THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS

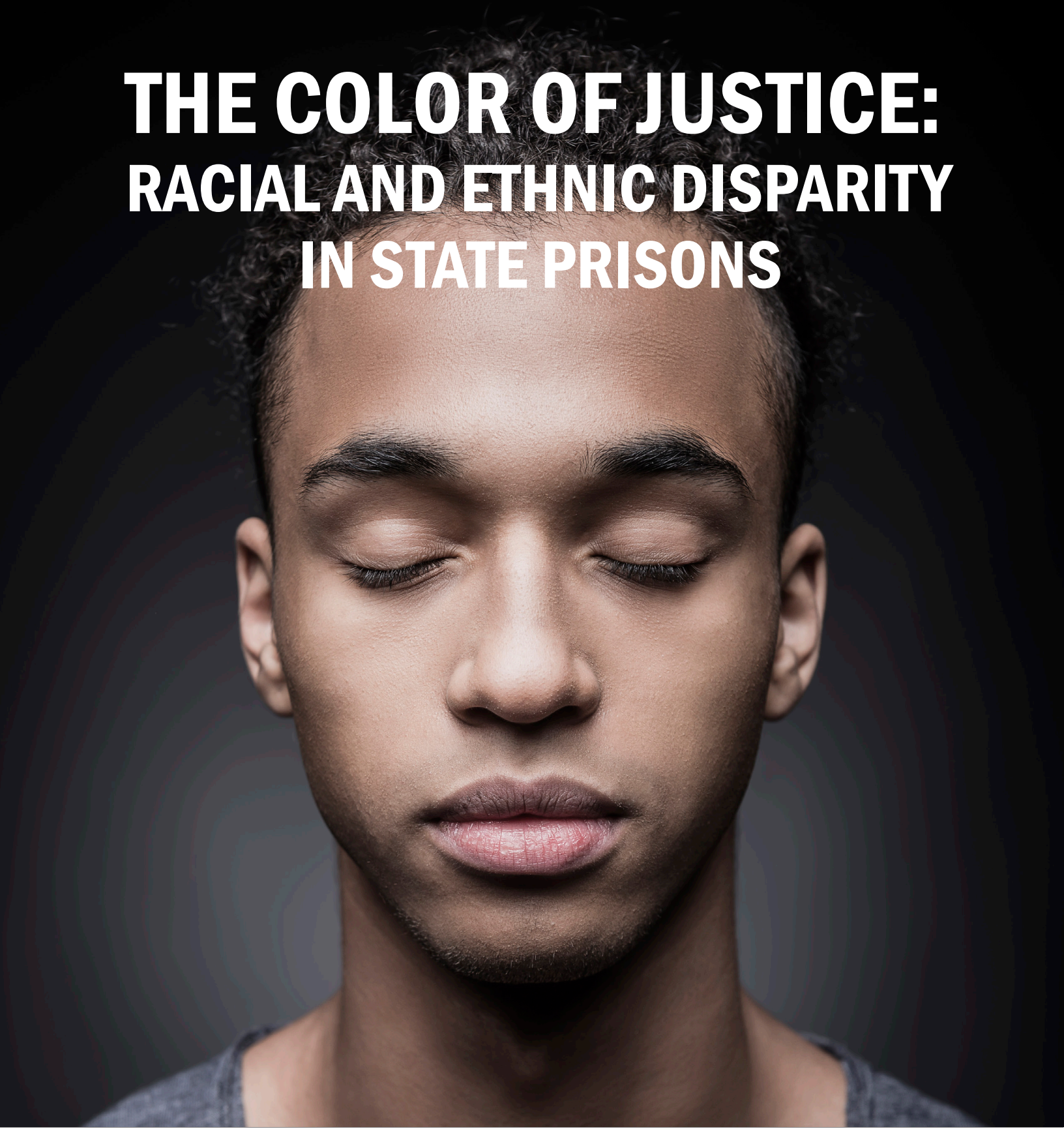

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TABLE OF CONTENTS

Overview	**3**
Overall Findings	**4**
The Scale of Disparity	**8**
Drivers of Disparity	**9**
Recommendations for Reform	**12**
Conclusion	**14**
Appendix	**16**

OVERVIEW

Growing awareness of America's failed experiment with mass incarceration has prompted changes at the state and federal level that aim to reduce the scale of imprisonment. Lawmakers and practitioners are proposing "smart on crime" approaches to public safety that favor alternatives to incarceration and reduce odds of recidivism. As a result of strategic reforms across the criminal justice spectrum, combined with steadily declining crime rates since the mid-1990s, prison populations have begun to stabilize and even decline slightly after decades of unprecedented growth. In states such as New Jersey, New York, Rhode Island, and California, prison depopulation has been substantial, declining by 20-30%.[1] Still, America maintains its distinction as the world leader[2] in its use of incarceration, including more than 1.3 million people held in state prisons around the country.[3]

At the same time of productive bipartisan discussions about improving criminal justice policies and reducing prison populations, the U.S. continues to grapple with troubling racial tensions. The focus of most recent concern lies in regular reports of police brutality against people of color, some of which have resulted in deaths of black men by law enforcement officers after little or no apparent provocation.

Truly meaningful reforms to the criminal justice system cannot be accomplished without acknowledgement of racial and ethnic disparities in the prison system, and focused attention on reduction of disparities. Since the majority of people in prison are sentenced at the state level rather than the federal level, it is critical to understand the variation in racial and ethnic composition across states, and the policies and the day-to-day practices that contribute to this variance.[4] Incarceration creates a host of collateral consequences that include restricted employment prospects, housing instability, family disruption, stigma, and disenfranchisement. These consequences set individuals back by imposing new punishments after prison. Collateral consequences are felt disproportionately by people of color, and because of concentrations of poverty and imprisonment in certain jurisdictions, it is now the case that entire communities experience these negative effects.[5] Evidence suggests that some individuals are incarcerated not solely because of their crime, but because of racially disparate policies, beliefs, and practices, rendering these collateral consequences all the more troubling. An unwarranted level of incarceration that worsens racial disparities is problematic not only for the impacted group, but for society as whole, weakening the justice system's potential and undermining perceptions of justice.

This report documents the rates of incarceration for whites, African Americans, and Hispanics, providing racial and ethnic composition as well as rates of disparity for each state.[6] This systematic look reveals the following:

KEY FINDINGS

- African Americans are incarcerated in state prisons at a rate that is 5.1 times the imprisonment of whites. In five states (Iowa, Minnesota, New Jersey, Vermont, and Wisconsin), the disparity is more than 10 to 1.
- In twelve states, more than half of the prison population is black: Alabama, Delaware, Georgia, Illinois, Louisiana, Maryland, Michigan, Mississippi, New Jersey, North Carolina, South Carolina, and Virginia. Maryland, whose prison population is 72% African American, tops the nation.
- In eleven states, at least 1 in 20 adult black males is in prison.
- In Oklahoma, the state with the highest overall black incarceration rate, 1 in 15 black males ages 18 and older is in prison.
- States exhibit substantial variation in the range of racial disparity, from a black/white ratio of 12.2:1 in New Jersey to 2.4:1 in Hawaii.
- Latinos are imprisoned at a rate that is 1.4 times the rate of whites. Hispanic/white ethnic disparities are particularly high in states such as Massachussetts (4.3:1), Connecticut (3.9:1), Pennsylvania (3.3:1), and New York (3.1:1).

