



Race and
Imprisonment
in **Texas**



The disparate incarceration of
Latinos and African Americans
in the Lone Star State

A policy brief by the Justice Policy Institute

Race and Imprisonment in Texas

The disparate incarceration of Latinos and African Americans in the Lone Star State

Any discussion about the impact of incarceration in this country must acknowledge that the policies that have led the United States to have the world's largest jail and prison population (2.1 million) and highest incarceration rate (714 per 100,000) have had a disproportionate impact on African Americans, Latinos and other communities defined as non-White¹. According to the Justice Department report *Prisoners in 2003*, in 2003 African American, men across the nation were incarcerated seven times the rate of Whites while Latinos were incarcerated at 2.6 times the rate of Whites. African Americans and Latinos comprised 68% of all people in prison and jail in 2003, even though African Americans and Latinos make up 25% of the US population.²

In August 2003, the Bureau of Justice Statistics reported that if incarceration rates continue at these levels, one in 17 White men (5.9%), one in six Latino men (17%), and one in three African American men (32%) born in 2001 will serve time in prison at some point in their lifetime. That same study found that 5.6 million Americans are current or former prisoners; 39% of those are African Americans (2,203,000), even though African Americans comprise only 12% of the national population.³ Also, the Justice Policy Institute reported that one out of eight White male dropouts, and half of all African American male dropouts had prison records by their early thirties, and that nearly twice as many African American men in their early 30s have prison records (22 %) as Bachelors degrees (12 %).⁴

Unfortunately, these racial and ethnic disparities hold true for Texas as well. Controversy has periodically flared up around the racial impact of law enforcement practices in Texas. In 1999, a drug sting operation in the small town of Tulia, Texas resulted in the arrest of 46 people, 40 of whom were black. The remaining six individuals were either Latinos or whites dating blacks. The arrests incarcerated almost 15% of the black population, and was denounced as a form of "racial profiling" by the NAACP and the ACLU. These controversies have spurred on policy reforms which have been debated locally and in Austin on how to make the justice system fairer and more just: While cases were dismissed against many of those arrested in Tulia, in June, 2003, Republican Governor Rick Perry signed a (bill unanimously approved by the Texas House of Representatives) allowing the 13 remaining inmates to be freed on bond. Since then, the Tulia defendants settled a civil suit against the officials they say were responsible for their wrongful convictions.

This JPI policy brief will examine the impact of racial and ethnic disparities in the Texas criminal justice system. Drawing upon recent research from the *National Council of La Raza, the Steward Research Group* and the Justice Policy Institute, this policy brief will paint a general picture of the scale of overrepresentation of Latinos and African Americans in the state's justice system, and in particular, the overrepresentation of African Americans and Latinos among the state's drug prisoner population. The fact that the expanding use of incarceration in Texas disproportionately affects the state's non-White citizens remains undeniable. Additionally, prison related spending by the state has had a profound and damaging impact on state spending and on the economic vitality of Texas's communities of color.

FINDINGS OF THE NATIONAL COUNCIL OF LA RAZA (NCLR) 2003:
Racial and Ethnic Minorities Overrepresented In the Criminal Justice System ⁵

LATINO IMPRISONMENT IN TEXAS

Latinos endure higher rates of incarceration. Latinos are almost twice as likely as Whites to be incarcerated. In 2000, the incarceration rate per 100,000 residents for Latinos in Texas was 1,152 compared to 694 for Whites. Latino women were incarcerated (243 per 100,000 residents) at a higher rate than White women (195 per 100,000 residents) were.

Latinos Less Likely to Be Jailed than Imprisoned. NCLR found a larger share of Latinos are incarcerated are in state prisons versus state jails, where sentences tend to be shorter, and are institutions more geared to treatment than punishment. Incarcerated Latino's are more likely than either African Americans or Whites to be a larger proportion of people in longer-sentence institutions (prisons) than in shorter-sentence institutions (jails).

In Fiscal year 2002, the Texas Department of Criminal Justice Reported that Latinos, African Americans and Latinos composed about 70% of the total inmates admitted to Texas prisons. While 4 in 10 Texans are African American or Latino, 7 in 10 Texas prisoners are African American or Latino.

**African Americans and Latinos represent
about 7 out of 10 prisoners in Texas.**

More Latinos entering Prison than Leaving. In 2002, Latinos were a greater share of new prison admissions than either African Americans or Whites (33.9% Latinos, 32.8% African Americans, and 32.7% Whites). Conversely, Latinos represented a smaller share of prison releases than either Whites or African Americans (26% Latinos, 40.5% African Americans, and 32.2% Whites). NCLR points out, "the Latino data are troubling because they suggest that, if these proportions hold constant....the share of the overall prison population that is Latino may grow."

