



Racial Inequities in New York Parole Supervision

EXECUTIVE SUMMARY

The scope and conditions of parole supervision in New York have profound impacts for people serving supervision sentences. Numerous conditions are a constraint on their liberty, serve as trip wires to incarceration, and can disrupt the process of community reintegration needed for successful reentry after leaving prison. Parole supervision fuels mass incarceration everywhere, but particularly in New York as New York sends more people back to prison for non-criminal, technical parole violations than any state except Illinois. Nearly six times as many people are reincarcerated in state prisons for technical violations – such as missing an appointment, being out past curfew, or testing positive for alcohol – as were reincarcerated for a new criminal conviction. Moreover, people held on parole violations are now the only population increasing in New York City jails, threatening plans to close the notorious Rikers Island jails complex. Together, incarceration for technical violations costs New York State and localities over \$600 million annually.

Importantly, the harmful impacts of parole policies disproportionately fall on Black and brown communities. Black and Latinx people are significantly more likely than white people to be under supervision, to be jailed pending a violation hearing, and to be incarcerated in New York State prisons for a parole violation. This report examines these racial and ethnic inequities in New York parole supervision and revocation, and offers further context by summarizing existing research on disparities in supervision practices nationally.

Parole in New York

Structural racism² has profound impacts on parole outcomes in New York. As in national analyses, there are three points at which racial and ethnic inequities in parole supervision practices can be easily observed – the

¹ Throughout the brief, we use the term “parole” to describe the condition of being supervised by state parole officials following release from prison. In fact, most people who are supervised after being released from prison in New York State are on “conditional release” – release from prison not by the parole board, but after serving a definite, or determinate, prison sentence minus whatever good time they may have accrued. People released on “parole” in New York State are those released by the state’s parole board after serving an indefinite, or indeterminate, period of imprisonment and being found suitable for release by the board. Since parole is the much more common parlance for those under community supervision following release from imprisonment, we will use that term to describe both those under parole supervision and those on conditional release.

² The term *structural racism* “emphasizes the interaction of multiple institutions in an ongoing process of producing racialized outcomes... A systems approach helps illuminate the ways in which individual and institutional behavior interact across domains and

likelihood of experiencing parole supervision, the likelihood of being charged with a violation, and the likelihood of incarceration for a violation.

Inequities in Supervision, Violations, and Incarceration

Justice Lab analysis of available data indicates that people of color in New York experience disparate burdens at all three points:

- Black and Latinx people are supervised at 6.8 and 2.5 times the rate of white people, respectively – significantly larger disparities than are observed in national parole supervision rates.
- Disparities in supervision rates are worse among men, as Black men are supervised at 7.8 times, and Latino men 2.8 times, the rate of white men.
- Black people are detained for parole violations in New York City jails at a rate 12 times higher than that for white people, and Latinx people are detained for parole violations at roughly 4 times the rate of white people.
- Black people are incarcerated for technical violations in New York State prisons at 5 times the rate of white people, and that Latinx people are 30% more likely than white people to be incarcerated for a technical parole violation.
- As with rates of supervision, disparities for prison incarceration were worse among men – Black men were 5.7 times as likely, and Latino men nearly 40% more likely, to be in New York State prisons for a technical parole violation than their white counterparts.

These figures indicate that the burdens of parole supervision and revocation practices fall much more heavily on Black and brown communities in New York. When considering the impacts of these practices, it is important to remember that the risk of re-incarceration looms large not only for the person under supervision, but also for their family and wider network. Someone struggling with drug addiction may feel unable to seek help because admitting a relapse would lead to a violation. A father may be unable to accept a well-paying night job or take a sick child to the emergency room if it conflicts with curfew. A person may face homelessness because they are not permitted to live with supportive family or friends who have a criminal record or who live in public housing. The whole household or workplace may be disrupted by unannounced visits from parole officers confirming the person's whereabouts. All of these situations can further complicate an already-difficult process of reentering society after prison.

