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Charged with Same Crime, Black Male Offenders Receive Longer Sentences than White Counterparts

A recent report by the [United States Sentencing Commission](#) provides an update on an analysis of federal sentencing data, looking at demographic

disparities in sentence lengths that were first reported in 2010. The updated report covers a period through September 2016. The Commission controlled for a wide variety of sentencing factors, including age, education, citizenship, weapon possession and prior criminal history, and found that:

- Black male offenders received sentences that were 19.1% longer on average than similarly situated White male offenders. This is consistent with the findings from all earlier USSC reporting periods.
- Black male offenders were 21.2% less likely than White male offenders to receive a reduced sentence from a judge. When they did receive a reduced sentence or a variance from sentencing guidelines, their sentences were still 16.8% longer than white male offenders who received reduced sentences.
- Violence in an offender's history did not appear to account for any of the differences in sentencing.

In a related article, the [Washington Post](#) includes the following additional points:

- The United States currently houses the world's largest prison population, with an incarceration rate of roughly 666 inmates per 100,000 people. Among whites, the rate is 450 inmates per 100,000 people. The

incarceration rate for blacks is over five times higher, at 2,306 inmates per 100,000 people.

- The USSC findings suggest that giving judges more discretion in sentencing has allowed judges' racial biases to affect their sentencing decisions.
- Marc Mauer of the Sentencing Project notes that prosecutors' decisions on whether to seek a charge carrying a mandatory minimum sentence also play an important role in the disparities. "Charging decisions of prosecutors are key. Whether done consciously or not, prosecutors are more likely to charge African Americans with such charges than whites."
- A 2014 University of Michigan Law School study found that all other factors being equal, black offenders were 75 percent more likely to face a charge that carried a mandatory minimum sentence than a white offender who committed the same crime.

Report Examines How Racial Exclusion is Embedded in Welfare Policy

A recent report from the [New America's Family-Centered Social Policy program and Springboard to](#)

[Opportunities](#) in Jackson, Mississippi attempts to "reveal how policies created through racial exclusion and oppression are maintained behind a veneer of race-neutrality, and to reject reform efforts that tinker at the margins of this system." The report is based on a combination of focus groups and interviews with analysis of historical and contemporary policy design. It traces the history of laws since chattel slavery that were intended to maintain a bifurcated system of policy between white and minority families and workers. The authors state that "A narrative through line connecting past and present is the idea of Black criminality as a justification for oppression and economic exploitation. As described by Ibram Kendi, 'From their arrival around 1619, African people had illegally resisted legal slavery. They had thus been stamped from the beginning as criminal.'

Among the points made in the report:*

- Low-income women and families in Mississippi are living, working, and raising their children within a state policy context that has all but eliminated cash assistance, continuously constructed barriers to other forms of support, and prioritized perceptions of fraud and abuse over human needs. The state has the highest poverty rate in the nation, and nearly half of Black children are in families living below the poverty line, compared to just 17 percent of white children. Yet just 8 percent of families living in poverty participate in TANF, and those who do receive a maximum benefit of \$170 per month, a benefit level that has not increased since 2000 and diminishes in value each year due to inflation, amounting to around a \$70 monthly loss in benefits.
- Since the United States was first introduced to the "welfare queen" by then-presidential candidate Ronald Reagan, anti-poverty programs have increasingly incorporated sanctions and surveillance into their administration. Nationwide, fraud prevention efforts have served to

strengthen the association between poverty and criminality. The use of drug testing as an eligibility tool is a product of the same messages around fraud and criminality.

- Work requirements and the consequences of violating their terms in Mississippi and elsewhere reinforce the idea that poverty is the result of lack of effort, while simultaneously increasing material hardship and requiring benefits recipients to accept work under any terms.
- The heavy emphasis on work requirements implies that families receiving assistance will not work unless coerced. The imposition of drug tests strengthens the mental association between poverty and criminality. The paternalistic restrictions on access and choice affirm the idea that the causes of poverty are lack of thrift.
- The perception of whom a policy is “for” directly translates into how the policy is designed. Within welfare policy, the “who” is often understood as someone whose poor choices and behavior have led to their poverty. This perception gives rise to policies that, above all, seek to control behavior and punish those who do not comply.
- Two key ways that existing programs fail participants are by undermining their stability through benefits that are unreliable and inconsistent, and by undermining their security by creating barriers to opportunities and resources that could facilitate a sustainable transition out of poverty.
- The application processes and delivery mechanisms for additional benefits, such as child care subsidies, that are needed for families to retain stability, are not structured to facilitate providing the benefit, but to curb access through bureaucratic requirements, long lines and waits, misplaced paperwork and unfriendly communications. These tactics further indulge the myth of widespread fraud by suggesting that safeguards for “program integrity” are the only way to prevent it. The impact of this approach is clear. For example, in 2016, Mississippi received 11,686 TANF applications of which only 165 were approved.
- A new Mississippi law, the Services Transparency and Fraud Prevention Act, is bound to make this dynamic worse. The law will allow the Mississippi Department of Human Services to contract with a private company to undertake further eligibility verifications of families participating in SNAP, TANF, and Medicaid. If the audit determines there is any issue with a household’s eligibility, the household has just ten days to respond to a letter before all benefits are cut off. In addition, the law will impose a host of punitive and stigmatizing measures on people receiving benefits. These include vast new restrictions, such as limiting which ATMs TANF recipients can use to withdraw cash assistance, that far exceed the requirements of federal law. For the first violation of a rule, the household will lose benefits for three months. These provisions will not only further entrench myths about people receiving assistance, but also increase their material deprivation.