LATINO DRUG IMPRISONMENT IN TEXAS

Latinos are 2 in 5 DWI prisoners. While Latino men and women are significantly less likely than others to use alcohol, and nationwide, have been shown to have the same rate of alcohol related traffic automobile accidents, Latinos constitute 2 in 5 Texas prisoners incarcerated for “Traffic/Driving While Intoxicated Offenses” (DWI).

Latino drug offenders more likely to be in prison than state jail. NCLR found Latinos constitute 25% of all drug offenders (5,701) in state prison, but only 19% in state jails, where sentences are shorter, and institutions are more geared to treatment than punishment.

Latinos are underrepresented in drug courts. Despite the fact that drug courts have been shown to be an effective way to reduce drug use, recidivism and incarceration costs, Latinos represent only 14% of the drug court population in Dallas (versus 49% White, and 35% African American), and only 1% of the drug court population in the Jefferson County Drug Court (versus 34% White and 65% African American).

Latinos incarcerated for drug offenses are more likely to be in prison than state jail. NCLR found Latinos constitute 25% of those incarcerated for drug offenses (5,701) in state prison, but only 19% of those in state jails, where sentences are shorter, and institutions are more geared to treatment than punishment

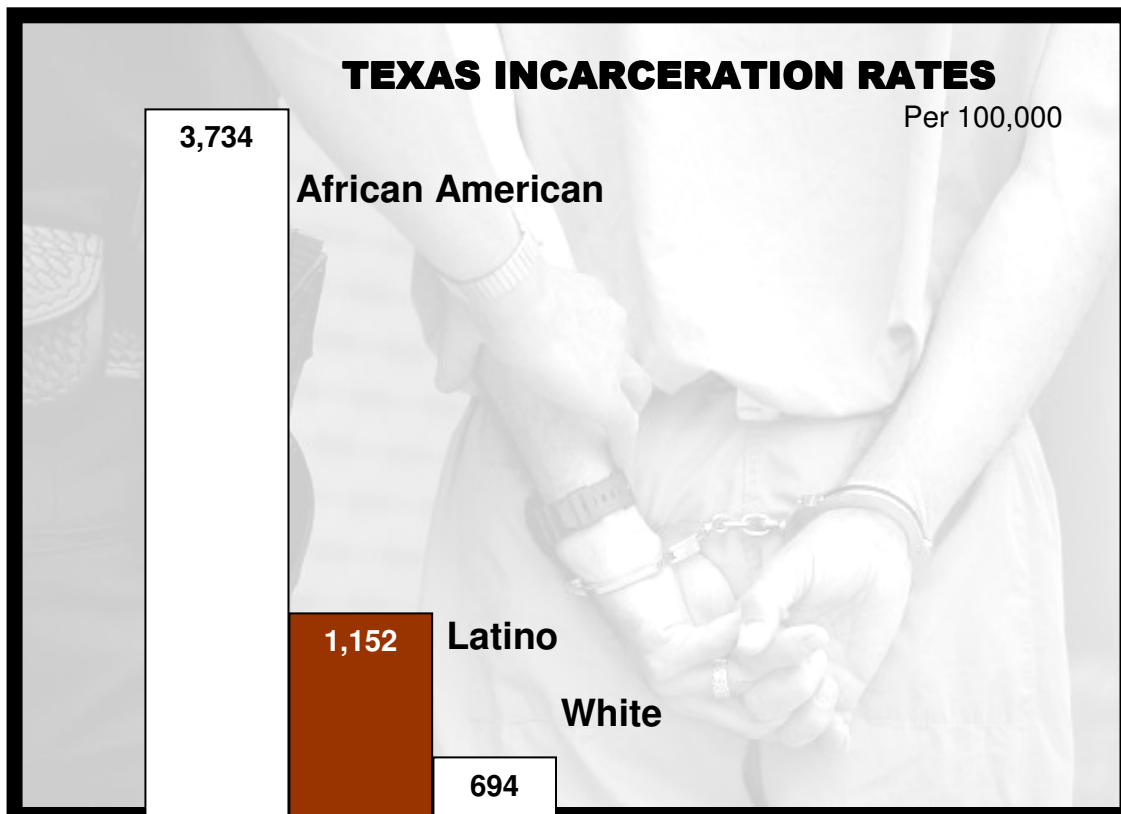
FINDINGS OF THE JUSTICE POLICY INSTITUTE—Analysis of the National Corrections Reporting Program on Race and Drug Admissions in Texas (2003)⁶