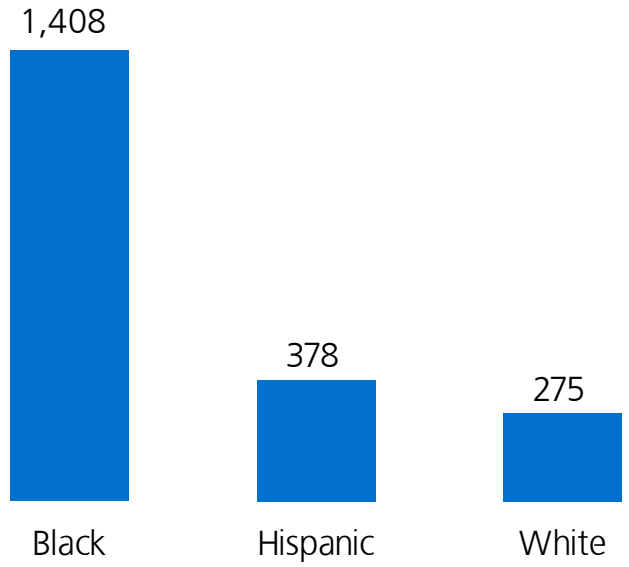
OVERALL FINDINGS

The Bureau of Justice Statistics reports that 35% of state prisoners are white, 38% are black, and 21% are Hispanic.[7] In twelve states more than half of the prison population is African American. Though the reliability of data on ethnicity is not as strong as it is for race estimates, the Hispanic population in state prisons is as high as 61% in New Mexico and 42% in both Arizona and California. In an additional seven states, at least one in five inmates is Hispanic.[8] While viewing percentages reveals a degree of disproportion for people of color when compared to the overall general population (where 62% are white, 13% are black, and 17% are Hispanic),[9] viewing the composition of prison populations from this perspective only tells some of the story. In this report we present the rates of racial and ethnic disparity, which allow a portrayal of the overrepresentation of people of color in the prison system accounting for population in the general community.[10] This shows odds of imprisonment for individuals in various racial and ethnic categories.

It is important to note at the outset that, given the absence or unreliability of ethnicity data in some states, the racial/ethnic disparities in those states may be understated. Since most Hispanics in those instances would be counted in the white prison population, the white rate of incarceration would therefore appear higher than is the case, and consequently the black/white and Hispanic/white ratios of disparity would be lower as well. In four states, data on ethnicity is not reported to the Bureau of Justice Statistics, nor is it provided in the state department of corrections' individual annual reports. These states are Alabama, Maryland, Montana, and Vermont. There are most assuredly people in prison in these states who are Hispanic, but since the state does not record this information, the exact number is unknown.

Figure 1 provides a national view of the concentration of prisoners by race and ethnicity as a proportion of their representation in the state's overall general population, or the rate per 100,000 residents. Looking at the average state rates of incarceration, we see that overall blacks are incarcerated at a rate of 1,408 per 100,000 while whites are incarcerated at a rate of 275 per 100,000. This means that blacks are incarcerated at a rate that is 5.1 times that of whites. This national look also shows that Hispanics are held in state prisons at an average rate of 378 per 100,000, producing a disparity ratio of 1.4:1 compared to whites.

Figure 1. Average rate of incarceration by race and ethnicity, per 100,000 population



Data source: United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014. Bibliographic Citation: ICPSR36281-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2015-10-09; U.S. Census Bureau (2013). *2013 Population Estimates.* Annual estimates of resident population by sex, race, and Hispanic origin for the United States, states and counties: April 1, 2010 to July 1, 2013. Washington, DC: U.S. Census Bureau.

The following tables present state rates of incarceration according to their rank. Table 1 shows how racial disparities play out at the state level. The states with the highest rate of African American (male and female) incarceration are Oklahoma, Wisconsin, Vermont, Iowa, and Idaho.

Table 1. Incarceration rates per 100,000 by race, by black (male and female) incarceration rate

State	White	Black	Hispanic
Oklahoma	580	2625	530
Wisconsin	221	2542	563
Vermont*	225	2357	Not Provided
Iowa	211	2349	361
Idaho	458	2160	619
Arizona	444	2126	842
Oregon	366	2061	395
Montana	316	1985	Not Provided
Colorado	260	1891	587
Texas	457	1844	541
Pennsylvania	204	1810	668
California	201	1767	385
Louisiana	438	1740	34
Kansas	246	1734	301
Michigan	253	1682	93
Nebraska	201	1680	359
Arkansas	443	1665	251
Missouri	404	1654	232
Ohio	289	1625	334
Florida	448	1621	85
Indiana	339	1616	302
Nevada	387	1592	337
Illinois	174	1533	282
South Dakota	309	1493	480
Utah	202	1481	333
Alabama	425	1417	Not Provided
Kentucky	431	1411	183
State Average	275	**1408**	378
Connecticut*	148	1392	583
Virginia	280	1386	116
New Mexico	208	1326	422
Wyoming	375	1307	495
Washington	224	1272	272
Delaware*	259	1238	220
West Virginia	348	1234	167
Minnesota	111	1219	287
Tennessee	316	1166	180
New Jersey	94	1140	206
Georgia	329	1066	235
Alaska*	278	1053	148
Mississippi*	346	1052	207
New Hampshire	202	1040	398
South Carolina	238	1030	172
North Carolina	221	951	221
Rhode Island*	112	934	280
New York	112	896	351
North Dakota*	170	888	395
Maryland	185	862	Not Provided
Maine*	140	839	104
Massachusetts*	81	605	351
Hawaii*	246	585	75

Table 2. Rate of adult black male incarceration

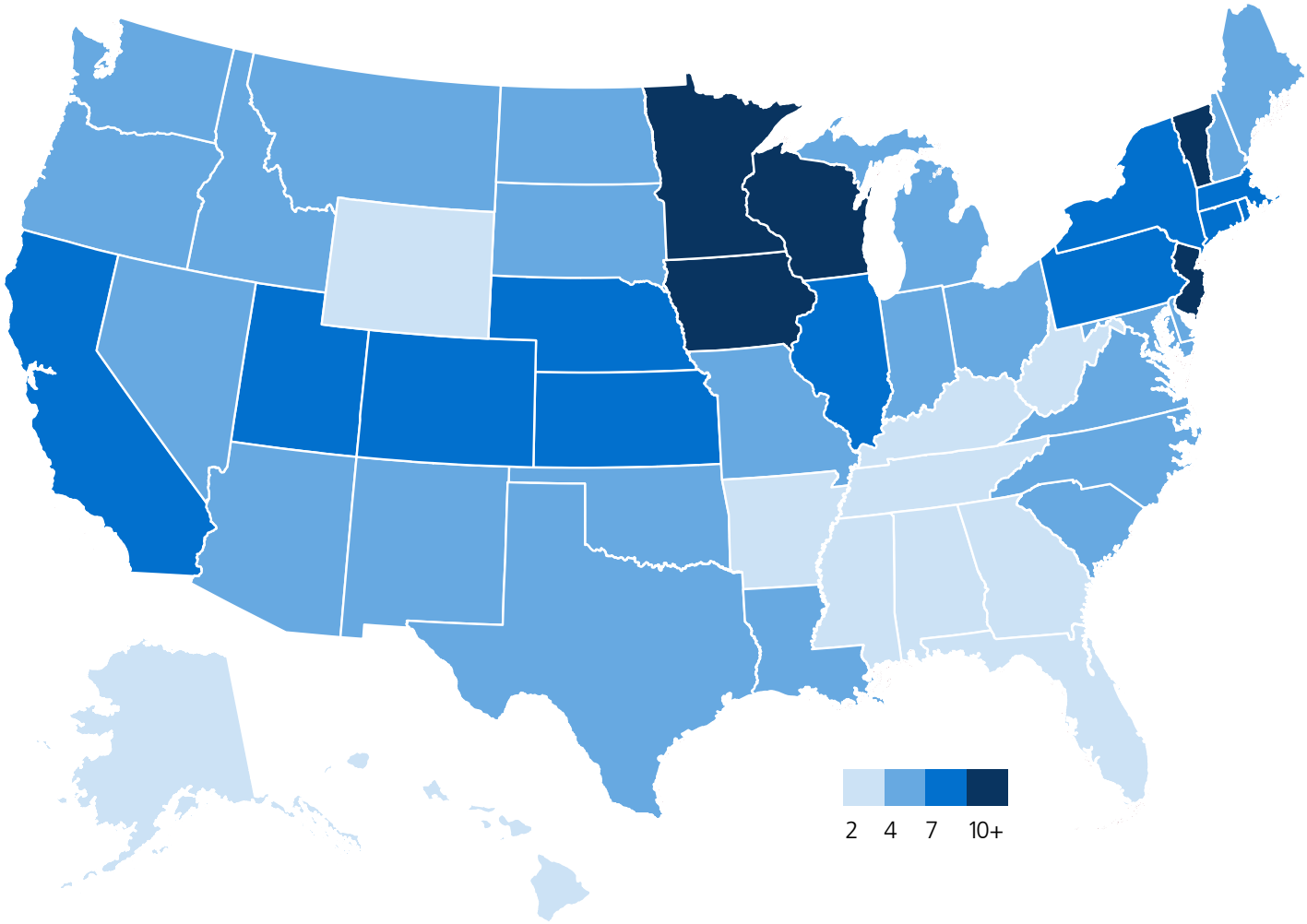
State	Rate of Imprisonment
Vermont	1 in 14
Oklahoma	1 in 15
Iowa	1 in 17
Delaware	1 in 18
Connecticut	1 in 19
Arizona	1 in 19
Idaho	1 in 20
Pennsylvania	1 in 20
Louisiana	1 in 20
Wisconsin	1 in 20
Texas	1 in 20
Arkansas	1 in 21
Michigan	1 in 21
Oregon	1 in 21
Missouri	1 in 21
Indiana	1 in 22
Ohio	1 in 22
Florida	1 in 22
Nebraska	1 in 22
California	1 in 22
Rhodes Island	1 in 22
Kansas	1 in 23
Colorado	1 in 23
Illinois	1 in 23
Alabama	1 in 25
Nevada	1 in 25
Montana	1 in 26
State Average	**1 in 26**
Kentucky	1 in 27
Virginia	1 in 27
Alaska	1 in 27
Utah	1 in 28
Minnesota	1 in 28
South Dakota	1 in 30
Tennessee	1 in 30
Mississippi	1 in 30
New Jersey	1 in 31
Georgia	1 in 33
Washington	1 in 34
South Carolina	1 in 34
West Virginia	1 in 36
Maine	1 in 37
New Mexico	1 in 37
North Carolina	1 in 37
Wyoming	1 in 38
New York	1 in 40
Maryland	1 in 41
New Hampshire	1 in 41
North Dakota	1 in 49
Massachusetts	1 in 54
Hawaii	1 in 61

