Race, Incarceration, and Racial Disparities

A quick glance at the statistics makes it clear that America’s mass incarceration system is not color-blind.

- One in every 106 white men age 18 or older in America is incarcerated.
- One in every 36 Hispanic men age 18 or older in America is incarcerated.
- One in every 15 black men age 18 or older in America is incarcerated.\(^{32}\)

- The figures for women are only slightly better and have the same approximate breakdown by race.\(^{33}\)

This might lead us to assume that racial minorities commit more crimes than white Americans, but this is not necessarily so. For example, blacks are more than three times more likely to be arrested for drug crimes, even though whites use drugs at equal or slightly higher rates.\(^{34}\), \(^{35}\)

Poverty and related social issues also contribute to mass incarceration, in a way that is often entangled with race. The Baltimore Sun, in an editorial published in the wake of Freddie Gray’s death in police custody on April 12, 2015, had this to say about the lived experience of poor, black, urban communities:

The neighborhood where [Gray] lived, Sandtown-Winchester, recently made news as the census tract that is home to more inmates in the Maryland correctional system than any other. But that is not the only way in which it is exceptional. Four years ago, the Baltimore Health Department issued a community profile of that neighborhood, and even in a city where poverty is widespread, it stands out. The unemployment rate there is about double the citywide average, and so is the poverty rate. Similarly, there are about twice as many liquor stores and tobacco outlets per capita in Sandtown-Winchester as in the city as a whole. Fully a quarter of juveniles in that neighborhood had been arrested between 2005 and 2009. It had the worst domestic violence rate of any of the neighborhoods the health department analyzed and among the worst rates for non-fatal shootings and homicides. A quarter of the buildings are vacant, and the lead paint violation rate is triple the city average. (Gray and his sisters suffered from lead paint poisoning as children.) The only metric the health department analyzed in which Sandtown-Winchester was the best in the city was in the density of fast food restaurants. Perhaps it’s too poor to have any.\(^{36}\)

The cause of racial disparities in mass incarceration, however, is up for some debate.

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32 https://www.aclu.org/infographic-combating-mass-incarceration-facts
33 http://www.sentencingproject.org/doc/publications/cc_incarcerated_women_factsheet_sep24sp.pdf
34 http://www.huffingtonpost.com/2013/09/17/racial-disparity-drug-use_n_3941346.html, based on 2011 data from the Substance Abuse and Mental Health Services Administration.
35 http://www.huffingtonpost.com/2013/09/17/racial-disparity-drug-use_n_3941346.html, based on 2009 data from Human
Michelle Alexander, in her book *The New Jim Crow*, makes the case that the mass incarceration system, with its sharp uptick in incarceration beginning in the early 1970’s, was intentionally designed to replace the Jim Crow laws that had been finally struck down in the South. She writes in her introduction:

“To put the matter starkly: The current system of control permanently locks a huge percentage of the African-American community out of the mainstream society and economy. The system operates through our criminal justice institutions, but it functions more like a caste system than a system of crime control…Skepticism about the claims made here is warranted. There are important differences, to be sure, among mass incarceration, Jim Crow, and slavery…Many of the differences are not as dramatic as they initially appear; however, others serve to illustrate the ways in which systems of racialized social control have managed to morph, evolve, and adapt to changes in the political, social, and legal context over time…What this book is intended to do—the only thing it is intended to do—is to stimulate a much-needed conversation about the role of the criminal justice system in creating and perpetuating racial hierarchy in the United States.”

- Glenn E. Martin, founder of Just Leadership USA

This argument has compelled and motivated many an activist since its publication in 2010. And it has had her desired effect. To offer one small example, Alexander points out that the NAACP’s website, as recently as May 2008, barely mentioned prisons; today, prisons appear in the first sentence under the Advocacy heading “Justice.”

Alexander’s argument has also generated controversy. Ta-Nehisi Coates, in a series of articles for *The Atlantic*, offers the following mixture of praise and criticism for Alexander’s book:

“I think Alexander’s insistence on pushing the envelope on actual racism is one of the book’s most striking features. Liberals have largely retreated on this front. We prefer to talk about “inadvertent,” or “unintentional” racial effects. Alexander is arguing for actual racism as a factor in every stage of the criminal-justice process.”

“I still feel uncomfortable with the idea that masses of incarcerated white people are merely collateral damage on the way to controlling black people. I suspect something more nuanced at work. I use these words “suspect” and “unconvinced”

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37 Pp. 13-16.
38 https://www.themarshallproject.org/2015/03/04/how-to-cut-the-prison-population-by-50-percent
intentionally, for even as I write this, I am not so sure that
Alexander is wrong. A brief historical note will explain why.
In the ‘40s and ‘50s, African Americans and advocates of fair
housing understood that some network of discrimination was at
work. But they did not understand how far the
network actually went until the discovery of
redlining maps, which
made it painfully
clear that what they
were seeing was not
random mindless bias
but federal policy…. I
would not be shocked
if one day historians
discover the evidence
that I found wanting
in this book—evidence
of intentionality, of
direction, which shows
that the carceral state
really was, at its roots,
an attempt to control
black people…

Bits and pieces
of new evidence
are bubbling up
in support
of
Alexander’s claim.
For instance, a 2005
study of drug arrests
in Seattle found
that racial bias drove
policing and arrests; “in short, racial disparities might not be
simply an unfortunate by-product of drug wars, but rather
might be a constitutive component of those campaigns.”
Of course, the truth likely reflects a combination of these
perspectives, with some policymakers acting with obvious
racist intent and others reacting out of ignorance or
political expediency or inertia or bad science or media hype.
Regardless of intent, the effect is cumulative.

WHAT’S WORKING: RACIAL IMPACT STATEMENTS

When local, state, or federal governments plan new
programs, independent assessors must prepare financial
and environmental impact statements. Three states—
Connecticut, Iowa, and Oregon—have adopted laws
requiring racial impact statements as well. These
statements look at the effect of a given new policy on
racial disparities.43 As then-Governor Chet Culver of Iowa
explained in 2008, the new law would provide lawmakers
more information about how many people might end up in
jail as a result of new criminal statute, for how long, and
according to what racial distribution.44 At the time, 2% of
Iowa’s population was black, compared to 24% of its prison
population. In addition to preventing the implementation of
programs and policies that would have adverse effects on
people of color, this practice places racial equality on par
with budgets and environmental protection.

Reporter Arienne
Thompson writes,

We are exhausted. We
are tired. We can’t
breathe. We can no
longer bear the weight
of seeing our men,
our Americans, our
husbands, fathers,
brothers, uncles and
cousins humiliated,
profiled, emasculated,
choked, dragged and
shot, day in and
day out……. Being
Black in America is
like walking through
an ice storm. It’s
cold, isolating, and
exhausting. You’re not
sure if you’re gonna
make it and you can’t
see what’s coming for
you.

This is the lived
experience that mass
incarceration, with
its racial disparities,
creates.

In the “Take Action” section of this handbook, you’ll find
suggestions for opening up the conversation about race
within your community.

43 http://www.sentencingproject.org/detail/publication.cfm?publication_id=570&id=