

# CRIMINAL JUSTICE

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## KEY FINDINGS

- The recent reversal in overall incarceration rates takes the form of an especially prominent decline in rates of imprisonment for black millennial men in their late 20s. The decline is far less dramatic for other population groups—such as white and Hispanic men—that never experienced the extremely high rates that black men experienced.
- The imprisonment rate for black millennial men—approximately 4.7 percent—nonetheless remains extremely high.
- Conventional incarceration rates conceal important features of the millennial experience. For example, black millennial men continue to face extremely high risks of solitary confinement, and they continue to live with the effects of mass incarceration via their parents' exposure to historically high rates of imprisonment.

The U.S. criminal justice system is famously punitive. The spillover effects of this policy on racial inequality are prominent because African-Americans are about six to eight times more likely to be incarcerated than whites. And the spillover effects on economic inequality are also prominent because nearly all the growth in incarceration was concentrated in the non-college fraction of the population. The combined effect of these racial and economic disparities meant that very high levels of incarceration emerged for African-American men with low levels of schooling.

The purpose of this article is to explore the effects of recent declines in incarceration on millennials. Has there been a substantial decline in incarceration rates among millennials? Have some racial groups within the millennial population seen especially large declines? And can the millennial experience with the criminal justice system be adequately characterized by focusing on rates of imprisonment alone?

The last of these questions will prove especially important in understanding the millennial experience. Although much of the research on the demographics of incarceration focuses on prison, we will show that this approach neglects the larger footprint of the criminal justice system beyond imprisonment. We make this point by examining such outcomes as solitary confinement, jail incarceration, and parental incarceration.

## Trends in incarceration

For most of the 20th century, the U.S. incarceration rate oscillated around a level of about 100 per 100,000. In 1972, however, prison and jail populations began to grow, and the incarceration rate grew continuously until its peak in 2007 (at 767 per 100,000). This takeoff in incarceration was borne unequally. It was concentrated in very disadvantaged communities, with the incarceration rate among black men who had never completed high school increasing to about 50 times the national average.

Although the U.S. incarceration rate is still the highest in the world, it has fallen since 2007.<sup>1</sup> We might thus expect the millennial experience to be quite different than that of preceding generations. But just how much change have millennials experienced?

Figure 1 shows how the decline in incarceration has affected millennials. The figure shows imprisonment rates for men and women at ages 25–29. The first two cohorts are Gen Xers who grew up through the period of sharply rising incarceration rates. The third cohort, the millennials, experienced declining rates of imprisonment in their 20s.

Two well-known demographic patterns show up in Figure 1. We of course see a large gender gap in incarceration (i.e., incarceration is concentrated among men) and large racial disparities as well

(i.e., the white population has the lowest rates; the Latinx population has higher rates; and the African-American population has the highest rates).

But Figure 1 also reveals less well-known results. In the period of declining incarceration, from the late Gen X cohort to the millennial cohort, the imprisonment rate has fallen most dramatically among black men. This declining imprisonment among black men may be related to falling rates of violent crime in American inner cities and a retreat from the War on Drugs.

While the latter incarceration trend is encouraging, the size of the prison and jail populations is nevertheless still far higher than the historical average in the United States. And racial disparities in these rates are still extreme. This in turn means that much disadvantage continues to be generated by our country’s commitment to incarceration: Researchers have found, for example, that incarceration is associated with reduced wages and employment, poor health, family disruption, and diminished civic disengagement. These negative effects remain concentrated in our most disadvantaged communities.

**Beyond the imprisonment rate**

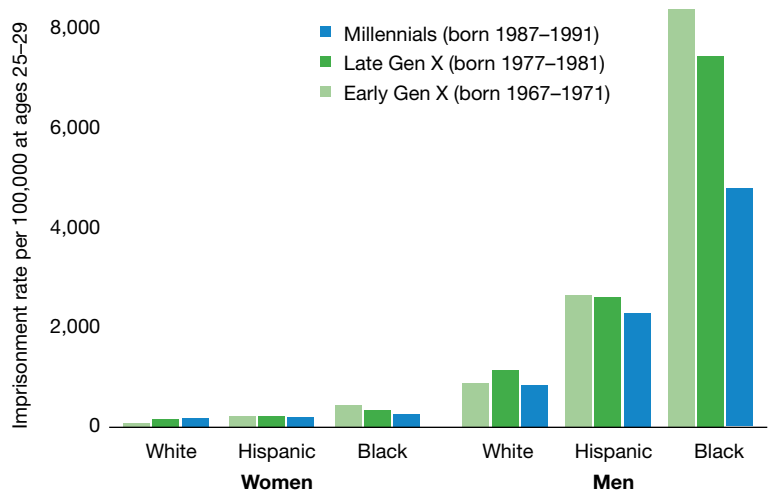
It is also worrying that the imprisonment rate, as important as it is, hardly reflects the full experience of incarceration and other exposure to the criminal justice system. Figure 2 thus reports estimates of cumulative risks of other kinds of justice-system exposure. Instead of rates that provide a snapshot of the population at a point in time, cumulative risks express the likelihood that someone will ever experience an event by a certain time.

The first set of cumulative risks in Figure 2 come from a unique data set from the Pennsylvania state prison system, recording all prison admissions and discharges, and all admissions to solitary confinement over a 10-year period from 2007 to 2016. Solitary confinement is an intensive type of incarceration where, as a punishment for misconduct, prisoners are confined to their cells for 22 to 24 hours each day. In Pennsylvania, defiance of prison staff and drug use in prison are common reasons for solitary confinement. Research shows that solitary confinement is associated with severe mental distress, and the effects are worst for those with a history of mental illness.