United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014. Bibliographic Citation: ICPSR36281-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2015-10-09; U.S. Census Bureau (2013). *2013 Population Estimates.* Annual estimates of resident population by sex, race, and Hispanic origin for the United States, states and counties: April 1, 2010 to July 1, 2013. Washington, DC: U.S. Census Bureau.

* = Bureau of Justice statistics data augmented with state annual report data for this state. See Methodology section for additional information.

[a] = See footnote 13 for more information about Massachusetts.

Figure 2. Black/white incarceration ratios

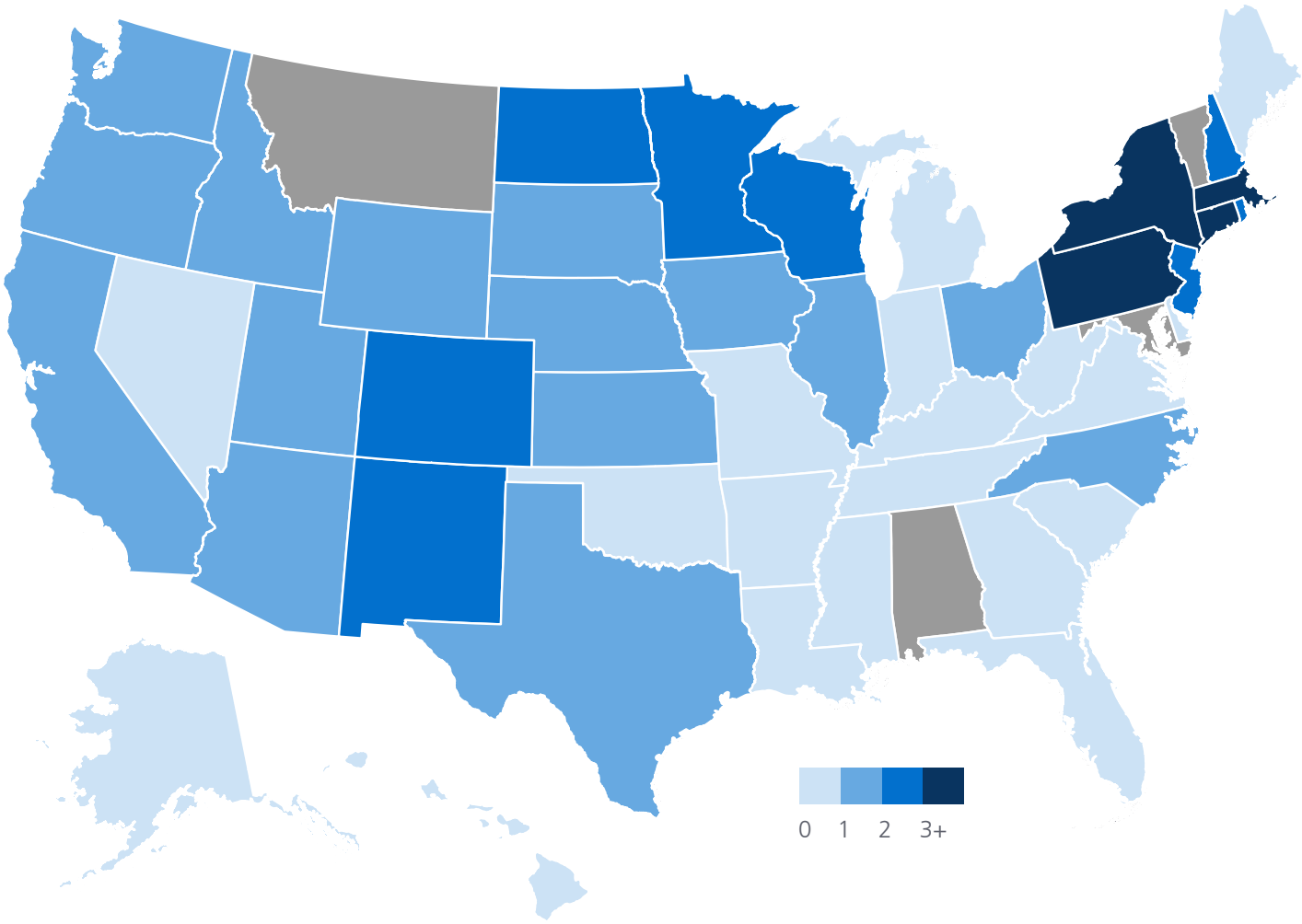


Data Sources: United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014. Bibliographic Citation: ICPSR36281-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2015-10-09; U.S. Census Bureau (2013). *2013 Population Estimates.* Annual estimates of resident population by sex, race, and Hispanic origin for the United States, states and counties: April 1, 2010 to July 1, 2013. Washington, DC: U.S. Census Bureau.

Breaking down these figures by age and gender reveals dramatic findings. In 11 states, at least 1 in 20 adult black males is in prison (see Table 2). Staggering on its own, these figures do not even include incarceration in federal prisons or jails, which would generally increase the number of people by approximately 50%. In Oklahoma, the state with the highest black incarceration rate, one in 29 African American adults is in prison, and this reduces to one in 15 when restricted to black males age 18 and older.

The map presented above (Figure 2 and Appendix Table C) provides the black/white differential in incarceration rates. Here we can see that in New Jersey, Wisconsin, Iowa, Minnesota, and Vermont, the rate of black imprisonment is more than 10 times that for whites. In an additional 11 states, the incarceration for African Americans is at least seven times the incarceration rate of whites. And even in the state with the lowest racial disparity, Hawaii, the odds of imprisonment for blacks are more than twice as high as for whites.

Figure 3. Hispanic/white incarceration ratios



Data Sources: United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014. Bibliographic Citation: ICPSR36281-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2015-10-09; U.S. Census Bureau (2013). *2013 Population Estimates.* Annual estimates of resident population by sex, race, and Hispanic origin for the United States, states and counties: April 1, 2010 to July 1, 2013. Washington, DC: U.S. Census Bureau.
■ = Data was not provided.