Recommendation: Take Legislative Action on Parole Reform

It is undeniable that the impact of current parole practices in New York falls disproportionately on Black and brown communities – from the experience of supervision, to charging and jail detention, to disposition and

over time to produce unintended consequences with clear racialized effects” (Powell 2008, 791). In other words, it does not require racist actions or intent of individual people, and “even if interpersonal discrimination were completely eliminated, racial inequities would likely remain unchanged due to the persistence of structural racism” (Gee and Ford 2001, 3; Bonilla-Silva 1997; Jones 2000).

prison incarceration. The findings of this research brief indicate that Black and brown people in New York experience disparate outcomes at even higher rates than national averages.

Given that previous research indicates that being on parole longer increasingly disadvantages Black and brown people, and that those people are disproportionately more likely to be charged with violations and to experience harsher punishment for violations, policy changes in these areas are likely to carry positive effects for these communities.

Two separate groups, made up of diverse constituencies, have studied the parole system, and have reached similar conclusions – that New York parole should allow people to earn time off of their supervision sentence, severely limit the use of incarceration as a response to technical violations, and curb the use of jail detention for individuals accused of technical parole violations. A consensus report from the New York State Bar Association Task Force on Parole – which includes judges, prosecutors, and defense attorneys from throughout the state – included such recommendations.

Separately, a broad coalition is advancing currently-pending legislation – the *Less Is More Act* – which would enact these policy recommendations and more. The legislation has received support from six sitting District Attorneys, the New York State Association of Counties, the New York Mayor and City Council, the New York City Bar Association, and a broad coalition of formerly incarcerated and supervised advocates, among others.

In short then, New York has a current, actionable opportunity to reform its parole practices in ways that would directly address sources of racial and ethnic disparities that plague the status quo. Our main recommendation is therefore that the state not squander this opportunity, and instead take legislative action to reform parole before the window to do that closes.

Parole practices impact too many lives – particularly among Black and brown people and already-vulnerable, underserved communities – for reform to not move forward.



Racial Inequities in New York Parole Supervision

Kendra Bradner and Vincent Schiraldi¹

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Introduction

The scope and conditions of parole² supervision in New York have profound impacts for people serving supervision sentences. Numerous conditions are a constraint on their liberty, serve as trip wires to incarceration, and can disrupt the process of community reintegration needed for successful reentry after leaving prison. Parole supervision also fuels mass incarceration everywhere, but particularly in New York, as New York sends more people back to prison for non-criminal, technical parole violations than any state except Illinois (Kaeble 2018, Appendix Table 7). Six times as many people are reincarcerated in state prisons for technical violations – such as missing an appointment, being out past curfew, or testing positive for alcohol – as are reincarcerated for a new criminal conviction (Commission 2019). Moreover, people held on parole violations are now the only population increasing in New York City jails, threatening plans to close the notorious Rikers Island jails complex (Schiraldi and Arzu 2018; Commission 2019). Together, incarceration for technical violations cost New York State and localities over \$600 million annually (The Council of State Governments 2019; NYC Independent Budget Office 2019; NYS Bar Association 2019).

Importantly, the harmful impacts of parole policies disproportionately fall on Black and brown communities. Black and Latinx people are significantly more likely than white people to be under supervision, to be jailed pending a violation hearing, and to be incarcerated in New York State prisons for a parole violation. This

¹ Kendra Bradner is Director of the Probation and Parole Reform Project at the Columbia Justice Lab. Vincent Schiraldi is co-director of the Columbia Justice Lab and Senior Research Scientist at the Columbia School of Social Work. Thank you to Rachel Smith and Jennifer Arzu for their excellent research assistance, and to many colleagues for insightful comments on earlier versions of this report. Any remaining errors are purely our own.

