

CORRECTIONS IN AMERICA: A Portrait in Color

Education versus Corrections: A Different View of America

The United States is often said to have a “prison industrial complex.” At the end of 2014, an estimated 6.8 million adults were incarcerated or under supervision in the community. This still means that 1 in 36 adults are under correctional supervision. What are the racial and ethnic dimensions of this trend? We will discuss these issues throughout the chapter. However, we start the chapter by focusing on a trend that is referred to as a “pipeline” into the prison system.¹

More than 20 million people in the United States attended college in 2014.² Notably, the racial composition of college students in each racial group discussed in this book is almost identical to their representation in the general U.S. population. For example, 58.3 percent of college students are white (compared to 59.3 percent of the U.S. population) and African-American students are exactly the percentage you would project from the U.S. population—14.7 percent.

An examination of the racial composition of U.S. correctional populations, however, shows a different racial picture. Specifically, these data reveal an overrepresentation of African Americans and Hispanics compared to their percentage in the general population and an underrepresentation of whites (see Table 9.1).

A review of two key data sources, the U.S. Department of Education and the Bureau of Justice Statistics, reveals that four times as many whites attend college than are under correctional supervision, while the number of Hispanics is slightly higher than the number under some form of correctional supervision. There are more African Americans under correctional supervision than there are African Americans attending college. Typically, more women attend college than men; however, the reverse is the trend for correctional

populations, where men make up the vast majority of offenders. Marc Mauer, of the Sentencing Project, helps us understand the intersection of race and gender within correctional populations, with his assertion that 1 in 3 African-American males will be incarcerated at some point in their lifetime, while 1 in 6 Hispanic males and 1 in 17 white males will be incarcerated in their lifetimes.³

One final concerning trend with race and education is that African-American and Hispanic students are overrepresented in the private for-profit educational institutions compared to white students.⁴ Students at these institutions have higher tuition costs, higher student loan debt, and lower graduation rates than both public and private not-for-profit institutions.

LEARNING OBJECTIVES

In previous chapters we have seen that a number of forces contribute to the overrepresentation of minorities at various stages of criminal justice systems processing. This chapter describes various disparities in the ethnic and racial makeup of American correctional populations. It examines which groups are overrepresented in situations of incarceration and supervision in the community. The extent of minority overrepresentation also is explored in relation to gender distinctions, federal versus state populations, recidivism, and offender reentry with an emphasis on historical fluctuations. The juxtaposition of Native American philosophies and methods of community correction with the mainstream American criminal justice system is also explored.

After you have read this chapter:

1. You will have a good picture of the racial and ethnic composition of who is in jail, as well as state and federal prison in the United States.
2. You will be able to discuss in an informed manner the racial and ethnic differences between prison and jail, between probation and parole, and between federal and state prisons.
3. You will understand the special problems involving Native Americans and the corrections system.
4. You will be familiar with the unique issues related to women of color in prison and in reentry after prison.
5. You will be familiar with the challenges to offender reentry into the community, including the issue of collateral consequences.
6. You will be able to discuss what difference it makes when corrections personnel (prison guards, parole officers) are people of color.
7. Because prison is often the end result of social and economic inequalities, you will have a new perspective on the issues covered in Chapter 3.

The descriptive information in this chapter is supplemented by a discussion of current research on discrimination in the correctional setting. Finally, the inmate social system, which reflects key aspects of prison life, is discussed. This section will focus on the influence of minority group status on prison subcultures (including security threat groups) and religion.

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School to Prison Pipeline

The "school-to-prison pipeline" is a phrase that is used to refer to a myriad of "zero-tolerance" disciplinary policies and practices used in nearly every school district across the country that "push our nation's schoolchildren, especially our at-risk children, out of classrooms and into the juvenile and criminal justice systems."⁵ The U.S. Department of Education found in a recent study that the higher the percentage of minority students in a school, the more likely the school was to have "zero-tolerance" policies.⁶ It is increasingly clear that there is a racial dimension to this use of harsh penalties for serious but often minor misbehavior. In a study of racial justice in school settings across five states, Gordon and colleagues,⁷ found that "African American . . . , Latino and Native American students, were suspended or expelled in disproportionate numbers. (Further) students of color were more likely to drop out or be pushed out of school and less likely to graduate than were white students."