- Mississippi families' experiences with TANF presage the likely consequences of attempts at the federal level to further delegate the administration of public assistance programs to the states.

The authors note that “beyond defending current programs from cuts, we need to advance an affirmative vision of what a more effective, inclusive, and democratic system could look like. This vision starts with a set of principles designed to end the two-tier structure of government support, and a commitment to engaging with the individuals and communities likely to be affected by any social policy reform and elevating their voices in the policy discussion.”

*Because the particular writing of this report is important to the points it makes, the selected material has largely been presented here as written in the report.

Ontario, Canada to Test Basic Income as Poverty Reduction Tool

A [pilot program in Ontario, Canada](#) will test a theory that has received growing interest recently, that the provision of a

basic income could represent a new and better approach to reducing poverty in a sustainable way. A basic income is a payment to eligible families or individuals that ensures a minimum income level, regardless of employment status. It differs from social assistance in that it can be provided to anyone who meets the income eligibility criterion, to people who may be working but earning below the basic income level, and because it is generally simpler to administer. The pilot began in June 2017. As a pilot, it will include a research component to test how a basic income might help people living on low incomes better meet their basic needs, while improving outcomes in food security, stress and anxiety, mental health, health and healthcare usage, housing stability, education and training, and employment and labor market participation. The research design requires a control group for a comparison, so it will assign eligible applicants to two groups:

- A Basic Income Group that will receive monthly basic income payments for up to a three-year period.
- A Control Group that will not receive monthly Basic Income payments, but will actively participate in the research study.

People in these two groups will be regularly surveyed regarding their health, employment and housing status. Third-party evaluators will then compare people in the two groups to see whether a basic income helps people living on low incomes better meet their basic needs and improve their education, housing, employment and health.

To be eligible, applicants must be:

- 18 to 64 years old;

- living in one of the selected test regions for at least 12 months or longer (and still live there); and be
- living on a low income (under \$34,000 per year for single participants and under \$48,000 per year for couples).*

The program will enroll 4,000 participants when it is fully implemented. It will ensure that participants receive up to \$16,989 per year for a single person and \$24,027 per year for a couple. Participants can go to school or begin or continue to work while receiving the basic income. The basic income grant will decrease by \$0.50 for every dollar an individual earns through work. Current welfare grants in Canada are reduced dollar for dollar with earnings. People with a disability will receive up to an additional \$500 per month.

*All dollar amounts are Canadian dollars.

Child Support Most Prevalent Reason for Wage Garnishment

A recent report from [the ADP Research Institute](#) used 2016 aggregated, anonymous pay data for approximately 12 million US workers to examine the wage garnishment activities of employers, including the average number of garnishments carried by employees. A wage garnishment involves earnings that are deducted from an employee's wages, usually as a result of a court order. Among the report's findings:

- Seven percent of the workers in the sample had a garnishment on their wages. Among these, 71% were men.
- Among the reasons for a wage garnishment, a child support obligation was the most prevalent, at 3.4% of all workers in the sample.
- The goods-producing sector has higher garnishment rates than other sectors of the economy as well as a higher average number of garnishments.
- The Midwest leads all regions with the highest number of garnishments, 1.49, held per employee.
- Employees with no garnishments earn, on average, 25% more per year than those carrying a garnishment.

State Policy and Practice

- **Oregon** Governor Kate Brown has signed [a bill of rights](#) with the goal of creating policies that help children maintain ties with their incarcerated parents and reducing the trauma associated with having a parent in prison. The bill of rights is the first of its kind nationally. Oregon has almost 70,000 children with one or both parents in prison.