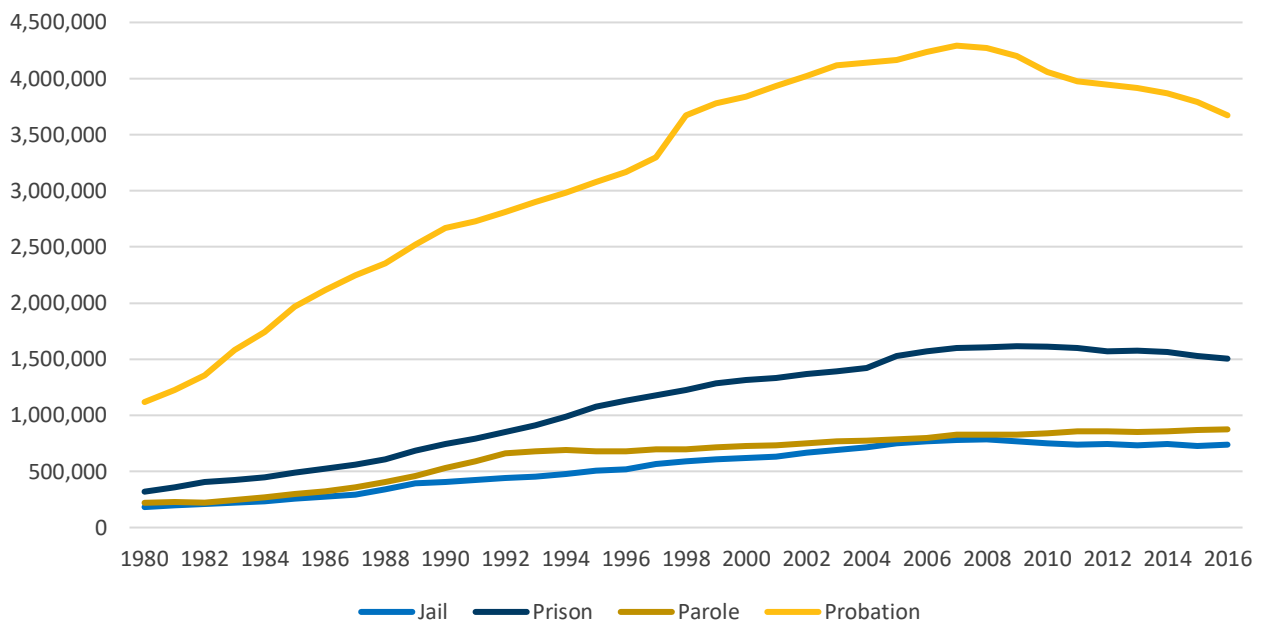
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report examines these racial and ethnic inequities in New York parole supervision and revocation, and offers further context by summarizing existing research on disparities in supervision practices nationally.

Parole in the United States

The term “parole” often describes two activities – release from prison by a parole board, and supervision by a parole agency after release. Originally, parole was developed by British penologist Alexander Maconochie as an early release mechanism to alleviate overcrowded prisons and incentivize positive behavior, and people who were “paroled” were not necessarily subject to active supervision (Wodahl and Garland 2009). Over time, parole boards began supervising people who were released early. By the 1990s, most states implemented determinate sentencing regimes, drastically reducing the number of people who are actually released from prison by parole boards (Petersilia 2009). However, parole has come to be used as a general term for post-prison supervision, whether the person under supervision was released by a parole board or not.

Figure 1: Number of people under U.S. correctional supervision (1980-2016)



Sources: 1980-2004: Maguire, n.d., Table 6.1.11; 2005-2014: Kaeble and Glaze 2016, Table 1; 2015-2016: Kaeble and Cowhig 2018, Table 1.