Student misbehavior is common in all schools, at all grade levels. How such misbehavior is dealt with can result in student redirection that leaves a problematic student within the school system or can result in an official police response where a problematic student is arrested and taken to detention or jail. While there may be widespread agreement about the need for schools to be safe environments, concern has risen over the pursuit of school safety resulting in a disproportionately harsh response to students, particularly students of color, which has been dubbed the school to prison pipeline.

Discipline is seen by many as crucial in school environments to facilitate

learning. Mowen and Brent question, "Does school discipline contribute to increased odds of arrest?" Based on their work with data from the National Longitudinal Survey of Youth, they find that students who are suspended have an increased risk of arrest, compared to students who are not suspended. They find that "youth who receive suspension are at an increased odds of contact with the criminal justice system and increases in the number of suspensions received contribute to significant increases in arrest. Findings demonstrate that suspensions present a form of cumulative effect over time."⁸

Law enforcement officers are increasingly expected to intervene in school misconduct issues and to control unruly students in classroom settings. Research has been focused on the "criminalization" of school misconduct through the policy of School Resource Officers (SRO). This policy allows for the placement of sworn law enforcement officers in public schools to assist in prevention of crimes, such as assaults, weapon possession on campus, and so on. However, these officers are also faced with situations of student discipline, where they make subjective decisions about disruptive behavior and the need for a formal legal system response, rather than a determination of a school-based disciplinary response by school administrators (e.g., suspension).

Bailey (2006)⁹ notes that the standard for search and issuance of a warrant is the traditional probable cause. However, searches of a student and student's locker or car on school grounds is a lesser standard of reasonable suspicion. Theriot's (2009)¹⁰ recent study of one county in the Southeastern part of the United States compared

(Continued)

schools with SROs and without SROs. When controlling for the socioeconomic status of each school, there was no significant difference in arrest rates with SRO present and SRO not present. This finding suggests that the school to prison pipeline may function in schools, regardless of the presence of SRO. However, a further analysis by individual offenses revealed that while the presence of SROs seemed to significantly decrease the arrests for assault and weapons possession, and had no significant impact on arrests for drugs, the presence of SROs did lead to significantly more arrests for minor offenses like disorderly conduct.

It is important to note that arrests made at middle schools and high schools are predominantly handled in juvenile court, such charges can lead to removal from school and confinement in detention of treatment facilities. In some states, such as North Carolina and New York, youth aged 16 and older are automatically treated as adults after arrest and for charging and sentencing. Some states, such as Texas, have an additional model of handling criminal offenses by juveniles with blended juvenile and adult system sentencing.

"Criminalization" of student misconduct offenses can leave students with juvenile and/or adult criminal arrest, conviction, and sentencing records. This leads to missed educational opportunities, disruption of after school activities (each of which can insulate students from delinquent behavior) and a rise in dropout rates (which can contribute to criminal behavior). In addition, arrest and disposition in the legal system results in negative labeling of the youth in the eyes of peers and school officials. If the youth ends up with a conviction for a felony, this eliminates their ability to qualify for federal financial aid for college, among other collateral consequences. More information on the racial nature of suspension and arrest policies can be found in the report "Education under Arrest by the

Policy Institute," available at <http://www.justicepolicy.org/research/3177>.

Morris asserts that African-American girls are even more vulnerable, "our challenge is to capture the authentic experiences of Black girls who are marginalized in their learning environments and then thrust toward life experiences that increase their risk of incarceration. But first, we must acknowledge that they are relevant to the discussion. Only then can we move on to engage in a dynamic examination of the ways in which Black girls are uniquely impacted by stereotypes about their femininity and the ways in which they might be affected by school policies that facilitate the arrest of girls who are running—either from or to—relationships that lead them to participate in illegal, underground economies." See her publication, "Race, Gender and the School to Prison Pipeline: Expanding our discussion to black girls," available at <http://www.aapf.org/publications/> for more research on this topic.

Educational researchers are concerned that students with disabilities may be disproportionately the target of harsh, zero-tolerance disciplinary policies. Children with learning and behavioral disabilities may have difficulty adapting to the structure of a school environment, thus exhibiting behavior that can be interpreted as unruly and labeled misconduct. In some instances schools may rely on SROs to resolve potentially volatile situations. See these publications for more information: L. J. Heflin and L. M. Bullock, (1999) "Inclusion of Students with Emotional/Behavioral Disorders: A Survey of Teachers in General and Special Education," *Preventing School Failure*, 43 (3): 103–111; and E. Carter and C. Hughes, (2006) "Including High School Students with Severe Disabilities in General Education Classes: Perspectives of General and Special Educators, Paraprofessionals, and Administrators," *Research and Practice for Persons with Severe Disabilities*, 31 (2): 174–185.