The rights provided in the bill include:

- The right to maintain a relationship with the incarcerated parent(s).

- The right to be protected from trauma and harm following the parent(s) arrest.
- The right to be included in decisions, such as foster care.
- The right to be cared for in a way that takes the child’s mental, emotional and physical needs into account.

The bill’s sponsor has also supported legislation to: suspend child support payments for the incarcerated parent(s); provide for the ability to do community service in lieu of paying court fees and fines, for those on probation; and provide certificates of good standing for those with minor offenses that demonstrate good behavior, which are intended to give released prisoners a boost when seeking jobs and housing after release.

- A Republican state senator in **Ohio** is proposing [legislation to overhaul the state’s child support system](#) for the first time since 1992. One of the key aims of the bill is to adjust formulas that can result in child support awards that exceed a parent’s income and result in poor collection rates. The bill also calls for updating the amount set aside for noncustodial parents to be self-sufficient so that they are able to pay their own basic expenses before the child support order amount is calculated. In addition, it would raise the minimum order from \$50 to \$80.

Ohio currently has \$4.5 billion in unpaid child support, accumulated since 1976. (This includes unpaid child support from child support orders that were set at amounts beyond a parent’s ability to pay.) Sixty-nine percent of the state’s annual debt is owed by parents who reported earnings of less than \$10,000.

Susan Brown, director of the Franklin County Child Support Enforcement Agency, said in testimony to the state senate that child support orders are often established based on presumed wages and not on actual income, and that low-income parents see the program as so punitive and oppressive that only 40 percent show up for their administrative hearings. “So what’s happening is that orders are being established based on wages that have never been earned and which noncustodial parents may not have the ability to pay,” she said.

- University of Kansas researchers have found [a link between welfare reform changes in the state and higher rates of child abuse and foster care placements](#). **Kansas** enacted strict limits to its eligibility requirements for cash assistance programs, including a short lifetime limit on receiving benefits and a strict work requirement, under Governor Sam Brownback. Since 2011, those policy changes have resulted in more than 30,000 people becoming ineligible for TANF benefits, with another 12,000 expected to become ineligible over the next two years.

The study’s lead author, economics professor Donna Ginther, reports that states like Kansas that enacted strict new requirements for eligibility into law have

seen increases in documented child abuse cases and foster care caseloads ranging from 12 to 23 percent.

In a recent joint Legislative Budget Committee briefing, some committee members pointed out that the high number of people losing cash assistance each year is occurring while the number of foster care children has been climbing to record levels. Recently released data show Kansas has more than 6,000 children in foster care, and officials expect that number to climb for the next two fiscal years. State Senator Laura Kelly drew a connection between the two trends. "Because the pressure we put on those families when we take away cash assistance, the ability to feed themselves, feed their kids, just intensifies in a household and makes it more difficult to preserve that family. Thus, more kids go into foster care. I can't prove that. But it's interesting how we've had this massive influx of kids into our foster care system at the same time that we're reducing public assistance."

- A new **North Carolina** [law will make it difficult for judges to waive court fines and fees for poor people](#). The law will be implemented at a time when other states and jurisdictions are instead restricting the use of court fines and fees in the wake of greater public awareness of the damage done to the poor by serving jail sentences for unpaid fines, and of the higher jail costs that result from their enforcement.

The new law prevents courts from excusing fees without providing a 15-day notice to a long list of state agencies and giving them the opportunity to object. By making the process so cumbersome, it is expected that very few if any judges will issue waivers. Once the fees are not excused, when they are not paid, a number of sanctions follow, including the loss of a driver's license and incarceration.

The law appeared in the state budget and is not identified with any sponsor. No state lawmaker has come forward to take responsibility for inserting the law's language into the budget.

The state's fees are among the highest in the country. They can include a "general court of justice fee" (about \$150-205), a court facilities fee, a \$600 prosecution lab test and equipment fee, a bail fee, pre-trial release fee, a home arrest monitoring fee, a failure to appear fee, an installment fee, a community service fee, a probation fee, a jail fee, a law enforcement retirement fee, a sheriff's supplemental fee, and non-payment fee. In addition, indigent defendants must to pay a fee to obtain a lawyer. A common practice in the state is for a criminal defendant to receive a suspended sentence for a minor offense and still be assessed \$1,000 or more in court-ordered financial obligations.

According to Jackie Willingham, a public defender in Raleigh, "Poor clients who stay out of trouble shouldn't fail because they can't come up with an additional

\$200 in court costs. The whole point is to avoid the weight of having a criminal conviction.”

