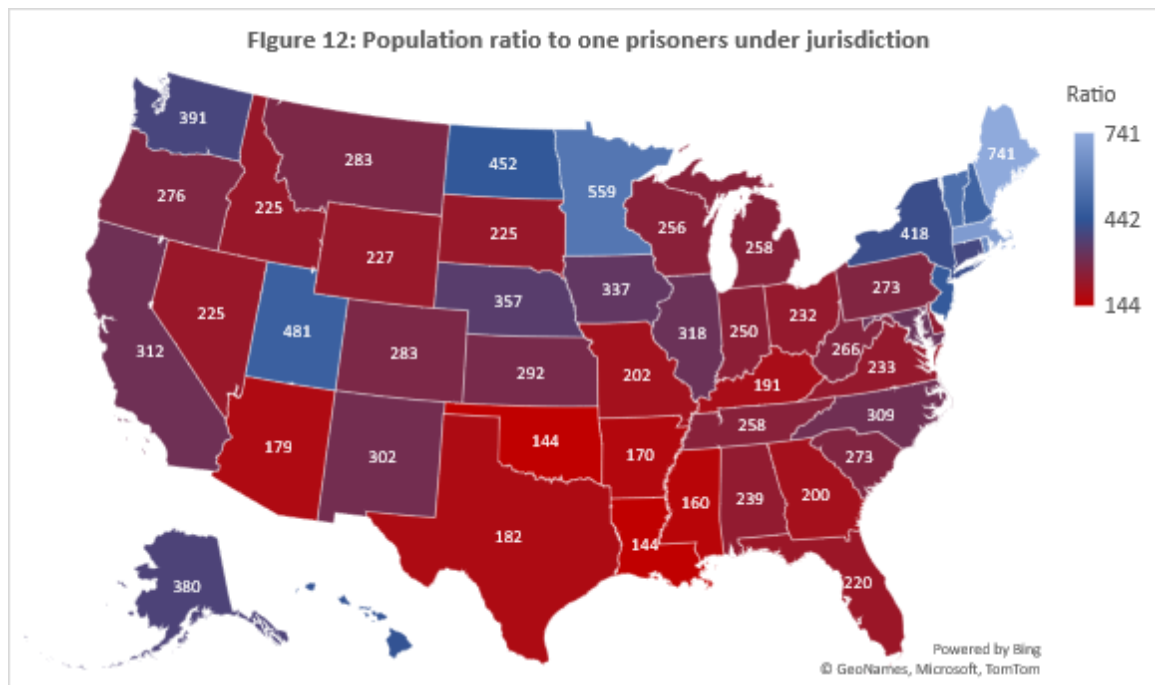
To bring a better understanding to figure 10, the below figure (11) focuses on incarcerated male of age 35-39. For black men in their mid-late thirties, about 1 in every 20 is in prison on any given day. This does not include the population in jail. Meanwhile, the rate of incarcerated white male is only one in every 105.

Figure 11: Race Matters



Source: (BJS, 2020)

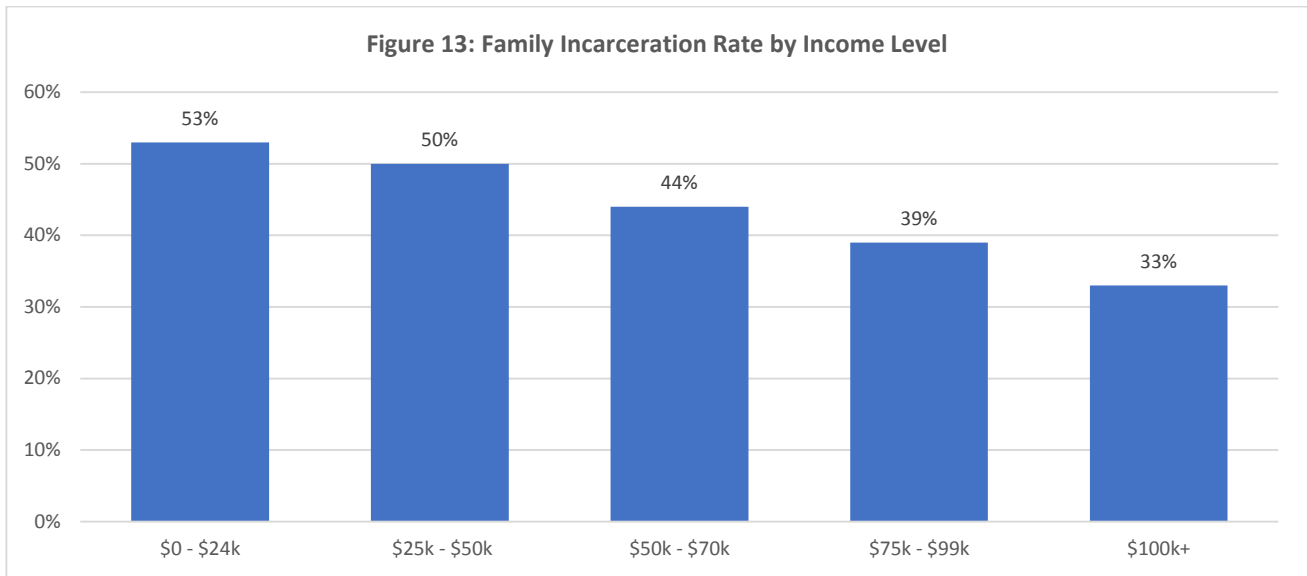
The world prison population rate based on United Nations estimates of national population levels, is 145 per 100,000. Meanwhile, that of the United States is an average of 431 per 100,000 residents.