THE INCARCERATED: PRISON AND JAIL POPULATIONS

Describing incarcerated populations in the United States is a complicated task. The answer to the question, "Who is locked up?" depends on what penal institution and which inmates we are discussing. Jail and prison population figures are descriptive counts taken on one particular day, often at midyear. These figures are used for the purpose of describing disparity and are not standardized rates (see discussion later in this chapter). There are a number of important distinctions between jails and prisons, male and female inmates, and state and federal populations. In addition, important changes occur over time.

Jails and prisons are not the same: they serve different functions in the criminal justice system. These differences may result in different levels of minority overrepresentation, so jails and prisons are discussed separately. Gender differences are also important when discussing incarceration; therefore, we also explore the issues of the racial and ethnic composition of male and female prisoner populations. State and federal prison populations must be examined separately because of the differences in state and federal crime statutes and sentencing procedures.

Minority Overrepresentation

In 2014, more than 2.3 million people were incarcerated in local jails, state and federal prisons.¹¹ Looking at this population through the lens of race and ethnicity of incarcerated inmates, our primary observation about the jail and prison populations in the United States (Table 9.1) is that African Americans are strikingly overrepresented compared with their presence in the general population. African Americans comprise less than 15 percent of the U.S. population but roughly 37 percent of all incarcerated offenders. Hispanics not more than 15% of the general population are overrepresented in state prison populations, and even more so in federal prison populations. Conversely, whites (non-Hispanic) are underrepresented compared with their presence in the population—they are more than 70 percent of the general population but are not quite one half of the jail population, just more than one-third (35.3 percent) of the state prison population and just over one-quarter of the federal prison population.

The racial gap in incarceration figures for white and African-American offenders appears consistent across jail, state prison, and federal prison population figures. Recalling the racial disparity in UCR arrest figures from Chapter 2, these percentages represent a similar level of overrepresentation of African Americans in the serious offenses that are likely to lead to incarceration.

Hispanic offenders have a higher level of overrepresentation compared to their percentage in the general population for both state and federal prison populations. While immigration offenses are typically federal crimes, this does not explain the substantial disparity in federal prison populations. Arrest figures do not assist in understanding this disparity, as the figures presented in Chapter 2 do not distinguish federal prosecutions from state prosecutions, in particular for drug offenses.

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Indigenous Justice Paradigm

In "Crime and Punishment: Traditional and Contemporary Tribal Justice," Ada Pecos Melton observes that in many contemporary tribal communities "a dual justice system exists, one based on an American paradigm of justice and the other based on an indigenous paradigm."¹² The American justice paradigm is characterized by an adversarial system and stands apart from most religious tenants. Crimes are viewed as actions against the state, with little attention to the needs of the victim or community. The focus is on the defendant's individual rights during adjudication. Punishing the offender is generally governed by a retributive philosophy and removal from society.

In contrast, tribal justice is based on a holistic philosophy and is not easily divorced from the religious and spiritual realms of everyday life. Melton attempts to distill the characteristic elements of a number of diverse American tribal justice

ideologies into an indigenous justice paradigm. The holistic philosophy is the key element of this paradigm and supports a "circle of justice" where "the center of the circle represents the underlying problems and issues that need to be resolved to attain peace and harmony for the individuals and the community." The corresponding values of restorative and reparative justice prescribe the actions the offender must perform to be forgiven. These values reflect the importance of the victim and the community in restoring harmony.

The influence of the American paradigm of justice on Native American communities has a long and persistent history.¹³ However, the values of restorative and reparative justice are emerging in a number of programs off the reservation. In particular, the restorative justice practices of the Navajo Nation have influenced a number of new-offender rehabilitation programs.