The map above (Figure 3 and Appendix Table D) shows the rate of Hispanic imprisonment in relation to the rate of white imprisonment, or the disparity ratio. The disparity between Hispanics and whites in Massachusetts tops the nation, with a ratio of 4.3:1. Following Massachusetts are Connecticut (3.9:1), Pennsylvania (3.3:1), and New York (3.1:1).

Appendix Table E shows that the rate of incarceration is highest in Arizona, where 842 per 100,000 Hispanic individuals are in prison. The next highest rate of Hispanic imprisonment is in Pennsylvania (668), followed by Idaho (619), Colorado (587), and Connecticut (583).

THE SCALE OF DISPARITY

The particular drivers of disparity may be related to policy, offending, implicit bias, or some combination. Regardless of the causes, however, the simple fact of these disparities should be disturbing given the consequences for individuals and communities. One has to wonder whether there would have been more of an urgency to understand and remedy the disparity directly had the ratios been reversed. While chronic racial and ethnic disparity in imprisonment has been a known feature of the prison system for many decades,[11] there has been relatively little serious consideration of adjustments that can be made—inside or outside the justice system—toward changing this pattern.

Racial disparities in incarceration can arise from a variety of circumstances. These might include a high rate of black incarceration, a low rate of white incarceration, or varying combinations. We note that the states with the highest ratio of disparity in imprisonment are generally those in the northeast or upper Midwest, while Southern states tend to have lower ratios. The low Southern ratios are generally produced as a result of high rates of incarceration for all racial groups. For example, Arkansas and Florida both have a black/white ratio of imprisonment considerably below the national average of 5.1:1 (3.8:1 and 3.6:1, respectively). Yet both states incarcerate African Americans at higher than average rates, 18% higher in Arkansas and 15% higher in Florida. But these rates are somewhat offset by the particularly high white rates, 61% higher than the national average in Arkansas and 63% higher in Florida.

Conversely, in the states with the highest degree of disparity, this is often produced by a higher than average black rate, but a relatively low white rate.[12] As seen in Table 3 below, seven of the ten states with the greatest racial disparity also have high black incarceration rates, while all have lower than average white rates. In New Jersey, for example, blacks are incarcerated at a rate twelve times higher than whites even though the black incarceration rate is 24% below the national average. This comes about through its particularly low incarceration of whites: 94 per 100,000, or one-third of the national average (275).

Table 3. States with the highest black/white differential

State	White Incarceration Rate	Black Incarceration Rate	B/W
New Jersey	94	1140	12.2
Wisconsin	221	2542	11.5
Iowa	211	2349	11.1
Minnesota	111	1219	11.0
Vermont*	225	2357	10.5
Connecticut*	148	1392	9.4
Pennsylvania	204	1810	8.9
Illinois	174	1533	8.8
California	201	1767	8.8
Nebraska	201	1680	8.4
State Average	**275**	**1408**	**5.1**

Data Sources: United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014. Bibliographic Citation: ICPSR36281-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2015-10-09; U.S. Census Bureau (2013). *2013 Population Estimates.* Annual estimates of resident population by sex, race, and Hispanic origin for the United States, states and counties: April 1, 2010 to July 1, 2013. Washington, DC: U.S. Census Bureau.
* = Bureau of Justice statistics data augmented with state annual report data for this state. See Methodology section for additional information.

The scale of racial disparity in incarceration can also be seen by comparing states that have lower than average black incarceration rates to those with higher than average white incarceration rates. Here we find that the states with the highest white incarceration rates (Oklahoma, Idaho, Texas, Florida, and Arizona) fall below the states with the lowest black rates (Hawaii, Massachusetts, Maine, Maryland, and North Dakota).

DRIVERS OF DISPARITY

Persistent racial disparities have long been a focus in criminological research and the presence of disparities is not disputed.[14] Proposed explanations for disparities range from variations in offending based on race to biased decisionmaking in the criminal justice system, and also include a range of individual level factors such as poverty, education outcomes, unemployment history, and criminal history.[15] Research in this area finds a smaller amount of unwarranted disparity for serious crimes like homicide than for less serious crimes, especially drug crimes.

Alfred Blumstein's work in this area examined racial differences in arrests and, after comparing these to prison demographics, determined that approximately 80% of prison disparity among state prisoners in 1979 was explained by differential offending by race, leaving 20% unexplained. He noted that if there was no discrimination after arrest, the racial makeup of prisoners should approximate the population of arrestees. The greatest amount of unexplained disparity was found among drug offenses: nearly half of the racial disparity for prison among those convicted of drug crimes could not be explained by arrest. In a follow-up study, Blumstein found that the proportion of racial disparities found in prisons explained by arrests in 1991 had declined to 76%.[16] Subsequent studies have replicated this work with more recent data and found even higher amounts of unexplained disparities, particularly in the category of drug arrests.[17]

One issue raised by Blumstein's approach is that the use of arrest records as a reflection of criminal involvement may be more accurate for serious offenses than less serious offenses. For less serious crimes, authorities may exercise greater discretion at the point of arrest.[18] Cassia Spohn's research on sentencing reasons that for less serious crimes, judges might depart from the constraints of the law, allowing other factors to enter into their judgment. These factors might include forms of racial bias related to perceived racial threat.[19] Despite the possibility of failing to account for all variance, research that relies on incident reporting (i.e., self-report data rather than police data) to circumvent these potential problems also reveals unexplained racial disparities. Patrick Langan's work, for example, estimated unexplained disparity to be in the range of 15-16%, and though this is a smaller amount of unexplained variance (compared to that found by Blumstein, for example) it is likely due to the fact that his analysis did not include drug offenses.[20]

Analyses of more recent data all come to similar conclusions: a sizable proportion of racial disparities in prison cannot be explained by criminal offending.[21] Some analyses have focused on single states[22] while others have looked at all states individually to note the range of disparity.[23] Studies that examine regional differences within states are also revealing. Researchers Gaylen Armstrong and Nancy Rodriguez, whose work centers on county-level differences in juvenile justice outcomes found that it is not solely individual-level characteristics that influence outcomes, but the composition of the community where the juvenile resides that makes a difference as well. Specifically, they conclude that "juvenile delinquents who live within areas that have high minority populations (more heterogeneous) will more often be detained, regardless of their individual race or ethnicity."[24] And finally, studies seeking to better understand the processes between arrest and imprisonment, particularly at the stage of sentencing, have been pursued in order to better understand the unexplained disparities in state prisons.[25]

CAUSES OF DISPARITY

The data in this report document pervasive racial disparities in state imprisonment, and make clear that despite greater awareness among the public of mass incarceration and some modest successes at decarceration, racial and ethnic disparities are still a substantial feature of our prison system.

Three recurrent explanations for racial disparities emerge from dozens of studies on the topic: policies and practices that drive disparity; the role of implicit bias and stereotypes in decisionmaking; and, structural disadvantages in communities of color which are associated with high rates of offending and arrest.