AFRICAN AMERICAN IMPRISONMENT IN TEXAS

African Americans are incarcerated at 5 times the rate of Whites in Texas (3,734 per 100,000, compared to 694 per 100,000 Whites)⁷

There are more African American men of all ages in prison in Texas (66,300) than in the higher education system (40,800)⁸ A national report published by JPI in August 2003 showed that nearly twice as many African Americans men in their earlier 30s have prison records (22%) than Bachelors degrees (12%).⁹

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AFRICAN AMERICAN DRUG IMPRISONMENT IN TEXAS

Twelve-fold growth in the drug prisoner population. The number of people incarcerated in prisons and state jails for drug offenses in Texas has grown nearly 13-fold, from 2,326 in 1980 (or 8% of the prison population), to 29,720 in 2002 (or 21% of the prison and state jail population).¹⁰

African American admissions for drug offenses drove the growth in drug prisoner populations. The number of people admitted to prison in Texas for a drug offense grew from 5,805 in 1986 to 11,722 in 1999—a 102% increase. But during that time, the number of White drug prisoner admissions increased by 671 (from 2464 in 1986 to 3135 in 1999), while the number of African American drug prisoner admissions increased by 4,837 admissions (from 1352 to 6189). *As such, the increase in African American admissions to prisons for drug offenses was 7 times greater than the increase in admissions for White drug offenders. African American admissions for drug offenses represented 81% of the growth of the state's use of prison for drug offenses between 1986 and 1999.*

Four out of 10 African American prison admissions are for drug offenses. In 1986, White drug admissions assumed a larger proportion of total prison admissions than that of African American prison admissions (18% and 11%, respectively). However, by 1999, four out of 10 (41%) of all African American prison admissions in Texas were for drug offenses, compared with 21% for Whites.

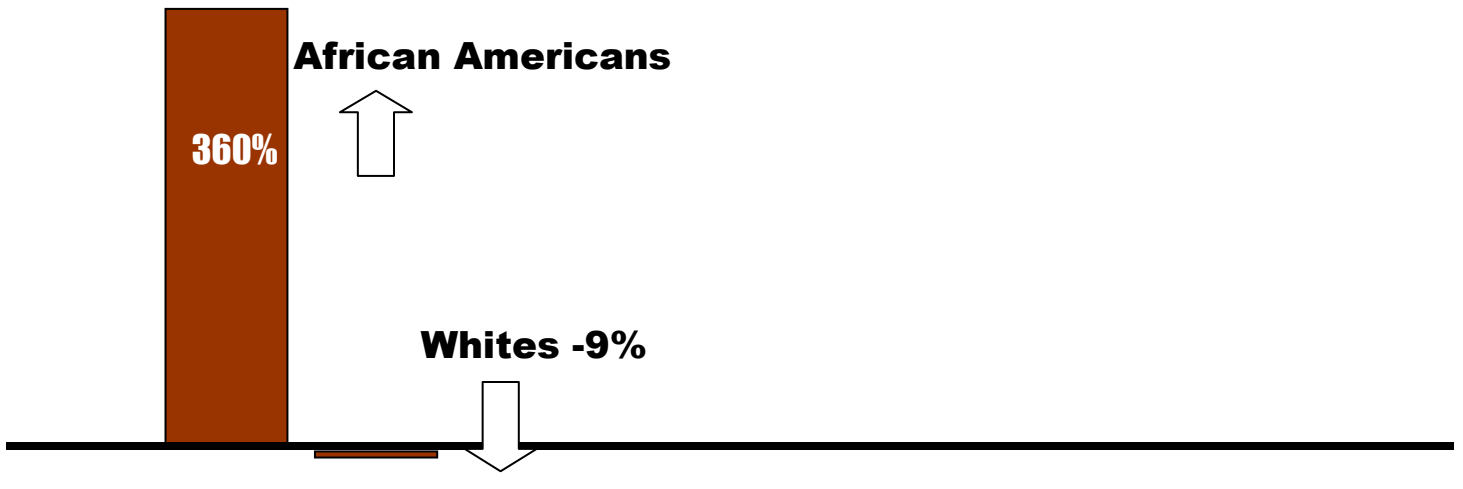
African American rate of increased use of prison for drug offenses outstrips Whites. The drug prisoner admission rate (the number of people admitted to prison for drug offenses, per 100,000 residents) in Texas rose 66% between 1986 and 1999: This change is indicative of the larger change in African American drug admissions over the 13-year period. For Whites, the drug prison admission rate rose 19% (from 24 per 100,000 to 28 per 100,000), while for African Americans, the rate rose 280% (from 70 per 100,000, to 266 per 100,000).