Parole is distinct from probation, though the two are often jointly called “community corrections.”³ Together, they are inextricably linked to the more widely-known element of the criminal justice system: incarceration. The

³ Probation describes a period of community supervision by a probation agency, most commonly given in lieu of incarceration. With the rise of determinate sentencing, courts increasingly sentenced people to terms of “on-and-after” probation, or “probation tails” – periods of supervision by a probation agency following a period of incarceration. Despite the functional similarity to parole, national

number of people under probation and parole supervision has generally increased and declined right alongside jail and prison incarceration (Figure 1). Recent declines in the number of people under community corrections supervision has been driven by reductions in probation populations, which fell 14.4% between 2007 and 2016 (Kaeble 2018, Table 1). However, over this same period, the number of people under parole supervision in the United States has actually increased by 5.9%.

In addition to correlated population trends, and despite being designed as alternatives that would alleviate prison crowding, both probation and parole fuel mass incarceration, most concretely through re-incarceration for violations. People under probation and parole supervision are required to follow a list of rules, or “conditions.” Though standard conditions vary across jurisdictions, people under parole supervision are commonly required to attend meetings with their parole officer, observe a curfew, refrain from using alcohol and drugs (even if their conviction was not drug-related), and avoid “associating” with people who have criminal records. Failure to follow any of these rules, even if that failure does not involve criminal conduct, can result in the person being re-incarcerated – a “technical violation.” This means that people under parole supervision can be re-incarcerated for actions that are not criminal, and would not carry criminal punishment for someone not under supervision.

Parole officers often have wide discretion on when to incarcerate people for alleged technical violations, and typically those accused of technical violations are jailed while they await the disposition of the technical violation charge – incarceration that can last anywhere from a few days to several weeks. As we have learned through research on bail practices, even short periods of incarceration can be highly disruptive. Even a weekend stay in jail can be enough to lose a job, educational opportunity, home, car, or custody of children – just enough, in other words, to erase substantial progress that a person may have made toward successful re-integration to their community.

After the alleged technical violation has been adjudicated, a person can be sentenced to further time in state prison. Since the 1980s, re-incarceration for parole violations increased sevenfold, and by 2016, 27% of all parole exits were to state or federal prisons (Petersilia 2009; Kaeble 2018, Appendix Table 7). In 2017, 22% of admissions to state prisons nationwide were due to parole violations, over half of which were for technical violations alone (The Council of State Governments 2019).⁴ Revocation of people on parole has become so common that recent research has found it to be risk factor contributing to reincarceration, even when controlling for other factors (Harding et al. 2017).

and state statistics about probation and parole supervision are divided by agency, and so these cases of probation that occur after a period of incarceration are not included in our discussion of parole. Additionally, in New York, parole is a state function, whereas probation is a city and/or county function.

⁴ The Council of State Governments report notes: “Whether an incarceration is the result of a new offense or technical violation is often difficult and problematic to delineate, even in states with available data. Most states do not consider a supervision violation to be the result of a new offense unless a new felony conviction is present, meaning technical violations may include misdemeanor convictions or new arrests.”

Racial Inequities in Parole, Nationally

Research suggests that racial disparities often compound as an individual moves through the criminal justice system from police contact, to arrest, to sentencing, to prison and parole release and collateral consequences, so it is unfortunately unsurprising to find evidence of the impacts of structural racism in parole supervision outcomes, as well (Ghandnoosh 2015).

There are three points at which racial inequities in parole supervision practices can be readily observed – in the likelihood of experiencing parole supervision, in the likelihood of being charged with a violation, and in the likelihood of incarceration for a violation.

Nationally, Black people are 4.15 times more likely to be under parole supervision than white people, and Latinx people are 15% more likely than white people to be under parole supervision.⁶ A report by the Brennan Center for Justice also found that Black and Latinx people remain on probation and parole longer than similarly situated white people (Eaglin and Solomon 2015).

There is only a small body of research examining racial disparities in parole violation charges and outcomes, but available studies suggest that disparities exist at these points, as well. Sara Steen and Tara Opsal (2007) analyzed data for a sample of individuals exiting parole in 2000 in four states – New York, Kentucky, Michigan, and Utah. Across the jurisdictions examined, Black people were 19% more likely than white people to have their parole revoked for a new offense, and 50% more likely than white people to have their parole revoked for a technical violation, even when controlling for relevant demographic and legal factors. Steen and Opsal's findings also suggest that remaining under parole supervision longer renders a higher disadvantage to Black people, as the likelihood of being revoked dropped more significantly over time for white people than for Black people.

