

Race and Incarceration in the United States

Human Rights Watch Briefing, February 27, 2002

In this briefing, we present new figures documenting racial disparities state-by-state in the incarceration of African Americans and Latinos.¹ We hope they will help state residents and public officials to understand their state-specific incarceration patterns and practices.

Two years ago, drawing on data from thirty-seven states, Human Rights Watch documented racial disparities in the incarceration of state drug offenders.² Since most drug offenders are convicted of state law violations, our state-by-state analysis provided an important insight into the consequences of state policies that were masked by the more commonly available aggregate national data.

The current briefing is a continuation of our effort to illuminate state-by-state the racial impact of the criminal justice system. Using data gathered by the U.S. Census Bureau for the Census 2000,³ we have been able to develop a series of charts that constitute the first published snapshot of the extent to which whites, blacks and Hispanics in each state are behind bars. These are the most up-to-date figures available based on actual correctional facility counts.

The figures reveal the continuing, extraordinary magnitude of minority incarceration and the stark disparity in their rates of incarceration compared to those of whites. Out of a total population of 1,976,019 incarcerated in adult facilities, 1,239,946 or 63 percent are black or Latino, though these two groups constitute only 25 percent of the national population.⁴ The figures also demonstrate significant differences among the states in the extent of racial disparities.

¹ The terms "Latino" and "Hispanic" are used interchangeably to refer collectively to Mexicans, Puerto Ricans, Cubans, Central and South Americans, and others of Spanish and Latin American descent. Hispanics can be of any race, though the figures for whites used in this briefing do not include white Latinos. However, the figures for blacks include black Hispanics, who are also counted as Latinos. According to the U.S. Census Bureau, the estimated percentage of blacks who are also counted as Latinos is 1-3%. Many corrections departments and local jails do not separate Latinos from other racial groups. Most assessments of the racial/ethnic breakdown of the incarcerated population have therefore had to rely on estimates derived from survey samples.

² Human Rights Watch, "Punishment and Prejudice: Racial Disparities in the War on Drugs," *A Human Rights Watch Report*, vol. 12, no. 2, May 2000. Available at <http://www.hrw.org/reports/2000/usa/>.

³ The U.S. Census 2000 includes data on the race, gender, number and age of residents in each of the fifty U.S. states, as well as the number, race, gender and age of persons held in each state in various types of confinement facilities, including prisons, federal detention centers, military disciplinary barracks and jails, police lockups, half-way houses used for correctional purposes, local jails, work farms and others. Persons detained in local jails include sentenced prisoners as well as detainees awaiting trial. For an explanation of the Census 2000 methodology, see http://factfinder.census.gov/servlet/MetadataBrowserServlet?type=subject&id=GQ_USF1&dsspName=DEC_2000_SF1&back=update&lang=en

⁴ According to Census 2000, there are 34,658,190 African Americans and 35,305,818 Latinos in the U.S., out of a total population of 281,421,906.

Key Findings:

Incarceration of Blacks

- In twelve states, between 10 and 15 percent of adult black men are incarcerated.
- In ten states, between 5 and 10 percent of black adults are incarcerated.
- In twelve states, black men are incarcerated at rates between twelve and sixteen times greater than those of white men.
- In fifteen states, black women are incarcerated at rates between ten and thirty-five times greater than those of white women.
- In six states, black youth under age eighteen are incarcerated in adult facilities at rates between twelve and twenty-five times greater than those of white youth.

Incarceration of Hispanics

- In nine states, between 4 and nearly 8 percent of adult Latino men are incarcerated.
- In twelve states, between 2 and 4 percent of Hispanic adults (men and women) are incarcerated.
- In ten states, Latino men are incarcerated at rates between five and nine times greater than those of white men.
- In eight states, Latina women are incarcerated rates that are between four and seven times greater than those of white women.
- In four states, Hispanic youth under age eighteen are incarcerated in adult facilities at rates between seven and seventeen times greater than those of white youth.

In this briefing, we do not analyze the diverse reasons for these troubling statistics. Crime rates, law enforcement priorities, sentencing legislation and other factors play a role in creating racial disparities in incarceration. For example, penal policies instituted to control crime have exacerbated longstanding racial disparities in the criminal justice system.⁵ Sentences for violent crimes have been substantially increased through the passage of mandatory minimum sentencing laws, “three strikes” laws, and truth in sentencing laws that require inmates to serve 85 percent of their sentences. Because blacks constitute a large percentage among those arrested for violent crimes (45 percent—a proportion that has not changed significantly over the years), they are disproportionately affected by the longer sentences.⁶

⁵ Human Rights Watch, “Punishment and Prejudice: Racial Disparities in the War on Drugs,” *A Human Rights Watch Report*, vol. 12, no. 2, May 2000. Available at <http://www.hrw.org/reports/2000/usa/>.