TABLE 9.1 Racial and Ethnic Profile of Jail, State Prison, and Federal Prison Populations by Race, 2014

	Jail	State	Federal
White (non-Hispanic)	47.4	35.3	26.7
African American (non-Hispanic)	35.4	37.5	37.0
Hispanic	14.9	20.7	33.0
Other (Native American, Alaskan Native, Asian, and Pacific Islander)	2.23	6.5	3.1

SOURCES: Ann E. Carson, *Prisoners in 2014* (Bureau of Justice Statistics, 2015) computed from Appendix Tables 4 and 51; Todd D. Minton and Zhen Zeng, *Jail Inmates at Midyear 2014* (Bureau of Justice Statistics, 2015), computed from Table 2.

When looking at the percent of state-sentenced prisoners by type of offense, a number of racial and ethnic patterns emerge.¹⁴ Nearly 60 percent of Hispanics and African Americans are incarcerated in state prisons for violent offenses compared to less than half of whites. Thus, statistics reveal that a higher percentage of whites are incarcerated for property offenses than either African Americans

or Hispanics. The percentage of offenders by race sentenced for drug offenses in state prisons varies little and is approximately 14 percent of each racial/ethnic group.

A look at federal-sentenced prisoners by race and ethnicity reveals distinct racial and ethnic differences.¹⁵ The majority of African American (52.5 percent) and Hispanic (56.9 percent) are under sentence for drug offenses. The most common offense for whites in federal prison is public order (41.2 percent) followed by drug offenses (40.3 percent). Twenty-five percent of Hispanics under sentence in federal prison are there for immigration offenses, which is higher than both whites and African Americans. Twenty-five percent of African Americans are incarcerated for weapon offenses, twice as high as the proportion of whites and four times the proportion of Hispanics for this offense.

Intersectionality with Gender and Age

The picture of the racial and ethnic composition of state and federal prison populations changes slightly when focusing on gender (Table 9.2) and age (Table 9.3). Because women make up roughly 7 percent of the incarcerated persons (up from 5.7 percent in 1990 and down from 9.5 percent in 2009), we should not generalize patterns from predominantly male populations to female populations. For example, although prison populations have increased markedly in the last several years, the increase for female inmates is more rapid than that for male inmates from 1995 to 2009. Over this nearly 15-year period, female prison populations have increased by more than 50 percent, whereas male populations increased by

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Jails on Tribal Lands

The picture of jails on tribal lands is presented by the BJS, in "Jails in Indian Country, 2014."¹⁶ The statutory meaning of "Indian country" (18 U.S.C. 1151) is all lands within an Indian reservation, dependent Indian Communities, and Indian Trust allotments.¹⁷ Currently, nearly 300 Native American land areas/reservations exist across 33 states. Federal regulations limit the jurisdiction and incarceration powers of tribal governments by identity of the victim and offender, the severity of the crime, and location of the crime. Tribal sentencing authority is limited to one year, a \$5,000 fine per offense, or both (25 U.S.C. 1153).¹⁸

More than 10,460 people were admitted to jails in the first six months of 2014, with an average daily population of 2,170 people on the census date, June 30. This census reflects reports from 79 Indian country jails. Twelve percent of the jailed population were held for domestic violence and 9 percent for simple assault (down from 40 percent of the population in 2007). The typical length of stay was 6.2 days. Male inmates made up 75 percent of the population, with roughly half of the population awaiting trial and half composed of convicted offenders. Fifty-one attempted suicides were reported, with three deaths reported.

TABLE 9.2 Racial and Ethnic Profiles of State Prison and Federal Prison Populations by Gender, 2014

	Female	Male
White (non-Hispanic)	49.9	32.3
African American (non-Hispanic)	21.3	36.9
Hispanic	16.8	22.0
Other (Native American, Alaskan Native, Asian, and Pacific Islander)	12.0	8.8

SOURCE: Ann E. Carson, *Prisoners in 2014* (Bureau of Justice Statistics, 2015). Computed from Table 10.

TABLE 9.3 Incarceration Rates by Race/Ethnicity and Gender

	Female			Male		
	White	African American	Hispanic	White	African American	Hispanic
1990	19	125	43	339	2376	817
1995	27	176	57	461	3250	1174
2000	63	380	117	683	4777	1715
2005	88	347	144	709	4682	1856
2014	53	109	64	465	2724	1091

SOURCES: Heather West, *Prison Inmates at Midyear 2009—Statistical Tables* (Bureau of Justice Statistics, 2010), Table 18; Ann E. Carson, *Prisoners in 2014* (Bureau of Justice Statistics, 2015), Table 10.

only one-third of a percent.¹⁹ Both male and female populations are experiencing decreases in the last several years.