A Colorado study examining parole officers' decision to file a complaint with the parole board (thereby placing the person under supervision in violation) found that “Black [people] are more than twice as likely as white [people] to have complaints filed against them” (Steen et al. 2012). Similarly, a study of individuals under parole supervision in California between 2003 and 2004 found that Black people “were more likely to experience referral to the parole board, and more likely to be returned by the board for criminal violations” (Grattet et al. 2009). A study of people on parole in Kentucky between 2002 and 2004 similarly indicates that Black people were more likely than white people to be returned to prison for a violation (Vito et al. 2012).

More recently, a study examining data across 24 states over the twenty-year period from 1990 to 2009 found that the likelihood of parole revocation is significantly greater for Black people, controlling for individual and state characteristics. The same study found that parole revocations contribute to racial disproportionality in state prisons – “[s]tates with higher disproportionality in parole revocation admissions display greater racial differences in prison admissions overall” (Curry 2016).

⁵ The term *structural racism* “emphasizes the interaction of multiple institutions in an ongoing process of producing racialized outcomes... A systems approach helps illuminate the ways in which individual and institutional behavior interact across domains and over time to produce unintended consequences with clear racialized effects” (Powell 2008, 791). In other words, it does not require racist actions or intent of individual people, and “even if interpersonal discrimination were completely eliminated, racial inequities would likely remain unchanged due to the persistence of structural racism” (Gee and Ford 2001, 3; Bonilla-Silva 1997; Jones 2000).

⁶ Justice Lab analysis of Kaeble 2018, Appendix Table 5 and U.S. Census Bureau 2019; see Appendix B for methodology.

There are also many other ways that parole supervision can have disparate impacts for people of color, which are harder to observe directly. Because Black and brown communities often experience concentrated disadvantage in the form of elevated poverty rates, poor public service provision for things like education, health care, and transportation, and concentrated policing activities, supervision requirements that seem race-neutral on their face can have disproportionately negative impacts for Black and brown people.

For example, an order to stay away from other people who have a felony conviction may seem reasonable at face value. However, since 1 in 12 people in the United States, and one in three Black men, have a felony conviction (Shannon et al. 2017), this can be nearly impossible in practice. People on parole, then, particularly in predominantly Black communities, may be forced to choose between obeying the rules on one hand, or, on the other, risking a parole violation by spending time with relatives and friends who could be valuable sources of support, stability, housing, or employment connections.

This analysis can be extended to other domains – Black and brown communities disproportionately lack access to adequate transportation (Bullard et al. 2004), and requirements to report for meetings with a parole officer will be more difficult for someone who lives in a neighborhood with poor public transit coverage. Similarly, Black and brown people face employment discrimination (Pager 2007), and requirements to obtain employment and pay supervision fees will likewise be even more difficult for people living in areas with limited employment options. In conclusion, parole supervision can tend to exacerbate systemic racial inequities.

Parole in New York

New York actually has lower rates of parole supervision than the nation as a whole – 285 people under parole supervision per 100,000 adult residents, versus a national rate of 349 per 100,000 (Kaeble 2018, Appendix Table 5). Yet, New York sends more people back to prison for technical parole violations than any other state except Illinois (Kaeble 2018, Appendix Table 7). Of the 20,597 people who exited parole supervision between October 2016 and September 2017, 9,250 of them returned to prison – a 45% “failure” rate (Commission 2019). Of those who returned to prison, 85% returned for a technical parole violation – nearly six times as many people as were reincarcerated for a new criminal conviction. Together, incarcerating people for technical parole violations costs New York City and State over \$500 million annually (The Council of State Governments 2019; NYC Independent Budget Office 2019). This does not include costs for the approximately 1,000 individuals incarcerated in jails in New York State in counties outside the city awaiting resolution of their parole violation cases (NYS Division of Criminal Justice Services 2020).

