

# Criminal Justice Reform: Good for Families, Communities, and the Economy



This is one of a series of issue briefs dedicated to helping community leaders and policymakers bolster their campaigns and strategies with the economic case for equity. The issue briefs correspond with the 13 planks of the Marguerite Casey Foundation's [Equal Voice National Family Platform](#). Additional issue briefs can be found at [www.policylink.org/focus-areas/equitable-economy](http://www.policylink.org/focus-areas/equitable-economy).

PolicyLink is a national research and action institute advancing economic and social equity by **Lifting Up What Works**®.

Marguerite Casey Foundation exists to help low-income families strengthen their voice and mobilize their communities in order to achieve a more just and equitable society for all.

## Overview

The face of America is changing: more than half of Americans under age five are of color, and by 2044 we will be a majority people-of-color nation. But while communities of color are driving growth and becoming a larger share of the population, inequality is on the rise and racial inequities remain wide and persistent. Dismantling racial barriers and ensuring that everyone can participate and reach their full potential are critical for the nation's prosperity. Equity—just and fair inclusion of all—is essential to growing a strong economy and building vibrant and resilient communities. This issue brief describes how transforming the nation's criminal justice system into one that distributes justice fairly and promotes rehabilitation would benefit families, communities, and the economy.

## Why Criminal Justice Reform Matters for All

America's criminal justice system serves as a major structural barrier to racial economic inclusion. The United States has the highest rate of incarceration in the world: the vast majority of those incarcerated are nonviolent offenders, and communities of color are dramatically overrepresented among the incarcerated.<sup>1</sup> People of color are roughly 34 percent of the overall population but they account for 60 percent of the incarcerated population. One in every 15 African American men and 1 in every 36 Latino men are currently incarcerated, compared with just 1 in every 106 White men.<sup>2</sup>

Incarceration causes financial hardship for families and communities, hindering economic security and participation and placing tremendous economic burdens on federal, state,

and local governments: nationally, corrections-related expenditures exceeded \$80 billion in 2010.<sup>3</sup> When these costs are combined with other crime-related expenditures—such as policing and legal and judicial services—total spending rises to more than \$260 billion annually. The lion's share of these costs falls at the state and local levels.<sup>4</sup> Annually, U.S. taxpayers spend approximately \$29,000 per offender in federal correctional institutions compared with approximately \$12,600 per student in elementary and secondary schools.<sup>5,6</sup> Building a criminal justice system that is more equitable and focused on prevention and rehabilitation is essential for communities of color and for America's long-term economic health and prosperity.

### Incarceration in the United States, by the Numbers

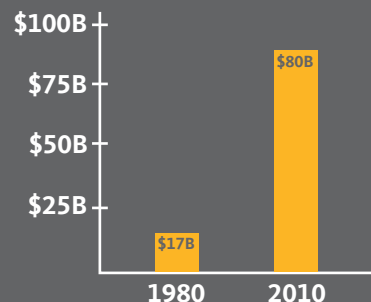
#### Lifetime likelihood of incarceration among U.S. men:

White, 1 in 17 

Latino, 1 in 6 

Black, 1 in 3 

#### U.S. spending on corrections (in 2010 dollars):



# \$29,000

Average annual cost per offender in federal correctional facilities

# \$22,500

Potential annual savings from probation and alternative programs, per offender

Sources: [The Hamilton Project](#); [The Sentencing Project](#); [Families Against Mandatory Minimums](#)

## The Economic Benefits of an Equitable Criminal Justice System

The current criminal justice system relies on punitive measures to deter or prevent crime and tends to reinforce social structures of inequity; focusing instead on preventing crime and reducing recidivism would make communities safer and more able to thrive economically. An equitable criminal justice system would prioritize community safety, prevention, just sentencing, and alternatives to detention. Such a system would not only make communities stronger, it would also provide strong economic benefits, including the following.