Among females sentenced to prison, similarities and differences exist when comparing their racial and ethnic makeup to the male prison population. Although people of color represent more than half of the women incarcerated in federal and state prisons, white, non-Hispanic women make up the largest group of female prisoners (49.9 percent). Whereas, in the male population of sentenced prisoners, the largest racial group is African-American males (36.9 percent).

The percentage of female inmates who identify themselves as African American indicates an overrepresentation of African-American females in prison compared with the general population, but the proportion of this overrepresentation is not as substantial as the overrepresentation of African-American males sentenced to prisons to the general population. Notably, the percentage of female prisoners who are Hispanic is lower than the percentage of male prisoners who are Hispanic (16.8 percent compared with 22.0 percent).

The information offered by incarceration rates expands the picture of the prison inmate offered in population totals and percentages (as outlined previously). Incarceration rates offer the most vivid picture of the overrepresentation of African Americans and Hispanics in prison populations. Rates allow for the standardization of population figures that can be calculated over a particular target

population. The overall U.S. incarceration rate in 2014 was 612 prisoners per 100,000 U.S. residents over age 18. This aggregate one-year number hides a number of gender and age observations. Table 9.3 reveals that female incarceration rates are substantially lower than male incarceration rates. Moreover, incarceration rates vary by race and ethnicity as well as over time. Consistent patterns over time are that incarceration rates are lowest for white females, highest for African-American females, with Hispanic females falling in between. These rates are lower in 2014 than in 2000 and 2005 but have not returned to the lows of 1990 and 1995. In the most current year, African-American females have incarceration rates twice that of white females. Interestingly, the racial gap in incarceration rates has declined recently as well from more than six times higher for African-American females than white females in 1990.

Male incarceration rates have changed over time as well, with statistics indicating that each racial and ethnic group reported have the lowest rates of incarceration since 1990. Currently, African-American males have an incarceration rate nearly six times higher than that of white males (down from a high of nearly seven times higher in 2000). Hispanic males have more than twice the incarceration rate of white males, but half the rate of African-American males.

Incarceration rates by gender are revealing but fail to reveal the stark differences that occur among racial and gender groups by age. The numbers in Table 9.4 reveal that in 2014, incarceration rates peak for females and males between the ages 30 and 34 and that male incarceration rates are substantially higher than female incarceration

TABLE 9.4 Incarceration Rates by Race/Ethnicity, Age, and Gender, 2009 (per 100,000 Population U.S. Residents by Race/Ethnicity, Age, and Gender)

Age	Female				Male			
	Total	White	African American	Hispanic	Total	White	African American	Hispanic
Total	65	53	109	64	890	465	2724	1091
18-19	14	8	32	17	317	102	1072	349
20-24	96	72	152	94	1365	584	3868	1521
25-29	170	150	244	165	1912	958	5434	2245
30-34	185	163	264	174	2129	1111	6412	2457
35-39	155	138	229	137	1982	1029	6122	2272
40-44	132	119	213	107	1689	942	5105	1933
45-49	111	90	203	94	1417	815	4352	1602
50-54	72	57	128	67	1081	633	3331	1320
55-59	37	27	72	42	698	400	2178	978
60-64	20	15	37	25	422	353	1265	680
65 or older	5	4	7	12	158	109	418	299

SOURCE: Ann E. Carson, Prisoners in 2014 (Bureau of Justice Statistics, 2015), Table 10.

rates at all age levels. At this age level, African-American men have incarceration rates nearly six times higher than white men and 2.6 times higher than Hispanic men. However, the largest gap between African-American male incarceration rates and the white male incarceration rates was among the 18–19 age group, with the former being 10 times higher than the latter. Similarly, the greatest gap between Hispanic males and white males is evident in the youngest age group at 2.6 times higher.

The information in Table 9.4 for females reveals similar patterns within race by age and within age by race. Notably, incarceration rates for African-American females at ages 18–19 are four times the incarceration rate for white females. All groups experience the highest rates of incarceration at the 30–34 age group and then declining rates at later age groups. The gap in incarceration rates between African-American females and white females ranges from 2.1 to 2.6 times higher throughout the rest of the age groups. The incarceration rates for Hispanic females never reach the higher rates for African-American females, rather they are generally similar, and on two occasions lower than the rates for white females. (See Box 9.1 for information on incarceration rates in other parts of the world.)