Source: (BJS, 2020)

Take Oklahoma and Louisiana for example, one in every 144 residents is locked in prison alone, while the number is one in 741 in Maine, followed by one in 690 in Massachusetts. So, it appears that the latter states might have a blueprint for what is next in criminal justice reform. Take Massachusetts for example, the state already eliminated mandatory minimum sentences for certain low-level drug offenses, increased the use of treatment as an alternative to prison for drug crimes, raised the minimum age a child can be held criminally responsible from 7 to 12, overhauled the state's cash bail system by allowing judges to consider a defendant's ability to pay, and allowed some records for juvenile and since-legalized crimes, such as marijuana possession, to be expunged (The Commonwealth of Massachusetts, 2018). Lawmakers that worked on the bill said it has helped the state move away from incarceration as punishment and reduce racial disparities in the criminal justice system (NBC News, 2019). About 35 states in the country have now made changes to their criminal justice systems. The Board of Trustees of the Maine Criminal Justice Academy, during its meeting on the 19th June 2020, amended the minimum standards for law enforcement policies on the use of force and hate or bias crimes (VillageSoup, 2020). In May 2020, Virginia State has adopted a new law (LIS.Virginia, 2020) that decriminalizes the possession of up to one ounce of marijuana. It also seals past marijuana records. Starting from July 1st, 2020, people will face \$25 fine instead of facing arrest and criminal charges. This big shift will be beneficial to 46,000 people who were prosecuted on marijuana possession cases in the states in 2018, of which African Americans were disproportionately affected. Colorado's response to the Black Lives Matter protests has been to adopt Senate Bill 217. The law ends police officers' ability to claim qualified immunity in civil misconduct suits (Reuters, 2020). In Iowa, lawmakers passed the bill banning most chokeholds, addressing police misconduct (The Appeal, 2020) which was soon signed by Gov. Kim Reynolds. Gov. Andrew Cuomo of New York said he will sign the repealed Section 50-a, the state's stringent statute that shields police officers' disciplinary records, following the repealed vote of the legislative house (The New York Times, 2020).

While every demographic feels the impact of family incarceration, some families have it worse than others. Taking a closer look at the available data, black adults are 50% more likely than white adults to have immediate family members imprisoned and 3 times more likely to see their partner imprisoned for a year or more. Hispanic adults are 70% more likely than white adults to be locked up for more than a year (FWD.us, 2018). Approximately 50% of African American women have an imprisoned relative, compared with 12% of their white counterparts (Lee, McCormick, Hicken, & Wildeman, 2015). The experience of having a loved one incarcerated has serious consequences for the health and financial stability of families. The loss of a family's primary source of income is highly destabilizing and can push families into financial disaster. Families living in poverty and those with low incomes run a higher risk of incarceration. The share of people who have had an immediate family member incarcerated increases with each declining income bracket (see below figure 13) and the families affected by incarceration burdens imposed by fines, fees, bail, loss of income, and missed child support increase.