Policies and Practices

The criminal justice system is held together by policies and practices, both formal and informal, which influence the degree to which an individual penetrates the system. At multiple points in the system, race may play a role. Disparities mount as individuals progress through the system, from the initial point of arrest to the final point of imprisonment.[26] Harsh punishment policies adopted in recent decades, some of which were put into effect even after the crime decline began, are the main cause of the historic rise in imprisonment that has occurred over the past 40 years.[27]

The rise in incarceration that has come to be known as mass imprisonment began in 1973 and can be attributed to three major eras of policymaking, all of which had a disparate impact on people of color, especially African Americans. Until 1986, a series of policies was enacted to expand the use of imprisonment for a variety of felonies. After this point, the focus moved to greater levels of imprisonment for drug and sex offenses. There was a particularly sharp growth in state imprisonment for drug offenses between 1987 and 1991. In the final stage, beginning around 1995, the emphasis was on increasing both prison likelihood and significantly lengthening prison sentences.[28]

Harsh drug laws are clearly an important factor in the persistent racial and ethnic disparities observed in state prisons. For drug crimes disparities are especially severe, due largely to the fact that blacks are nearly four times as likely as whites to be arrested for drug offenses and 2.5 times as likely to be arrested for drug possession.[29] This is despite the evidence that whites and blacks use drugs at roughly the same rate. From 1995 to 2005, African Americans comprised approximately 13 percent of drug users but 36% of drug arrests and 46% of those convicted for drug offenses.[30]

Disparities are evident at the initial point of contact with police, especially through policies that target specific areas and/or people. A popular example of this is "stop, question, and frisk." Broad discretion allowed to law enforcement can aggravate disparities. Though police stops alone are unlikely to result in a conviction that would lead to a prison sentence, the presence of a criminal record is associated with the decision to incarcerate for subsequent offenses, a sequence of events that disadvantages African Americans. Jeffrey Fagan's work in this area found that police officers' selection of who to stop in New York City's high-profile policing program was dictated more by racial composition of the neighborhood than by actual crime in the area.[31] The process of stopping, questioning and frisking individuals based on little more than suspicion (or on nebulous terms such as "furtive behavior," which were the justification for many stops) has led to unnecessary criminal records for thousands. New York's policy was ruled unconstitutional in 2013 with a court ruling in *Floyd v. City of New York*.

Other stages of the system contribute to the racial composition of state prisons as well. Factors such as pre-trial detention—more likely to be imposed on black defendants because of income inequality—contributes to disparities because those who are detained pre-trial are more likely to be convicted and sentenced to longer prison terms.[32] Cassia Spohn's analysis of 40 states' sentencing processes finds that, though crime seriousness and prior record are key determinants at sentencing, the non-legal factors of race and ethnicity also influence sentencing decisions. She notes that "black and Hispanic offenders—particularly those who are young, male, and unemployed—are more likely than their white counterparts to be sentenced to prison than similarly situated white offenders. Other categories of racial minorities—those convicted of drug offenses, those who victimize whites, those who accumulate more serious prior criminal records, or those who refuse to plead guilty or are unable to secure pretrial release—also may be singled out for more punitive treatment."[33]

Still other research finds that prosecutorial charging decisions play out unequally when viewed by race, placing blacks at a disadvantage to whites. Prosecutors are more likely to charge black defendants under state habitual offender laws than similarly situated white defendants.[34] Researchers in Florida found evidence for this relationship, and also observed that the relationship between race and use of the state habitual offender law was stronger for less serious crimes than it was for more serious crimes.[35] California's three strikes law has been accused of widening disparities because of the greater likelihood of prior convictions for African Americans.

Implicit Bias

The role of perceptions about people of different races or ethnicities is also influential in criminal justice outcomes. An abundance of research finds that beliefs about dangerousness and threats to public safety overlap with individual perceptions about people of color. There is evidence that racial prejudice exerts a large, negative impact on punishment preferences among whites but much less so for blacks.[36] Other research finds that assumptions by key decision makers in the justice system influence outcomes in a biased manner. In research on presentence reports, for example, scholars have found that people of color are frequently given harsher sanctions because they are perceived as imposing a greater threat to public safety and are therefore deserving of greater social control and punishment.[37] And

survey data has found that, regardless of respondents' race, respondents associated African Americans with terms such as "dangerous," "aggressive," "violent," and "criminal."[38]

Media portrayals about crime have a tendency to distort crime by disproportionately focusing on news stories to those involving serious crimes and those committed by people of color, especially black-on-white violent crime.[39] Since three-quarters of the public say that they form their opinions about crime from the news,[40] this misrepresentation feeds directly into the public's crime policy preferences.

Reforms to media reporting that more carefully and accurately represent the true incidence of specific crimes and their perpetrators, and victims, would change perceptions about crime, but in themselves would not necessarily impact how these perceptions translate into policy preferences. A 2013 study by Stanford University scholars found that public awareness of racial disparities in prisons actually *increases support* for harsher punishments.[41] Using an experimental research design, researchers exposed subjects to facts about racial compositions. When prisons were described as "more black," respondents were more supportive of harsh crime policies that contribute to those disparities. On the other hand, some find that when individuals—practitioners in particular—are made consciously aware of their bias through implicit bias training, diversification of the workforce, and education on the important differences between implicit and explicit bias, this can mitigate or even erase the actions they would otherwise take based on unexplored assumptions.[42]

Structural Disadvantage

A third explanation for persistent racial disparities in state prisons lies in the structural disadvantages that impact people of color long before they encounter the criminal justice system. In this view, disparities observed in imprisonment are partially a function of disproportionate social factors in African American communities that are associated with poverty, employment, housing, and family differences.[43] Other factors, not simply race, account for differences in crime across place. Criminologists Ruth Peterson and Lauren Krivo note that African Americans comprise a disproportionate share of those living in poverty-stricken neighborhoods and communities where a range of socio-economic vulnerabilities contribute to higher rates of crime, particularly violent crime.[44] In fact, 62% of African Americans reside in highly segregated, inner city neighborhoods that experience a high degree of violent crime, while the majority of whites live in "highly advantaged" neighborhoods that experience little violent crime.[45] Their work builds on earlier research focused on the harms done to the African American community by disparate living environments, and extends this knowledge to evidence that this actually *produces* social problems including crime.

The impact of structural disadvantage begins early in life. When looking at juvenile crime, it is not necessarily the case that youth of color have a greater tendency to engage in delinquency, but that the uneven playing field from the start, a part of larger American society, creates inequalities which are related to who goes on to commit crime and who is equipped to desist from crime.[46] More specifically, as a result of structural differences by race and class, youth of color are more likely to experience unstable family systems, exposure to family and/or community violence, elevated rates of unemployment, and more school dropout.[47] All of these factors are more likely to exist in communities of color and play a role in one's proclivity toward crime.

RECOMMENDATIONS FOR REFORM

Even though the pace of reform is relatively modest in addressing the scale of mass incarceration and the enduring racial and ethnic disparities, reforms being pursued in the states are encouraging. New Jersey provides an example of this potential. Despite its high ranking in disparity among sentenced prisoners, New Jersey has recently pursued a range of reforms that could lessen this disparity and accelerate progress. Like most states, New Jersey experienced a steady rise in incarceration from the 1970s through the 1990s. Since 2000, however, the state has reduced its prison population by 28%.[48]

Drug laws with disparate racial effects have been in place for many years in New Jersey, but in 2010 the legislature passed reforms through Assembly Bill 2762 to modify sentencing laws associated with drug-free school zone laws, reinstating judicial discretion. Passage of the law followed years of advocacy to implement change based on a report released by the Commission to Review Criminal Sentencing, which identified staggering racial disparities attributable to the state's drug free school zone law.[49] New Jersey has also adopted substantial reforms to its parole system, which at one point included a backlog of parole hearings for 5,800 prisoners. As a result of the parole commissioner's modification of the parole process, the number of parole grants increased from 3,099 in 1999 to 10,897 in 2001.[50]

Table 4. Change in prison population and composition, New Jersey 2000-2014

Year	Prison Total	White	Black	Hispanic
2000	29,784	5,665 (19%)	18,716 (63%)	5,279 (18%)
2014	21,590	4,750 (22%)	13,170 (61%)	3,454 (16%)
Change	-28%	-16%	-30%	-35%

Table 4 shows that the prison decarceration reforms in New Jersey so far appear to have had the greatest impact on people of color. The overall depopulation of New Jersey prisons has included a 30% reduction in African American prisoners, a 35% reduction in Hispanic prisoners, and a 16% reduction in white prisoners. With more time and continued focus on reforms, the racial disparities may continue to improve.

While remedies such as these will advance reforms to some extent, even reducing staggering racial and ethnic disparities, lawmakers and practitioners must also address the unevenness more directly. A few suggestions in this regard follow.

Most now agree that the war on drugs was not an effective approach to either addressing crime or addressing drug addiction, and that its policies worsened racial disparities in incarceration. Yet, many laws are still in effect at both the state and federal levels that sentence individuals to lengthy prison terms for drug offenses when alternatives to incarceration would be more suitable. Reforms should be enacted that scale back the use of prison for low-level drug crimes and instead redirect resources to prevention and drug intervention programming.