Security Level of Facilities

When convicted offenders are committed to federal prison, they undergo a classification process that determines, among other things, what type of institution (or security level) they should be assigned to as inmates. Federal Bureau of Prison statistics offer a picture of male inmates of color by security level of the prison they are assigned to, presented in Figure 9.1. Roughly the same percentages of

Box 9.1 International Comparisons

In the international arena, the United States consistently has the highest incarceration rate in the world, even when factoring in recent declines. The Institute for Criminal Policy Research reported in 2015 that the United States has 698 people incarcerated in jails and prisons for every 100,000 people in the general population; in distant second is Rwanda at 492 per 100,000 population, with the Russian Federation at 446 per 100,000 resident population. Notably, more than half of the world's countries have incarceration rates of 151 per 100,000 population (or less). These countries include Australia, 151; China, 119; Canada, 106; France, 100; Germany, 78; Denmark, 61; Sweden, 60; and India, 30 per 100,000 population.²⁰

The Sentencing Project compares the incarceration rate of the United States in 1993 for African-American males to the rate of South Africa in the last years of apartheid—that is, in 1993 the incarceration rate for African-American males in the United States was 3,822 per 100,000 compared to the rate of 815 per 100,000 for South African males. That is four times higher in the United States! By 2001, the incarceration rate for African-American males in the United States was even higher: 4,848 per 100,000 African Americans in the population.

The racial disparity in the nation's prison populations is revealed even more dramatically by The Sentencing Project, which estimates that at some point in their lives, African-American males have a 29 percent chance of serving time in prison or jail. Hispanic males have a lower lifetime risk at 16 percent, whereas white males have a 4 percent chance of being incarcerated at some time during their lives.²¹

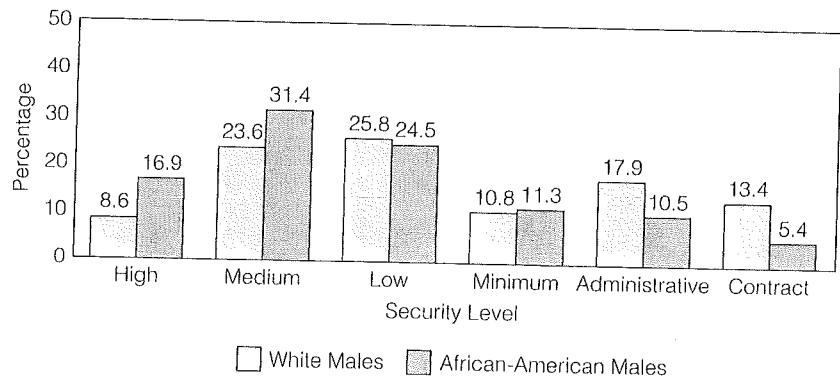


FIGURE 9.1 Federal Prisoners by Race and Security Level

SOURCE: Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics 2002* (Washington, DC: Government Printing Office, 2003). www.albany.edu/sourcebook/.

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Correctional Personnel: Similarities and Differences on the Basis of Race

Currently, federal and state prisons have fairly equitable representation of African-American citizens among correctional officers and supervisors, as compared with the general population. Hispanic representation among correctional personnel is still lacking.²² Important goals include ensuring fair employment practices in government hiring and ensuring there are minority decision makers to cause a beneficial (and perhaps less discriminatory) impact on the treatment of minority populations.

A review of the research in the area of attitudes and beliefs of correctional officers toward inmates and punishment ideologies suggests that respondents' views do appear to differ in many ways on the basis of race. In particular, the author notes that African-American officers appear to have more positive attitudes toward inmates than do white officers; however, others have found that black officers expressed a preference for greater distance between officers and inmates than did white officers.²³ Additionally, neither white nor

African-American correction officers seem able to correctly identify the self-reported needs of prison inmates.

Ideologically, African-American officers were more often supportive of rehabilitation than their white counterparts. African-American officers also appear to be more ambivalent about the current punitive nature of the criminal justice system, indicating that the court system is often too harsh.