Pennsylvania has one of the largest penal systems in the country, but the state incarceration rate is relatively low, so these figures likely underestimate exposure to solitary confinement nationwide. Subject to this caveat, the solitary confinement

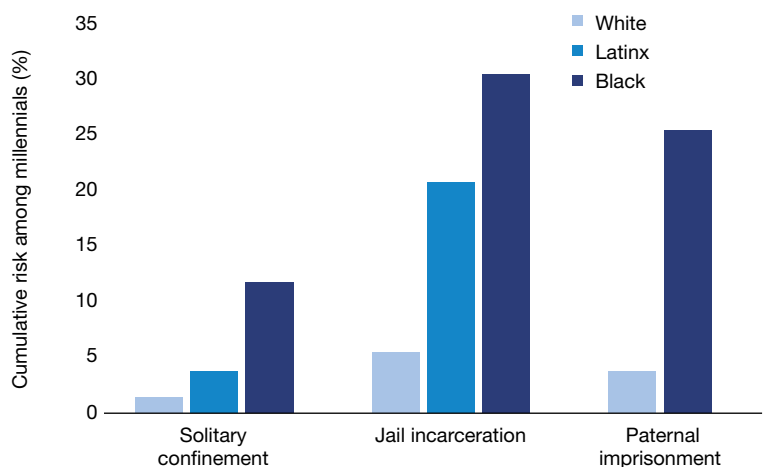
statistics in Figure 2 quantify the chances that a man born in the millennial generation will be locked in solitary confinement by age 28 to 31. As with imprisonment generally, we find a distinct racial disparity in the use of solitary confinement. The base rate for black men is, by any measure, shocking: Eleven percent of all black men in the state of Pennsylvania have been incarcerated in solitary confinement by their late 20s. It should be remembered, moreover, that this estimate may understate what prevails in other states with higher incarceration rates.

Figure 1. The imprisonment rate has fallen most dramatically among black men.



Source: Bureau of Justice Statistics, National Prisoner Statistics series.

Figure 2. The experience of incarceration is unusually harsh for black men.



The second set of cumulative risks in Figure 2 describes jail incarceration. Jails are county and municipal facilities that mostly detain people for low-level offenses. This means that the problems of homelessness and untreated mental illness and addiction are especially acute in the jail population. The footprint of the jail is vastly larger than that of the prison. Whereas U.S. prisons admit about 600,000 people each year, about 12 million people are admitted to local jails. Although jail stays are very short compared with prison—often only a week or so—jail incarceration has been found to disrupt employment and is associated with increased recidivism.<sup>2</sup>

The cumulative risks of jail incarceration, as shown in Figure 2, pertain to the likelihood of ever being incarcerated in jail in New York City by age 38. These estimates are calculated from an administrative data set on jail admissions over a 10-year period from 2007 to 2016. At this time, New York's jail incarceration was the lowest of all large cities in America, so again the estimates provided here understate what prevails elsewhere. The results are nonetheless stark: Figure 2 projects that 30 percent of all black men in New York in the millennial generation will have been jailed by age 38. Within the Latinx population, the cumulative risks are still very large, yet much lower than those for the African-American population.

The third set of cumulative risks in Figure 2 are taken from those reported by Sara Wakefield and Christopher Wildeman on the risks of paternal imprisonment among children.<sup>3</sup> The incarceration of a parent, besides disrupting parent-child contact, is associated with behavioral problems in children, diminished school achievement, child homelessness, and a loss of family income. Wakefield and Wildeman estimate that one-quarter of all African-American children born in 1991 have experienced the imprisonment of a father by age 14.

The statistics in Figure 2, taken together, thus make it clear that incarceration is still woven deeply into the experiences of millennial men, especially black millennial men. The decline in the incarceration rate, although real and important, overstates the extent of the decline when experiences with the criminal justice system are more fully measured.

## Conclusions

We led off by asking whether millennials are experiencing a sea change in their experiences with incarceration. It might have been thought that they were. After more than three decades of growth in the American penal system, the country is entering a period of criminal justice reform.

We have indeed found that young black men are now less exposed to the criminal justice system than a generation ago. But incarceration rates remain high, and racial gaps remain extreme. Not only are black men locked up at high rates, but their experience of incarceration is unusually harsh, and solitary confinement is common.

At the shallow end of the system, jail incarceration is widespread among young black men, even in New York City, where crime and incarceration have fallen to their lowest levels since the 1960s. Moreover, millennials continue to live with mass incarceration through their parents' exposure to historically high rates of imprisonment, a very important intergenerational fallout of decades of extremely high rates.

It follows that millennials have hardly experienced a "sea change." Because mass incarceration was four decades in the making, its reversal will require fundamental and sustained reform in sentencing, prosecution, and pretrial detention.

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## Notes

1. Travis, Jeremy, Bruce Western, and Steve Redburn, eds. 2014. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Washington, D.C.: National Academy Press.

2. Turney, Kristin, and Emma Conner. 2019. "Jail Incarceration: A Common and Consequential Form of Criminal Justice Contact." *Annual Review of Criminology* 2, 265–290.

3. Wakefield, Sara, and Christopher Wildeman. 2013. *Children of the Prison Boom: Mass Incarceration and the Future of American Inequality*. New York: Oxford University Press.