A host of mandatory minimum sentences and truth in sentencing provisions are still in place in most states. These remove judicial discretion from the sentencing process and tie up limited corrections resources by incarcerating those who may no longer be a threat to public safety. The states and federal government should revisit and revise mandatory minimum sentences and other determinate sentencing systems that deny an individualized approach.

A third reform is to scale back punishments for serious crimes, especially those that trigger long sentences for repeat offenders. While public safety is always a priority, imposing excessively long prison sentences for serious crime has been shown to have diminishing returns on public safety.[51] Furthermore, these policies have had a disproportionate impact on people of color, especially African Americans, because they are more likely to have a prior record, either because of more frequent engagement in crime or because of more frequent engagement with law enforcement.[52] Habitual offender policies are also problematic because of the documented ways in which they are favored for prosecutorial charging decisions.

As described above, prosecutors are more likely to charge African Americans under habitual offender laws compared to whites with similar offense histories. The impact is that African Americans are not only more likely to go to prison but are more

likely to receive longer sentences.[53] Today one in nine people in prison is serving a life sentence while many other countries' use of life sentences is quite rare. Nearly half of lifers are black and one in six is Hispanic.

Fourth, adequate and regular training on the role of implicit, unchecked bias by key decisionmakers in the criminal justice system is a necessary step in reducing its impact. While open expression of negative views about people of color, as well as overt discrimination, has declined significantly in many areas of American society (largely attributable to successful civil rights laws and campaigns), some convincingly argue that this overt discrimination, especially against African Americans, has transformed into implicit bias, but with similar disparate results.[54] Evidence suggests that when professionals are faced with a need to triage cases—a regular occurrence for law enforcement and defense counsel, for instance—implicit bias likely comes into play in deciding which cases to take as a sort of mental shorthand used to draw quick conclusions about people and their criminal tendencies.[55]

To offset this, implicit bias trainings can make people aware of these temptations, and this awareness can minimize racially influenced trigger responses in the future.[56] Additionally, instilling in practitioners a motivation to be fair and impartial can influence implicit bias, as could be accomplished through professional trainings on the topic of implicit social cognitions. Self-report data from California judges before and after they received a training on implicit bias, along with a three-month follow up survey to ascertain behavior modification that occurred as a result of the training, showed modest evidence of a positive effect on reducing implicit bias through trainings.[57] Similar trainings can be provided to prospective and chosen jurors, who are also vulnerable to implicit bias.[58]

Finally, several states are pursuing racial impact legislation, an idea that first became law in the state of Iowa in 2008. To date, Connecticut and Oregon have also passed racial impact laws and several additional states have introduced similar legislation. The idea behind racial impact laws is to consider the outcome of changes in the criminal code *before* passing laws in order to provide an opportunity for policymakers to consider alternative approaches that do not exacerbate disparities. Similar to fiscal impact statements or environmental impact statements, racial impact statements forecast the effect of bills on people of different races and ethnicities. There is a cost, both financial and moral, to maintaining racial and ethnic disparities.

CONCLUSION

Criminal justice reform has become a regular component of mainstream domestic policy discussions over the last several years. States grappling with budget constraints are successfully experimenting with diversion approaches that can reduce prison populations without harms to public safety. Allies have come together from both conservative and progressive campaigns to move policies forward that will ease bloated prison populations and reconsider punishments for low-level nonviolent offenses. It is difficult to miss the fact that the U.S. is experiencing a unique moment with the potential for a true turnaround of our system of mass incarceration. How long that moment will last is not known.

There is a growing recognition among policymakers that the system of mass incarceration now firmly in place has not been an effective remedy for crime and is not sustainable. Some jurisdictions have pursued reforms that include scaling back stop and frisk practices by law enforcement and enacting legislative changes that shift certain offenses from felonies to misdemeanors.[60] These may reduce overall incarceration rates with the prospect of greater impact on racial and ethnic minorities as well.

At the same time, many states exhibit astounding rates of racial and ethnic disparity: Nationally, African Americans are incarcerated in state prisons at five times the rate of whites. This report also shows that racial disparities vary broadly across the states, as high as 12.2:1, but even in Hawaii— the state with the lowest black/white disparity—African Americans are imprisoned more than two times the rate of whites.

When viewed over time it is evident that the racial dynamics of incarceration have improved, particularly when viewed through the lens of gender: between 2000 and 2009, imprisonment rates for black females dropped 31 percent from 205 per 100,000 to 142 per 100,000. The ratio of black/white imprisonment among women declined from 6.0:1 to 2.8:1 over this period. Yet part of this decline is explained through the higher rates of incarceration for white women. Between 2000 and 2009 incarceration for white women rose 47%, from 34 per 100,000 to 50 per 100,000.[60]

Despite the positive developments in justice reform efforts described above, there is not enough attention to the chronic racial disparities that pervade state prisons, and without this acknowledgment the United States is unlikely to experience the serious, sustainable reforms that are needed to dismantle the current system of mass incarceration. Overall, the pace of criminal justice reform has been too slow as well as too modest in its goals. Accelerated reforms that deliberately incorporate the goal of racial justice will lead to a system that is both much smaller and more fair.

METHODOLOGY

This report relies primarily on two major sources of official data. The first is the U.S. Census, which counts the nation's residents every ten years and provides estimates based on projections for years between its official counts. The data in the report comes from 2013 "American Fact Finder" estimates based on the 2010 Census. The second source of data used to generate the findings in this report is the U.S Bureau of Justice Statistics. Each year, it publishes results from its National Prisoner Statistics (NPS) survey of the state departments of corrections. The data used to generate the National Prisoners Series, most recently *Prisoners in 2014*, are housed on the National Criminal Justice Archive's Inter-University Consortium for Political and Social Research. Data on race and ethnicity of prisoners sentenced to at least one year in prison (NPS survey question: "*On December 31, how many inmates under your jurisdiction -- a. Had a total maximum sentence of more than 1 year [Include inmates with consecutive sentences that add to more than 1 year*]). The *Prisoners in 2014* publication reports state totals in Table 4. Additionally, each state provides to BJS the demographic composition of its prison population, though this is not typically reported in the National Prisoners Series. In the following states, data on race and ethnicity provided directly from state departments of corrections were used to augment the BJS data: Alaska, Connecticut, Delaware, Hawaii, Maine, Massachusetts, Mississippi, North Dakota, Rhode Island, and Vermont.[61]

The rates of incarceration for racial and ethnic groups were calculated by dividing the total number of individuals in prison of a given race or ethnicity (Non-Hispanic whites, Non-Hispanic blacks, or Hispanic) by the total number of individuals in the population of that race or ethnicity and multiplying this figure by 100,000. To arrive at the state averages shown in Tables 1-3 and Appendix Tables C-E, the total number of prisoners across all states, disaggregated by race or ethnicity, was divided by the total number of individuals in the population of the same race or ethnicity, and then multiplied by 100,000. Because the District of Columbia does not have a prison system (DC prisoners are held in federal prisons), data from this jurisdiction were not included in these calculations.