In short, current research does not offer a definitive answer to the question of whether minority correctional officers make different decisions. Assuming that differential decision making by correction officers could be both a positive and negative exercise of discretion, at what point are differential decisions beneficial to inmates, and at what point are they unprofessional or unjust? What research could be done to resolve the issue of the presence or absence of differential decision making by correctional officers on the basis of race?

inmates, regardless of race, are found in the low- and minimum-security settings (about 25 percent and 10 percent, respectively). However, a larger percentage of African-American inmates are in the highest two security levels compared to the white inmates. Thus, although the typical federal prison inmate is white, the typical inmate in the high-security facilities is African American.

Historical Trends

The overrepresentation of African Americans in state and federal prisons is not a new phenomenon. Figure 9.2 illustrates the changing demographic composition of the prison population from 1926 to 2009. Reviewing this figure we can document a disproportionate number of African Americans in the prison population since 1926 (the beginning of national-level data collection on prison populations). The racial disparity has increased in recent years, however. In 1926, African Americans represented 9 percent of the population and 21 percent of the prison population. Over time, the proportion of the prison population of African Americans increased steadily, reaching 30 percent in the 1940s, 35 percent in 1960, 44 percent in 1980, peaking at slightly more than 50 percent in the mid-1990s, and leveling off at about 45 percent in the late 1990s to the present. The representation of African Americans in the general population has never exceeded 15 percent. The African-American prisoner population ratio to white prisoner population ratio was 2.5:1.0 in 1926, but it has reached the current ratio of 3:1.

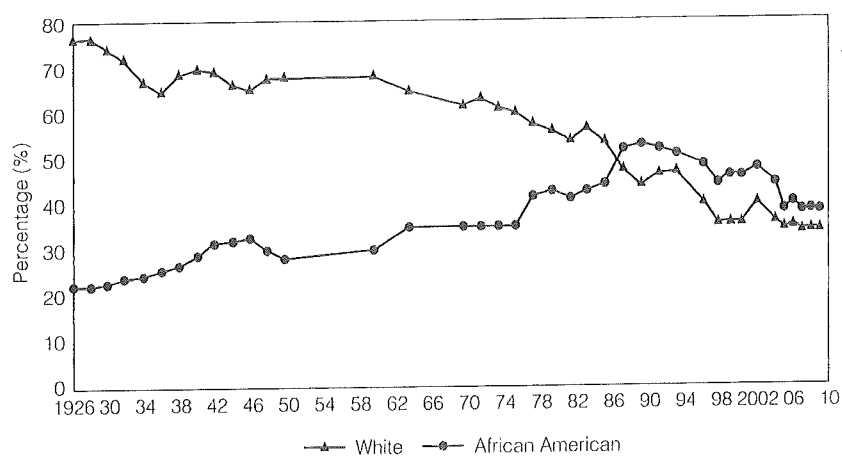


FIGURE 9.2 Admissions to State and Federal Prisons by Race, 1926–2010

SOURCES: Bureau of Justice Statistics, *Race of Prisoners Admitted to State and Federal Institutions, 1926–1986* (Washington, DC: Government Printing Office, 1991); Bureau of Justice Statistics, *Correctional Populations in the United States, 1996* (Washington, DC: Government Printing Office, 1997); Bureau of Justice Statistics, *Correctional Populations in the United States, 1996* (Washington, DC: Government Printing Office, 1998); Allen J. Beck, *Prison and Jail Inmates: 1999*; Allen J. Beck and Jennifer C. Karberg, *Prison and Jail Inmates at Midyear 2000*; Allen J. Beck, Jennifer C. Karberg, Paige M. Harrison, *Prison and Jail Inmates at Midyear 2001*; Paige M. Harrison and Allen J. Beck, *Prison and Jail Inmates at Midyear 2004*.

Box 9.2 The New Jim Crow: Mass Incarceration in the Age of Colorblindness²⁴

Michelle Alexander defines *mass incarceration* as a term that refers, "not only to the criminal justice system, but also to the larger web of laws, rules, policies, and customs that control those labeled criminals both in and out of prison." In her book, she confronts the reality of mass incarceration in America by stating that after more than 200 years, America has still not reached the promise of an egalitarian democracy.

Is short, as Jim Crow replaced the social caste system of slavery, so has mass incarceration replaced the social control of Jim Crow, creating a new "undercaste." Alexander argues that, "it may be useful, in attempting to understand the basic nature of this new caste system, to think of the criminal justice system—the entire collection of institutions and practices that compromise it—not as an independent system but rather as a *gateway* into a much larger system of racial stigmatization and permanent marginalization" (p. 12).