⁶ Maguire, Kathleen and Ann L. Pastore, eds. (2001) *Sourcebook of Criminal Justice Statistics 2000* (Washington D.C.: Department of Justice – Bureau of Justice Statistics, 2001). Available at <http://www.albany.edu/sourcebook/>.

Blacks have also been disproportionately affected by the national “war on drugs”, carried out primarily through the arrest, prosecution and imprisonment of street level drug offenders from inner city communities. In 1996, for example, blacks constituted 62.6 percent of all drug offenders admitted to state prisons. In at least fifteen states, black men were sent to prison on drug charges at rates ranging from twenty to fifty-seven times those of white men.⁷ Blacks are prosecuted in federal courts more frequently than whites for crack cocaine offenses, and thus as a group have felt the effects of the longer sentences for crack versus powder cocaine mandated in federal law. Racial profiling and other forms of unequal treatment of minorities by the criminal justice system have further contributed to the overrepresentation of minorities in the incarcerated population. Minority youth are treated far more harshly compared to similarly situated white counterparts within the juvenile criminal justice system.⁸

As the charts in this update reveal, there are striking differences among the states in the degree of variations of racial disparities in incarceration. State criminal justice and law enforcement policies clearly play a role in creating these differences. Demographics are important as well. Some of the greatest racial disparities in rates of incarceration occur in states in which minorities are concentrated in urban areas, which tend to have both higher rates of crime and greater law enforcement activity.

The high and disproportionate rate of minority incarceration in the U.S., particularly that of blacks, is a grave challenge to the country. Last year, the Leadership Conference on Civil Rights warned that racial inequalities in the criminal justice system threatened to negate fifty years of hard-fought civil right progress.⁹ While incarceration rates reflect many race-neutral factors, racial bias or sheer indifference to the fate of minority communities has surely contributed to the development and persistence of such racially disparate rates of incarceration. States have choices in the means by which they promote community well-being and protect public safety; the choices made in recent years have levied a particularly high cost on minority communities.

As crime rates have fallen and as high incarceration costs consume ever larger portions of state and county budgets, elected officials and the public in many states are beginning to debate current criminal justice policies and to consider the advantages of alternatives to incarceration. By graphically demonstrating the racial gross disparities in incarceration, we hope to contribute to a reassessment of the fairness and wisdom of over-reliance on punitive crime control measures that have disproportionately burdened the minority communities from which so large a proportion of the incarcerated are drawn.

This briefing contains the following tables¹⁰:

⁷ Human Rights Watch, “Punishment and Prejudice: Racial Disparities in the War on Drugs,” *A Human Rights Watch Report*, vol. 12, no. 2, May 2000. Available at <http://www.hrw.org/reports/2000/usa/>.

⁸ See e.g. Poe-Yamagata, Eileen and Michael A. Jones, “And Justice for Some: Differential Treatment of Minority Youth in the Justice System.” (Washington D.C.: Youth Law Center – Building Blocks for Youth, April 2000). Available at <http://www.buildingblocksforyouth.org/justiceforsome/jfs.html>.

⁹ Weich, Ronald and Carlos Angulo, “Justice on Trial: Racial Disparities in the American Criminal Justice System.” (Washington D.C.: Leadership Conference on Civil Rights, 2000). Available at <http://www.civilrights.org/publications/cj/intro.html>.

¹⁰ Acknowledgments: Figures presented in this briefing were calculated by Natalie Rainer, HRW Associate.

Table 1. Rates of incarceration per 100,000 state residents by race

Table 2a. Rates of incarceration per 100,000 men (age 18-64)

Table 2b. Rates of incarceration per 100,000 women (age 18-64)

Table 3. Percentage of adult men (age 18-64) incarcerated, by race

Table 4. Percentage of blacks among resident population and incarcerated population

Table 5. Percentage of Latinos among resident population and incarcerated population

Table 6. Rates of confinement in juvenile detention facilities, by race

Table 7. Incarceration rates for youth under age 18

Chart 1: Minority proportion of the incarcerated population by state