APPENDIX

Table A. State imprisonment 2014, by percent black in prison

State	Prison	% Black in Prison	% Black in Population
Maryland	20,733	72.0%	29.2%
Louisiana	38,022	67.8%	32.0%
Mississippi*	17,876	65.3%	37.1%
South Carolina	20,830	64.7%	27.4%
Georgia	52,485	62.0%	30.5%
New Jersey	21,590	60.5%	12.9%
Alabama	30,766	58.5%	26.3%
Delaware*	4,141	58.4%	21.1%
Illinois	48,278	58.0%	14.2%
Virginia	37,544	58.0%	19.0%
North Carolina	35,769	55.9%	21.3%
Michigan	43,359	53.6%	14.0%
New York	52,399	48.9%	14.6%
Pennsylvania	50,423	48.7%	10.6%
Florida	102,870	47.7%	15.5%
Ohio	51,519	44.6%	12.2%
Tennessee	28,769	44.1%	16.8%
Wisconsin	21,404	42.7%	6.3%
Arkansas	17,819	42.5%	15.4%
Connecticut*	11,735	41.6%	9.7%
Missouri	31,938	36.2%	11.6%
Texas	158,589	35.9%	11.7%
Minnesota	10,637	34.1%	5.5%
Indiana	29,261	33.3%	9.2%
Kansas	9,365	31.4%	5.9%
Nevada	12,415	29.0%	8.1%
Rhode Island*	1,880	28.9%	5.5%
California	136,088	28.6%	5.7%
Massachusetts*	9,486	28.3%	6.6%
Oklahoma	27,261	27.3%	7.4%
Nebraska	5,347	26.9%	4.6%
Iowa	8,798	25.8%	3.1%
Kentucky	20,969	23.5%	8.0%
Colorado	20,646	18.7%	3.9%
Washington	18,052	17.9%	3.6%
Arizona	40,175	14.0%	4.0%
West Virginia	6,881	11.7%	3.5%
Vermont*	1,508	10.7%	1.1%
Alaska*	2,754	9.9%	3.5%
Oregon	15,060	9.4%	1.8%
New Mexico	6,860	7.3%	1.8%
Maine*	2,030	7.1%	1.3%
North Dakota*	1,603	6.9%	1.7%
Utah	7,024	6.3%	1.0%
South Dakota	3,605	6.2%	1.8%
New Hampshire	2,915	5.9%	1.2%
Wyoming	2,383	5.0%	1.6%
Hawaii*	3,663	4.7%	2.1%
Montana	3,699	2.9%	0.5%
Idaho	8,039	2.8%	0.7%

Table B. State imprisonment 2014, by percent Hispanic in prison

State	Prison	% Hispanic in Prison	% Hispanic in Population
New Mexico	6,860	60.6%	47.3%
Arizona	40,175	42.0%	30.3%
California	136,088	41.6%	38.4%
Texas	158,589	34.7%	38.4%
Colorado	20,646	31.5%	21.0%
Connecticut*	11,735	26.2%	14.7%
Massachusetts*	9,486	26.0%	10.5%
New York	52,399	24.2%	18.4%
Rhode Island*	1,880	21.3%	13.6%
Nevada	12,415	20.8%	27.5%
Utah	7,024	18.4%	13.4%
New Jersey	21,590	16.1%	18.9%
Idaho	8,039	14.6%	11.8%
Oregon	15,060	12.7%	12.3%
Washington	18,052	12.5%	11.9%
Nebraska	5,347	12.4%	9.9%
Illinois	48,278	12.4%	16.5%
Wyoming	2,383	11.7%	9.7%
Pennsylvania	50,423	10.7%	6.3%
Kansas	9,365	10.4%	11.2%
Wisconsin	21,404	9.6%	6.3%
Minnesota	10,637	7.3%	5.0%
Oklahoma	27,261	7.2%	9.6%
Iowa	8,798	6.9%	5.5%
New Hampshire	2,915	5.7%	3.2%
North Carolina	35,769	5.4%	8.9%
North Dakota*	1,603	5.1%	2.9%
Indiana	29,261	4.4%	6.4%
Delaware*	4,141	4.3%	8.7%
Georgia	52,485	4.1%	9.2%
South Dakota	3,605	3.8%	3.4%
Florida	102,870	3.8%	23.6%
Arkansas	17,819	2.9%	6.9%
Hawaii*	3,663	2.8%	9.8%
Alaska*	2,754	2.6%	6.6%
Ohio	51,519	2.5%	3.4%
Virginia	37,544	2.2%	8.6%
South Carolina	20,830	2.1%	5.3%
Tennessee	28,769	2.0%	4.9%
Missouri	31,938	1.7%	3.9%
Kentucky	20,969	1.3%	3.3%
Mississippi*	17,876	1.0%	2.9%
Michigan	43,359	1.0%	4.7%
Maine*	2,030	1.0%	1.4%
West Virginia	6,881	0.6%	1.4%
Louisiana	38,022	0.2%	4.7%
Alabama	30,766	Not Provided	4.1%
Maryland	20,733	Not Provided	9.0%
Montana	3,699	Not Provided	3.3%
Vermont*	1,508	Not Provided	1.7%

Table C. Black/white incarceration ratios, by racial disparity

State	White	Black	B/W
New Jersey	94	1140	12.2
Wisconsin	221	2542	11.5
Iowa	211	2349	11.1
Minnesota	111	1219	11.0
Vermont*	225	2357	10.5
Connecticut*	148	1392	9.4
Pennsylvania	204	1810	8.9
Illinois	174	1533	8.8
California	201	1767	8.8
Nebraska	201	1680	8.4
Rhode Island*	112	934	8.3
New York	112	896	8.0
Massachusetts*	81	605	7.5
Utah	202	1481	7.3
Colorado	260	1891	7.3
Kansas	246	1734	7.0
Michigan	253	1682	6.6
New Mexico	208	1326	6.4
Montana	316	1985	6.3
Maine*	140	839	6.0
Washington	224	1272	5.7
Oregon	366	2061	5.6
Ohio	289	1625	5.6
North Dakota*	170	888	5.2
New Hampshire	202	1040	5.2
State Average	275	1408	**5.1**
Virginia	280	1386	5.0
South Dakota	309	1493	4.8
Arizona	444	2126	4.8
Delaware*	259	1238	4.8
Indiana	339	1616	4.8
Idaho	458	2160	4.7
Maryland	185	862	4.7
Oklahoma	580	2625	4.5
South Carolina	238	1030	4.3
North Carolina	221	951	4.3
Nevada	387	1592	4.1
Missouri	404	1654	4.1
Texas	457	1844	4.0
Louisiana	438	1740	4.0
Alaska*	278	1053	3.8
Arkansas	443	1665	3.8
Tennessee	316	1166	3.7
Florida	448	1621	3.6
West Virginia	348	1234	3.5
Wyoming	375	1307	3.5
Alabama	425	1417	3.3
Kentucky	431	1411	3.3
Georgia	329	1066	3.2
Mississippi*	346	1052	3.0
Hawaii*	246	585	2.4

Table D. Hispanic/white incarceration ratios, by ethnic disparity

State	White Rate	Hispanic Rate	H/W
Massachusetts*	81	351	4.3
Connecticut*	148	583	3.9
Pennsylvania	204	668	3.3
New York	112	351	3.1
Minnesota	111	287	2.6
Wisconsin	221	563	2.6
Rhode Island*	112	280	2.5
North Dakota*	170	395	2.3
Colorado	260	587	2.3
New Jersey	94	206	2.2
New Mexico	208	422	2.0
New Hampshire	202	398	2.0
California	201	385	1.9
Arizona	444	842	1.9
Nebraska	201	359	1.8
Iowa	211	361	1.7
Utah	202	333	1.6
Illinois	174	282	1.6
South Dakota	309	480	1.6
Idaho	458	619	1.4
State Average	275	378	**1.4**
Wyoming	375	495	1.3
Kansas	246	301	1.2
Washington	224	272	1.2
Texas	457	541	1.2
Ohio	289	334	1.2
Oregon	366	395	1.1
North Carolina	221	221	1.0
Oklahoma	580	530	0.9
Indiana	339	302	0.9
Nevada	387	337	0.9
Delaware*	259	220	0.9
Maine*	140	104	0.7
South Carolina	238	172	0.7
Georgia	329	235	0.7
Mississippi*	346	207	0.6
Missouri	404	232	0.6
Tennessee	316	180	0.6
Arkansas	443	251	0.6
Alaska*	278	148	0.5
West Virginia	348	167	0.5
Kentucky	431	183	0.4
Virginia	280	116	0.4
Michigan	253	93	0.4
Hawaii*	246	75	0.3
Florida	448	85	0.2
Louisiana	438	34	0.1
Alabama	425	Not Provided	NA
Maryland	185	Not Provided	NA
Montana	316	Not Provided	NA
Vermont*	225	Not Provided	NA