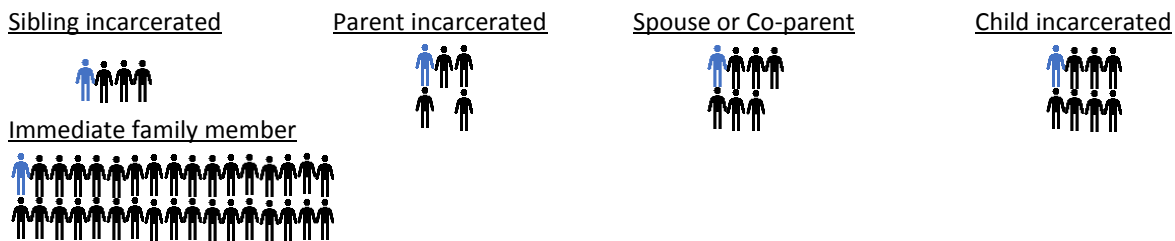


Source: (FWD.us, 2019)

Apart from the loss of income due to the incarceration of a family member, families are still responsible for paying court fees, restitution and fines when a member goes to prison. This does not include the estimated \$2.9 billion a year that families spend on commissary accounts and phone calls (Prison Policy Initiative, 2017). It appears that the government has made the prison and jail a source of revenue generation. The Marshall Project (2019) a nonprofit journal about criminal justice reported that each email sent to inmate requires a digital “stamp,” at a cost of \$12 for a set of 30. Pictures and attachments require an additional stamp. Making or accepting phone calls from their inmate family member can be seen as extortion – putting families in a financial crunch just to make that communication happen.

The justice system is the result of the dozens of choices the country has made — choices that together stack the deck against the poor and the disadvantaged. Simply put, the country has criminalized too many things. Too many people are sent to jail and are kept there for too long. Meanwhile little is done to rehabilitate the imprisoned or jailed people after serving their terms. Mass incarceration appears to be the fundamental cause of persistent inequality (Turney & Schneider, 2016). The correlation between economic inequality and the growing risk of incarceration especially among black men cannot be overemphasized. Rising inequality may increase crime at the bottom of the social hierarchy, generating more arrests, convictions, and prison admissions. Analyses from scholars indicate a significant increase in educational inequality in incarceration; according to the findings of Western, Kleykamp, & Rosenfeld (2004), nearly all the growth in the risk of imprisonment between 1983 and 1999 was confined to noncollege men. The influence of the penal system on social and economic disadvantages can be seen in the economic and psychological state of the families of those currently and formerly incarcerated. The poor communities therefore find themselves in a persistent virtuous circle as they are too poor to afford bail fee.

Figure 14: Family Member Incarceration Rate



According to (FWD.us, 2019), as per Figure 14, 1 in 4 U.S citizens had a sibling incarcerated, 1 in 5 had a parent incarcerated, 1 in 7 had a spouse or co-parent incarcerated, 1 in 8 had a child incarcerated, 1 in 34 adults had an immediate family member spend 10 years or more in prison. Families are losing time, the time the incarceration crisis takes from America’s families cannot be replaced. Whether it is one night or a lifetime, a missed holiday meal or a missed childhood, every family impacted

by over-incarceration feels its negative effects. While short periods of incarceration and long prison sentences pose different challenges for families, both are far too common.

5. Conclusion

This study has empirically analyzed the incarceration and black injustice rate. It shows that the correlation between economic inequality and the growing risk of incarceration especially among black men cannot be overemphasized. And as (Western, Kleykamp, & Rosenfeld, 2004) argued, rising inequality may increase crime at the bottom of the social hierarchy, generating more arrests, convictions, and prison admissions. Therefore, money, not culpability, shapes the outcome of most trials. To remedy the current situation, the criminal justice system should rather focus on prevention and rehabilitation. The government should be creating incentives for positive behavior and compliance with conditions of community supervision. Introducing contingency management that would employ both “carrots and sticks,” for example, a 30% reduction in time served on probation in return for full compliance and no reoffending. Instead of spending \$80.7 billion a year on jails and incarceration, the government should be investing in jobs and education for the poor communities to resolve income inequality, rehabilitation of the formerly incarcerated and support for their immediate families throughout the incarceration period as a means to reduce criminality rate. The Police Accountability Act of 2020 (H.R.5777) which establishes a new criminal offense for conduct by certain state or local law enforcement officers in the line of duty that constitutes murder or manslaughter should be passed by the house and signed into law.

In conclusion, even though Black Lives Matter, the reform of the criminal justice system is not about black lives, it is about changing the way United States understands human dignity.

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