The impact of increasing use of drug imprisonment for Texas youth is concentrated among youth of color. Among young people (age 15-29), the drug prison admission rate rose 73% during the period (from 56 to 98 per 100,000 youth). While the young White rate declined by 9% (from 46 to 42 per 100,000 youth), the young African American rate rose by 360% (from 95 to 437 per 100,000 youth).

According to national data, Whites use drugs at similar rates to African Americans, and what disparity in use exists does not explain the level of overrepresentation seen in the prison system. Generally, Whites and African Americans have been shown to use illicit drugs at similar rates—and where there is some disparity in drug use, it comes nowhere close to the scale of overrepresentation in arrests and imprisonment. According to the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA), in 2002, 8.5% of Whites, and 9.7% of African Americans reported using illicit drugs in the preceding month. Additionally Whites and African Americans reported to be dependent on a substance at virtually the same rate (9.5% of African Americans, and 9.3% of Whites). Among youth age 12 to 17, 10% of African American youth, and 12.6% of White youth reported using illicit drugs within the preceding month.¹¹

Texas Young People Imprisoned for Drug Offenses

Rates of increase 1986-1999



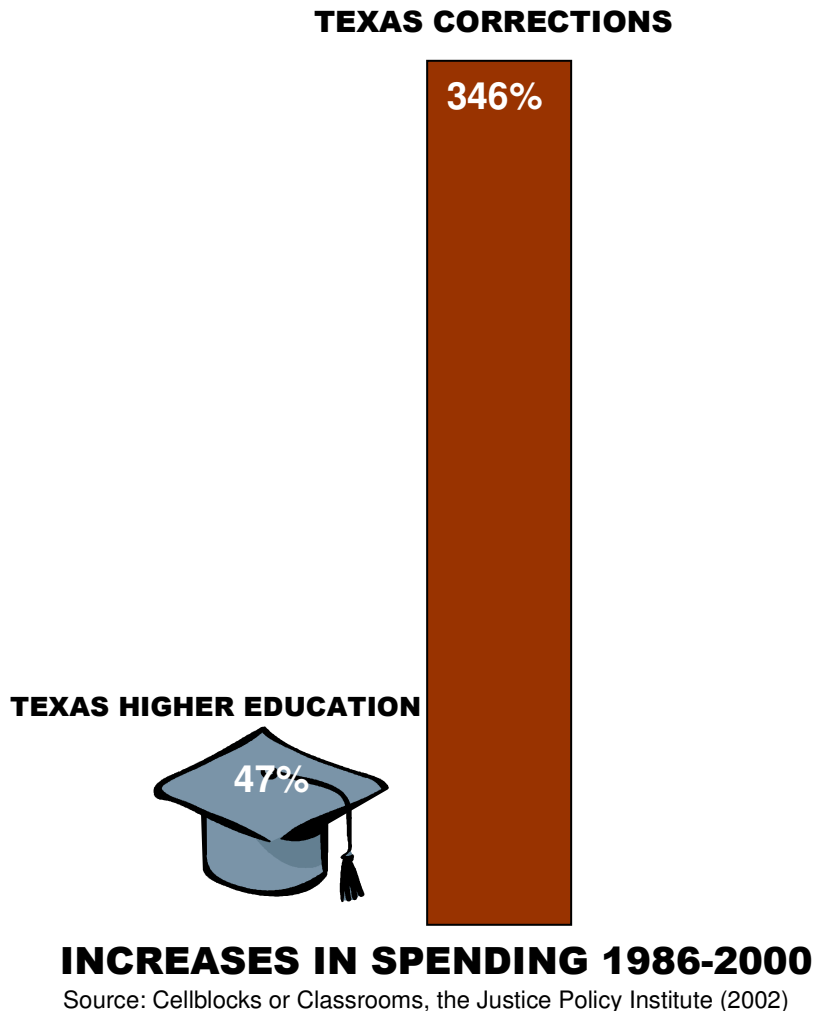
From 1986-1999 the number of young African Americans imprisoned for drug offenses increased by 360 percent. During the same period, the number of White youth incarcerated for drug offenses decreased by 9 percent

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FINDINGS OF THE STEWARD RESEARCH GROUPS – Commissioned By the NAACP Texas State Conference and NAACP Voter Fund ¹²

Researchers estimate that lost economic productivity due to incarceration in the African American community exceeds \$1 billion dollars (\$1.265 billion). By comparison, the average costs of 4 years of floods in Texas are \$788 million.

The current Texas criminal justice budget of \$2.5 billion exceeds the educational expenditures of the largest school districts in Texas.