Table E. Incarceration rates, by Hispanic incarceration rate

State	White	Black	Hispanic
Arizona	444	2126	842
Pennsylvania	204	1810	668
Idaho	458	2160	619
Colorado	260	1891	587
Connecticut*	148	1392	583
Wisconsin	221	2542	563
Texas	457	1844	541
Oklahoma	580	2625	530
Wyoming	375	1307	495
South Dakota	309	1493	480
New Mexico	208	1326	422
New Hampshire	202	1040	398
Oregon	366	2061	395
North Dakota*	170	888	395
California	201	1767	385
State Average	275	1408	**378**
Iowa	211	2349	361
Nebraska	201	1680	359
New York	112	896	351
Massachusetts*	81	605	351
Nevada	387	1592	337
Ohio	289	1625	334
Utah	202	1481	333
Indiana	339	1616	302
Kansas	246	1734	301
Minnesota	111	1219	287
Illinois	174	1533	282
Rhode Island*	112	934	280
Washington	224	1272	272
Arkansas	443	1665	251
Georgia	329	1066	235
Mississippi*	346	1052	232
North Carolina	221	951	221
Delaware*	259	1238	220
Missouri	404	1654	207
New Jersey	94	1140	206
Kentucky	431	1411	183
Tennessee	316	1166	180
South Carolina	238	1030	172
West Virginia	348	1234	167
Alaska*	278	1053	148
Virginia	280	1386	116
Maine*	140	839	104
Michigan	253	1682	93
Florida	448	1621	85
Hawaii*	246	585	75
Louisiana	438	1740	34
Alabama	425	1417	Not Provided
Maryland	185	862	Not Provided
Montana	316	1985	Not Provided
Vermont*	225	2357	Not Provided

Data sources for Appendix Tables A-E: United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics. National Prisoner Statistics, 1978-2014. Bibliographic Citation: ICPSR36281-v1. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2015-10-09; U.S. Census Bureau (2013). *2013 Population Estimates.* Annual estimates of resident population by sex, race, and Hispanic origin for the United States, states and counties: April 1, 2010 to July 1, 2013. Washington, DC: U.S. Census Bureau.
* = Bureau of Justice statistics data augmented with state annual report data for this state. See Methodology section for additional information.

ENDNOTES

1 The Sentencing Project (2016). *U.S. prison population trends, 1999-2014: Broad variation among states*. Washington, DC: The Sentencing Project.

2 Among countries with a population of at least 100,000 residents.

3 Carson, E. A. (2015). *Prisoners in 2014*. Washington, DC: Bureau of Justice Statistics.

4 Neill, K. A., Yusuf, J., & Morris, J.C. (2014). Explaining dimensions of state-level punitiveness in the United States: The roles of social, economic, and cultural factors. *Criminal Justice Policy Review* 26(2):751-772.

5 Clear, T., Rose, D., & Ryder, J. (2001). Incarceration and the community: The problem of removing and returning offenders. *Crime and Delinquency 47(3):* 335-351; Lynch, J. & Sabol, W. (2001). Prisoner reentry in perspective (Vol. 3, Crime Policy Report). Washington, DC: Urban Institute; National Research Council (2014). *The growth of incarceration in the United States: exploring causes and consequences.* Washington, DC: The National Academies Press.

6 This report limits the presentation of data to these three categories because white, blacks, and Hispanics combined the vast majority of prisoners.

7 Carson, E. A. (2015). *Prisoners in 2014.* Washington, DC: Bureau of Justice Statistics. Six percent of prisoners are composed of racial groups that fall under the category of "other."

8 Colorado, Connecticut, Massachusetts, Nevada, New York, Nevada, and Texas.

9 U.S. Census (2015). *Quick facts: United States.* Available online: https://www.census.gov/quickfacts/table/PST045215/00

10 Though this report focuses on rates of disparity, it is still informative to view the composition of prisons as percentages. We have provided two tables that contain this information in Appendix A, Tables 1 & 2.

11 National Research Council (2014). *The growth of incarceration in the United States: Exploring causes and consequences.* Washington, DC: The National Academies Press.

12 This observation is documented elsewhere as well. See, for example, Blumstein, A. (1993). Racial disproportionality revisited. *University of Colorado Law Review,* 64: 743-760; Mauer, M. (1997). *Intended and unintended consequences: State racial disparities imprisonment.* Washington, DC: The Sentencing Project; Bridges, G. & Crutchfield, R.D. (1982). Law, social standing and racial disparities in imprisonment, *Social Forces, 66*(3): 699-724.

13 Data from Massachusetts in this report should be interpreted with caution. The system of incarceration in Massachusetts is somewhat unique in that this state uses county-level houses of corrections to hold some inmates who have been convicted of felonies and sentenced up to 2.5 years. The population of prisoners in houses of corrections is approximately 5,400, but the racial composition of those incarcerated at these institutions is not publicly reported. For this reason, estimates in this report do not include inmates in houses of corrections. As a result, the rates of incarceration by race and ethnicity are underestimated. For more on the composition of Massachusetts prison system, see: Massachusetts Department of Corrections (2014). *Weekly Count Sheets.* Available Online: http://www.mass.gov/eopss/law-enforce-and-cj/prisons/rsch-data/weekly-count-sheets.html.

14 Blumstein, A. (1993). Racial disproportionality of U.S. prison populations revisited. *University of Colorado Law Review 64*(3); 743-760; Bridges, G. and Crutchfield, R. D. (1988). Law, social standing and racial disparities in imprisonment. *Social Forces 66*(3): 699-724; Mauer, M. (1997) *Intended and unintended consequences: State racial disparities in imprisonment.* Washington, DC: The Sentencing Project; Sorenson, J., Hope, R., & Stemen, D. (2003). Racial disproportionality in state prison admissions: Can regional variation be explained by differential arrest rates? *Journal of Criminal Justice 31*: 73-84; Mauer, M. & King, R. (2007). *Uneven justice: State rates of incarceration by race and ethnicity.* Washington, DC: The Sentencing Project; Tonry, M. (1994). Racial Disproportions in US Prisons. *British Journal of Criminology 34* (1): 97-115; Tonry, M (2011). *Punishing race.* Oxford: Oxford University Press.

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17 Baumer, E. (2010). Reassessing and redirecting research on race and sentencing. Draft manuscript prepared for Symposium on the Past and Future of Empirical Sentencing for Research, School of Criminal Justice, University at Albany; Tonry, M. (2011). Punishing race: An American dilemma continues. New York: Oxford University Press.

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20 Langan, P (1985). Racism on trial: New evidence to explain the racial composition of prisons in the United

States. *Journal of Criminal Law and Criminology* 76: 666-683; Garland, B., Spohn, C., and Wodahl, E. (2008). Racial disproportionality in the American prison population: Using the Blumstein method to address the critical race and justice issues of the 21st Century. *Justice Policy Journal 5*(2): 1-42.

21 Baumer, E. (2010). Reassessing and redirecting research on race and sentencing. Draft manuscript prepared for Symposium on the Past and Future of Empirical Sentencing for Research, School of Criminal Justice, University at Albany; Garland, B.E., Spohn, C. and Wodahl, E.J. (2008). Racial disproportionality in the American prison population: Using the Blumstein method to address the critical race and justice issue of the 21st Century. *Justice Policy Journal 5*(2): 1-42.; and Bridges, G. & Crutchfield, R.D. (1988). Law, social standing and racial disparities in imprisonment. *Social Forces 66*(3): 699-724; Tonry, M. and Melewski, M. (2008). "The malign effects of drug and crime control policy on Black Americans." In Tonry, M. (ed.) *Crime and Justice: A review of research (pp 1-44).* Chicago: University of Chicago Press.

22 For a review of a number of studies that have applied Blumstein's formula to identify the amount of disproportionality that can be attributed to crime, as measured by arrest, see: Garland, B.E., Spohn, C. and Wodahl, E.J. (2008). Racial Disproportionality in the American Prison Population: Using the Blumstein Method to Address the Critical Race and Justice Issue of the 21st Century. *Justice Policy Journal 5*(2): 1-42.

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The Color of Justice: Racial and Ethnic Disparity in State Prisons

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