- **Substantial state and local savings from alternatives to incarceration.** The National Council on Crime and Delinquency estimates that if 80 percent of people incarcerated for nonviolent offenses were sentenced to effective alternative programming rather than prison, states and localities across the nation could save at least \$7.2 billion annually.<sup>7</sup> In California, Proposition 47 reduced the sentencing for nonviolent and nonserious offenses such as simple drug possession from felonies to misdemeanors. With this change, the state is expected to save more than \$1 billion over the next five years, which will be directed to substance abuse and mental health programs, among other key services.<sup>8</sup> Research suggests that using probation and alternative sentences for low-level, nonviolent offenses could reduce annual per capita corrections costs by an average of \$22,250.<sup>9</sup>

- **A more productive workforce and stronger economy.** Separate from reducing incarceration rates, huge gains could be made in economic productivity by enacting stronger supports for those with arrest and conviction histories. These supports include sealing the records on minor and nonviolent offenses and providing antidiscrimination protections in employment, housing, and public benefits. Such measures would yield economic benefits by increasing earnings, producing higher income tax revenues, and reducing the costs associated with recidivism. The RAND Corporation recently reported that for every dollar spent on education programs in prisons, taxpayers save \$4 to \$5 in recidivism-related incarceration costs over the next three years.<sup>10</sup> The Center for Economic and Policy Research has estimated that annual GDP would be \$65 billion stronger if not for employment losses among people with criminal records.<sup>11</sup>
- **Decreased poverty and unemployment, especially among communities of color.** In 2008, barriers to employment for people with criminal records accounted for almost a full percentage point of the nation's unemployment rate, representing 1.7 million Americans who were willing and able to work but unable to find jobs.<sup>12</sup> Researchers have calculated that the U.S. poverty rate would have dropped by 20 percent between 1980 and 2004 if not for mass incarceration and the substantial social obstacles faced by people with criminal records.<sup>13</sup>

## Key Challenges to Criminal Justice Reform

In communities facing persistent poverty, law enforcement is too often the primary face of government, even though intervention and services are the best way to truly achieve public safety. The most pressing challenges to creating an equitable criminal justice system are noted below.

- **Racial profiling and bias in policing practices.** Research has shown that African Americans and Latinos are more likely than Whites to be stopped by police even though they are less likely to commit a criminal act.<sup>14</sup> In the United States, African Americans are only 13 percent of all drug users, but comprise 36 percent of all drug-related arrests and 46 percent of all drug-related convictions.<sup>15</sup> In New York City, 90 percent of individuals subjected to stop-and-frisk from 2003 to 2010 were people of color, a racial imbalance so egregious that a judge ruled the practice unconstitutional.<sup>16</sup>
- **Prosecutorial discretion and inequitable sentencing practices.** Over the past two decades, crime rates dropped, but arrest rates remained steady and incarceration rates continued to skyrocket because prosecutors got to decide how many and what kind of charges to file—and against whom.<sup>17</sup> Research has shown that race affects sentencing decisions and judges are more likely to send Black defendants to prison than White defendants.<sup>18</sup> In addition, approximately 200,000 children are prosecuted as adults in the United States each year.<sup>19</sup> Black and Latino youth are disproportionately punished in the adult justice system and more likely to be sentenced as adults compared with their White counterparts.<sup>20</sup>
- **Barriers for formerly incarcerated individuals and their families.** Due to criminal background checks, felony convictions make it more difficult for formerly incarcerated individuals to successfully reenter society because of the difficulties they face in getting jobs, accessing housing, furthering their education, supporting their families, and even receiving food stamps and other public benefits. American Academy of Arts and Sciences researchers have found that previous incarceration is associated with a 40 percent reduction in earnings, reduced wages, and higher rates of unemployment.<sup>21</sup> African American men in their 30s are more likely to be incarcerated than employed.<sup>22,23</sup>

- **Overly harsh school discipline policies and the school-to-prison pipeline.** Youth of color are disproportionately impacted by harsh school discipline policies, such as out-of-school suspensions, expulsions, and referrals to law enforcement. Strong police presence in schools—in many of which law enforcement officers are the de facto disciplinarians—also contributes to overly harsh disciplinary policies. A national study found that 70 percent of students arrested in school or referred to law enforcement were Black or Latino; although Black students made up just 18 percent of school enrollments, they accounted for 46 percent of students who were suspended multiple times and nearly 40 percent of those expelled.<sup>24</sup>

## Strategies to Reform the Criminal Justice System

Various communities and organizations are advancing the following strategies to address these challenges and to infuse equity throughout the criminal justice system.