Moreover, she asserts that "while it is no longer socially permissible to use race, explicitly as a justification for discrimination, exclusion and social contempt . . . rather than rely on race, we use our criminal justice system to label people of color as criminals and then we engage in all the practices we left behind" (p. 2). Simply put, mass incarceration "is a system that locks people not only behind actual bars, in actual prisons, but also behind virtual bars and virtual walls—walls that are invisible to the naked eye, but functional nearly as effectively as Jim Crow laws once did in locking people of color into permanent second-class citizenship. Once released former prisoners enter a hidden underworld of legalized discrimination and permanent social exclusion" (pp. 12–13).

How does the "The New Jim Crow" compare to Angela Davis's thesis about the "Prison Industrial Complex" as an explanation for incarceration rates in the United States?²⁵ Are we in the age of colorblindness where people are incarcerated due solely to their own free will actions, or are prisons still functioning as a warehouse for a population deemed disposable in the new global economy.

Conclusion

The impact of racial and ethnic overrepresentation in incarceration settings varies in magnitude and quality. One of the important implications of the more extreme overrepresentation of Hispanic offenders in federal prison is that offenders sentenced to federal prison serve longer sentences with more time served than those offenders sentenced to state prisons, given that federal prisoners can expect to serve 50 percent more of their original sentence than do state inmates. Additional information about type of offense by race and ethnicity raises questions about differential offending and differential enforcement patterns. Finally, the intersection of race, ethnicity, and gender reveals important observations about the character of incarcerated populations and how the level of overrepresentation by race and ethnicity has changed somewhat over time.

Race, Ethnicity, and Recidivism

In a country that incarcerates millions of people a year, transition of ex-offenders to the community without reoffending is crucial. The concept of recidivism can

take on different meanings in different settings. Generally, the term is used to refer to offenders who return to offending after experiencing a criminal conviction and the corresponding punishment. Four key distinctions in the research on offender recidivism center on the point in the system we measure as the return to criminal behavior: (1) rearrest for a new crime (either felony or misdemeanor), (2) reconviction (in state or federal court), (3) resentencing to prison, and (4) revocation of parole (technical or new offense violation).

In a study of recidivism among prisoners released from 30 states, racial differences did emerge in the findings.²⁶ A group of 404,638 offenders released from prison in 2006 were followed for three years after their release. While fewer than half were rearrested within the first year, roughly three-quarters of ex-offenders were rearrested within 5 years. Findings indicate that after 5 years, non-Hispanic African Americans were more likely to be rearrested (80.8 percent) compared to non-Hispanic whites (76.6 percent) and Hispanics (75.3 percent). The BJS estimates that just over half of these ex-offenders will be convicted of the offense for which they were arrested.

The Age of Mass Incarceration

Dramatic increases in the overrepresentation of African Americans in the prison population have occurred in a context of generally increasing prison population totals and rising incarceration rates since the early 1970s. The incarceration binge seems to be slowing in the first years of the twenty-first century, but it remains at a level of over 2 million people incarcerated in state and federal jails and prisons. Although the incarceration binge surely has multiple sources, it may reflect an impact of the "War on Drugs." Michael Tonry,²⁷ for example, argues that the war on drugs has had a particularly detrimental effect on African-American males. Evidence of this impact, he argues, can be seen by focusing on the key years affected by the war on drugs: 1980 to 1992. During this period, the number of white males incarcerated in state and federal prison increased by 143 percent; for African-American males the number increased by 186 percent.

Statisticians for the BJS argue that the sources of growth for prison populations differ for white and African-American inmates. Specifically, drug offenses and violent offenses account for the largest source of growth among state prison inmates. During the 10-year period from 1985 to 1995, "the increasing number of drug offenders accounted for 42 percent of the total growth of black inmates and 26 percent of the growth among white inmates." Similarly, the number of African-American inmates serving time for violent offenses increased by 37 percent, whereas growth among white inmates was higher at 47 percent.²⁸

As we discussed in Chapters 3 and 4, the differential impact of the "War on Drugs" may result more from the enforcement strategies of law enforcement than from higher patterns of minority drug use. Critics argue that although the police are reactive in responding to robbery, burglary, and other index offenses, they are proactive in dealing with drug offenses. There is evidence to suggest that they target minority communities—where drug dealing is more visible and where it is thus easier to make arrests—and tend to give less attention to drug activities in other neighborhoods.