



New Solutions Campaign

Promoting Fair & Effective Criminal Sentencing • Strengthening Families & Communities

Racial Disparities

One of the most terrible aspects of the current failed criminal justice system is the racial disparity in enforcement, sentencing and incarceration.

Justice Anthony Kennedy, speaking of disparities nationwide has said, “We must confront another reality. Nationwide, more than 40 percent of the prison population consists of African-American inmates. About 10 percent of African-American men in their mid-to-late 20’s are behind bars. In some cities, more than 50 percent of young African-American men are under the supervision of the criminal justice system... Our resources are misspent, our punishments too severe, our sentences too long.”

New Jersey’s racial disparities in incarceration are above the national average. In New Jersey, African Americans and Latinos account for only 27 percent of the population but they account for 81 percent of those incarcerated in the state. While measures of drug use such as the National Household Survey on Drug Abuse consistently find similar rates of drug use for African American and whites, the rate of incarceration for drug offenses for African Americans far exceeds that for whites.

These disparities are especially acute among youth. While the rate of prison admissions for young drug offenders grew by 466 percent between 1986 and 1999, the rate of prison admissions for drug offenses grew much more quickly for African Americans. The rate for African-American youth grew seven fold (646 percent) during the 1980s and 1990s while the rate for whites grew three fold (186 percent).

Disparities under specific laws are even starker. According to a 2005 report by the New Jersey Commission to Review Criminal Sentencing, 96 percent of those incarcerated under the state’s infamous Drug-Free Zone law are African American or Latino. The law basically mandates a three-year mandatory minimum sentence on top of the sentence for the underlying offense for those arrested in the zones. Because the zones overlap and cover most of the area in densely populated urban centers (76 percent of the area of Newark vs. six percent of the area of suburban Mansfield) those most likely to get the harsh mandatory are African American or Latino.

The massive increase in the use of incarceration and mandatory minimum sentences in the last two decades has had a devastating impact on communities of color. Twenty years ago, African-American men in college outnumbered those in prison by a ratio of three to one. By 2000, there were more African-American men in prison than in college. The enormous increase in the number of African-American men who are incarcerated has also been associated with a 19 percent increase in the number of families headed by African-American women alone. Formerly incarcerated men make 30 to 40 percent less money annually than those who have not been incarcerated making it that much more difficult for them to support already at-risk families.

The time has come to change course on the disastrous policy of mass incarceration for nonviolent drug offenses. Repealing mandatory minimum sentences for nonviolent drug offenses would untie the hands of courts and criminal justice professionals to craft sentences and programs best suited to maximizing public safety and preventing recidivism. We must invest in supporting our families and communities—not tearing them apart.

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— Supreme Court Justice Anthony Kennedy, speaking to the American Bar Association, August 2003

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