- **Use racial impact statements for legislation affecting sentencing, probation, or parole policies.** Racial impact statements allow lawmakers to evaluate any potential racial inequities in proposed legislation before adoption and implementation.<sup>25</sup> Connecticut, Iowa, and Oregon have adopted racial impact statements, and the Minnesota Sentencing Guidelines Commission develops racial impact statements without statutory guidance.<sup>26</sup>
- **Implement mental health and substance abuse programs according to best practices and incorporate the use of trauma- and healing-informed care in justice facilities.** Many of the main drivers of crime are health problems, such as addiction and mental health issues. Nationally, people in prison and jail are five to six times more likely to have a mental health disorder and 10 to 20 times more likely to have a substance abuse disorder than the general population.<sup>27</sup> Between 75 and 93 percent of youth entering the justice system have experienced some degree of trauma, but research shows that both the juvenile and criminal justice systems are ill equipped to identify and treat children who have experienced trauma, leaving them at greater risk for further involvement in the justice system.<sup>28</sup> Two California laws provide mental health care services for students who have witnessed a violent act in school and extend peer-counseling services and assistance to victims of violent crime.<sup>29</sup>

- **End the use of criminal background checks for employment for qualified workers.** Of the roughly 700,000 people who are released from state prisons annually, as many as 75 percent will remain unemployed a year later—in large part because they are effectively disqualified through an application box indicating a past arrest or conviction. Cities and states across the country have started to “ban the box,” requiring employers to remove this question from initial job applications. A study of Hawaii’s 1998 ban-the-box law found it lowered the odds of repeat offending by 57 percent,<sup>31</sup> and 18 states and many cities have now implemented similar policies. The strongest laws among these, like Minnesota’s law, cover private employers as well as government employers.<sup>32</sup>
- **Eliminate the use of highly subjective and punitive school discipline policies that place youth in a school-to-prison pipeline.** School suspensions can disrupt young people’s lives and increase the likelihood of contact with the criminal justice system, especially for youth who otherwise had no previous contact with the system. An extreme disciplinary measure, school suspensions should be the last resort.<sup>33</sup> In Chicago, the youth advocacy group VOYCE found that the overuse of harsh disciplinary measures in Chicago public schools cost the city tens of millions of dollars in the short term and hundreds of millions of dollars in the long term.<sup>34</sup> As a result, a new student code of conduct was enacted that ended two-week out-of-school suspensions for minor offenses, cut maximum suspension time in half, and stopped arrests for disorderly conduct.

## Equitable Growth in Action

### Remedy Sources of Systemic Racial Bias at Key Criminal Justice Decision Points

After identifying inherent racial bias in a certain risk assessment instrument (RAI) used for criminal justice decision making, authorities in Multnomah County (Portland), Oregon, instituted practical strategies to decrease this bias. By examining each element of the RAI through the lens of race to eliminate likely sources of racial bias, they achieved a dramatic reduction in the number of youth detained and alleviated the racial inequities in the rates of detention resulting from delinquency referrals. For example, reference to “gang affiliation” was removed because that label was found to be disproportionately used to characterize youth of color, often based only on the neighborhoods in which they lived. By combining this strategy with other practices, such as expedited case processing, alternatives to detention, and efficient interagency coordination, the county reduced the number of youth being detained by more than 50 percent.

**Sources:** [The Sentencing Project](#); [Center on Juvenile and Criminal Justice](#); [Justice Policy Institute](#)

## Learn More

- [The Sentencing Project](#) Promoting sentencing reforms and alternatives to incarceration and addressing racial inequities in the justice system.
- [Families Against Mandatory Minimums](#) Advocating for sensible sentencing reform.
- [Burns Institute for Juvenile Justice Fairness & Equity](#) Building restorative, equitable, and community-based interventions for youth.
- [Criminal Law Reform Project](#) Working to end harsh policies and racial inequities in criminal justice. (American Civil Liberties Union)
- [Center on Juvenile and Criminal Justice](#) Policy analysis, direct services, and technical assistance to end society's reliance on incarceration.
- [Locked-Up Potential: A Blueprint for Ensuring Justice for All](#) A chapter by Julie Ajinkya from *All-In Nation: An America that Works for All*. (The Center for American Progress and PolicyLink)

## Acknowledgments

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