- State funding decisions in **Texas** under the flexibility provided by the TANF block grant have led to [severely diminished funding for the basic cash assistance that TANF provides to low-income families](#). The state has used TANF funds to provide other services that are allowed, in turn freeing up general state funds for purposes not related to the goals of the program. Some of these other uses of state funding include core state services, plugging budget holes, or funding other programs that provide services to residents with higher incomes than those who qualify for cash welfare.

TANF rolls in the state have dropped to an unprecedented level, from a monthly average of 479,000 in 1998 to fewer than 60,000, most of whom are children typically receiving less than a few hundred dollars per month, as of July 2017. The drop in families receiving benefits from the program is in spite of poverty rates in the state that have remained mostly consistent over the same period. The state’s poverty rate has remained between 16% and 18% over the last decade.

In 2015, just four of every 100 poor families with children in Texas received cash assistance, down from 47 of 100 in 1996. On top of this, more than one out of 10 poor Americans live in Texas. In 2016, Texas ranked last in state rankings for the percentage of households receiving TANF assistance. A family of three cannot earn more than \$188 per month in order to qualify for a maximum of \$290 monthly TANF grant.

In the state’s 2018 and 2019 budgets, TANF cash assistance expenditures account for just 17.5% of the state’s TANF block grant funds. The budget plan will mean that the share of TANF funds spent on basic assistance is likely to continue to drop. The share has already dropped from 59% in 1997 to approximately 7% in 2014.

Of Note

- A new nonprofit organization in California, [Women Against Paternity Fraud](#), seeks to provide support and advocacy for men whose paternity is falsely established. The focus is not on women committing fraud to establish an incorrect paternity, but on cases where women need support services and have little choice in the decision making about how and when paternity is established, or when the state assumes paternity based on marriage. The organization seeks to bring together national leading experts on paternity policies and paternity fraud issues to educate the public, legislators, policymakers, and the media on the issue of paternity fraud and the need for reform. It adheres to the following beliefs:

- Eligibility for receipt of federal funds under Temporary Aid for Needy Families (TANF) and under the incentive formulas should require that states find the biological father instead of just any father.
- State laws must provide that no paternity establishment is final unless it has been confirmed by DNA evidence.
- Grandparents should have the right to know and establish a relationship with their biological grandchildren.
- Children deserve to know their medical history, heritage, and their inheritance rights.
- DNA tests that exclude men from being the biological father should excuse them from paying child support and child support orders.
- No man should go to jail for nonpayment of child support for a child that DNA tests have proven is not his.
- It should never be a sufficient argument to say that it is in the best interest of any child to perpetuate paternity fraud.
- Both biological parents should be responsible for the emotional, psychological, and financial support of their children.
- When truth in paternity is established, equal rights and equal responsibilities will follow, which is in the best interest of men, women, children, and society.

The organization points out that “eligibility for receipt of federal funds under Temporary Assistance to Needy Families (TANF) and under the incentive formula depends upon tagging the largest number of men, and there is no review or requirement that it be the right man. With the enormous sums of federal funds at stake, the result is not difficult to predict. WAPF believes that the eligibility for receipt of federal funds given to states under Temporary Assistance for Needy Families (TANF) must change.”

- A father in Richmond, VA is suing the county sheriff after being [held for nearly five months after charges for nonpayment of child support were dropped](#). Darrell Goode was arrested for failure to appear in court last November in connection with a claim that he was \$49,176 behind in child support payments. Once brought to a Richmond Juvenile Domestic Relations District Court judge, the charges were dismissed, according to the lawsuit. But instead of being released, Goode was taken back to the jail and, despite his assertions that he should have been released, was held until his next court date on March 31.

Several of the sheriff’s employees advised Goode that they would look into the matter but apparently never did, as the plaintiff remained incarcerated until he appeared in court, the suit alleges. When he returned to court, the judge expressed surprise that he had remained incarcerated and noted that the clerk’s office had instructed the jail to release him, according to the suit.

- [The Economic Policy Institute](#) has created an interactive map that tracks state laws that prevent localities from protecting working people, by state and by policy. The map tracks states' efforts to prevent localities from: raising minimum wage; requiring employers to provide workers with more stable, predictable work schedules; requiring contracts that establish basic conditions for safety, pay, and benefits on municipal construction projects; requiring municipal contracts to pay workers at least the local median wage for a given type of work; and requiring local employers to offer paid sick leave or other forms of paid family or medical leave.

The map provides information for each state on a given policy's details, a link to the associated legislation, the year the legislation was passed, and the parties responsible for the legislation.