Structural racism has profound impacts on parole outcomes in New York. As in national analyses, there are three points at which racial and ethnic inequities in parole supervision practices can be readily observed – the likelihood of experiencing parole supervision, the likelihood of being charged with a violation, and the likelihood of prison incarceration for a violation.

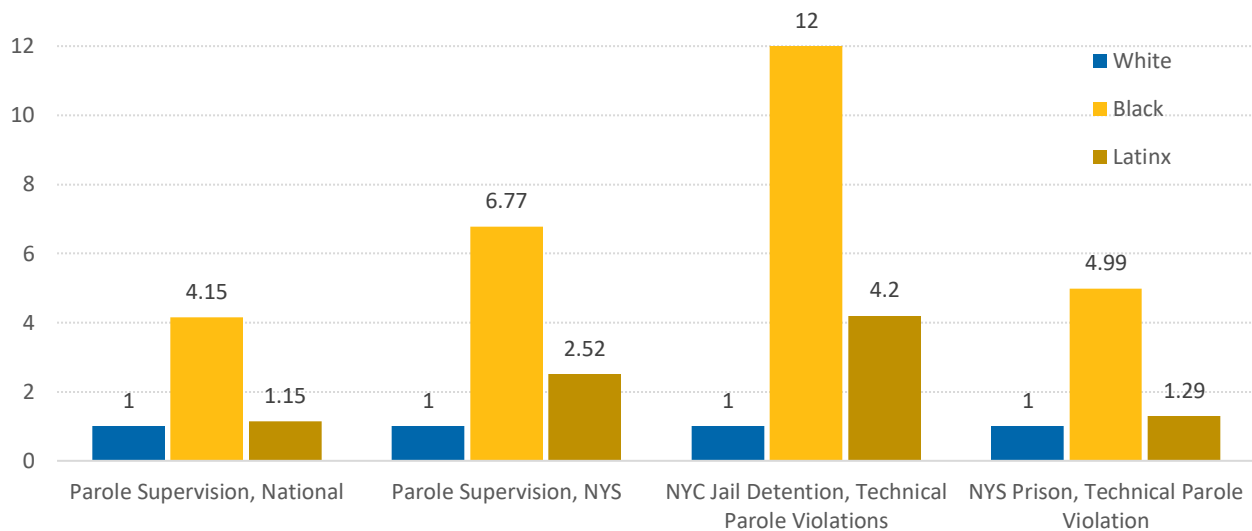
Inequities in Supervision

Our analysis of data from the New York State Department of Corrections and Community Supervision (NYS DOCCS) found that Black and Latinx people are supervised at 6.8 and 2.5 times the rate of white people,

respectively – significantly larger inequities than are observed in national parole supervision rates (Figure 2).⁷ These disparities are also worse among men, as Black men are supervised at 7.8 times, and Latino men 2.8 times, the rate of white men.

These figures indicate that the burdens of parole supervision and revocation practices fall much more heavily on Black and brown communities in New York. When considering the impacts of these practices, it is important to remember that the risk of re-incarceration looms large not only for the person under supervision, but also for their family and wider network. Someone struggling with drug addiction may feel unable to seek help because admitting a relapse could lead to a violation. A father may be unable to accept a well-paying night job or take a sick child to the emergency room if it conflicts with curfew. A person may face homelessness because they are not permitted to live with supportive family or friends who have a criminal record or who live in public housing. The whole household or workplace may be disrupted by unannounced visits from parole officers confirming the person’s whereabouts. All of these situations can further complicate an already-difficult process of reentering society after prison.

Figure 2: Relative Rate Index⁸ of Parole Supervision and Incarceration for Technical Violations



Sources: Kaeble 2018, Appendix Table 8; NYS Department of Corrections and Community Supervision 2019a; 2019b; The City of New York 2020a; U.S. Census Bureau 2019. Note: See Appendix B for methodology.