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Using a cost benefit model, the Steward Research Group estimates savings of \$183 million annually through investing in drug treatment programs over incarceration and associated costs.

A small reduction of the average sentence from 4.5 years to 4.0 years could cut the prison population by 18,000 people per year, which would save the state \$113 million per year.

If certain categories of people went to drug treatment programs instead of county jails, communities could realize significant savings in county jail operating costs (Harris County, \$1.284 million, Dallas, \$1.240 million, Bexar, \$ 893,991, Travis, \$359,765).

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About the Researchers

Jason Ziedenberg and **Vincent Schiraldi** are, respectively, *Executive Director* and former *Executive Director* of the Justice Policy Institute, a Washington DC-based public policy organization dedicated to ending society's reliance on incarceration and promoting effective and just solutions to social problems.

Acknowledgments

Race and Imprisonment in Texas (2005) is the third in a series of policy briefs from the Justice Policy Institute which has sought to localize the racially and ethnically disparate impact of incarceration. *Race and Incarceration in Maryland* (2004), *Cost and Benefits: The Impact of Drug Imprisonment in New Jersey* (2004), and this brief were produced using data from the National Corrections Reporting Program, from the National Archive of Criminal Justice Data. The NCRP data was analyzed and developed by Barry Holman and Phillip Beatty, JPI research consultants.

Sections of this report on Latinos are taken in entirety from *Latinos and the Texas Criminal Justice System*, published by the National Council of La Raza. Sections of this report on the economic impact of incarceration in Texas are from *Racial Disparities in the Texas Criminal Justice System*, published by the *Steward Research Group*, and commissioned by the *NAACP Texas State Conference and the NAACP National Voter Fund*. Funding for this policy brief comes from the Tides Foundation Drug Policy Reform Fund, the Open Society Institute, and the Butler Family Fund. The full report is available at www.justicepolicy.org

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ENDNOTES

1. Beck, Allen and Paige Harrison. *Prisoners in 2003*. (2004) Washington, DC: Office of Justice Program, Bureau of Justice Statistics.
2. Id.
3. Bonczar, Thomas. *Prevalence of Imprisonment in the U.S. Population, 1974-2001*. (2003) Washington, DC: Office of Justice Programs, Bureau of Justice Statistics.
4. Western, Bruce, Vincent Schiraldi and Jason Ziedenberg. *Education and Incarceration*. (2003) Washington, DC: Justice Policy Institute.
5. Coyle, Michael J. *Latinos and the Texas Criminal Justice System: NCLR Research Brief*. (2003) Washington, DC: National Council of La Raza.
6. For details on the methodology and analysis used to generate the figures and findings for this section, and a more detailed description of the National Corrections Reporting Program data, please see the Justice Policy Institute's *Race and Incarceration in Maryland (2003)*, available on JPI's website at www.justicepolicy.org. All findings on drug admissions in Texas are based on JPI analysis of data from the National Correction Reporting Program, Prisoner Admission data. The NCRP defines a prison admission as anyone admitted while under the physical custody of state correctional authorities, and each admission constitutes someone who occupied a state prison bed, or in some cases, a jail cell at some point in the year they were said to have been admitted to the system. The National Corrections Reporting Program database that was analyzed for this period did not report the ethnicity of people; so similar findings for Latinos could not be projected. The inability to disaggregate Latinos from Whites in this analysis of drug admissions would tend to underestimate (not over estimate) the scale in disparity between the rates for African Americans and Whites.
7. *Race and Incarceration in the United States Human Rights Watch Press Backgrounder*. (2002). New York, New York: Human Rights Watch.
8. Schiraldi, Vincent and Ziedenberg, Jason. *Cellblocks or Classrooms?* (2002) Washington, DC: The Justice Policy Institute.
9. Western, Bruce, Vincent Schiraldi and Jason Ziedenberg. *Education and Incarceration*. (2003) Washington, DC: Justice Policy Institute.
10. From analysis of 1980 prison populations done for the Foundation for National Progress (MotherJones.com/prisons), and data from the Criminal Justice Policy Council, 2003.
11. Substance Abuse and Mental Health Services Administration. (2003). *Results from the 2002 National Survey on Drug Use and Health: National Findings* (Office of Applied Studies, NHSDA Series H-22, DHHS Publication No. SMA 03-3836). Rockville, MD.
12. Steward, Dwight D. et al. *Racial Disparities in the Texas Criminal Justice System* (2003) Austin, Texas: Steward Research Group—Commissioned by the NAACP Texas State Conference and the NAACP National Voter Fund.