⁷ Justice Lab Analysis of NYS DOCCS 2019a and U.S. Census Bureau 2019; see Appendix B for methodology. Taken together, Black men and women in New York are supervised at 6.8 times the rate of white people, whereas nationally, Black people are supervised at 4.15 times the rate of white people (Kaeble 2018, Appendix Table 8; U.S. Census Bureau 2019). This means New York has a 64% larger disparity in supervision rates between Black people and white people. Nationally, Latinx people are supervised at rate roughly 15% higher than white people; the disparity for Latinx people in New York is more than two times larger.

⁸ The Relative Rate Index is a tool used to compare rates of system involvement across groups. An RRI of 2 indicates that a group is twice as likely to be impacted as the baseline group – in this case, white people. An RRI of 0.5 indicates that a group is half as likely to be impacted as the control group. See Appendix B for detailed explanation and methodology.

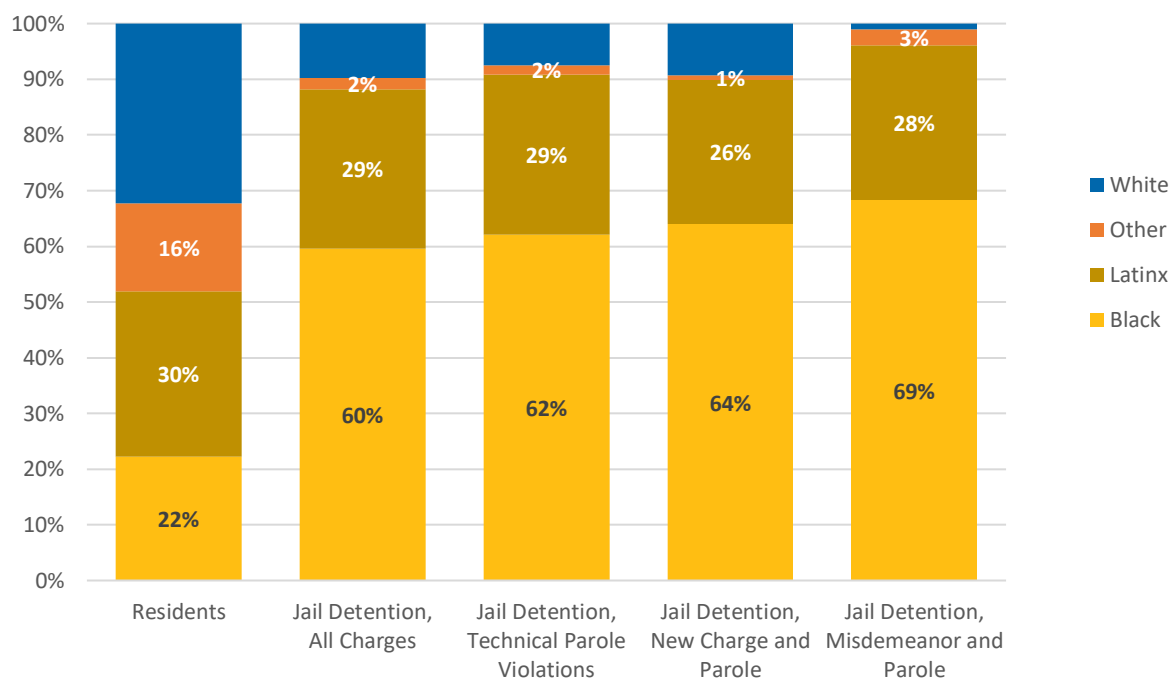
Inequities in Charging and Jail Detention

In New York, when someone on parole is issued a warrant for an alleged parole violation, they are held in city or county jails pending the resolution of that violation, which can take weeks or months. On any given day, around 1,600 people are held in jails across New York State, awaiting the resolution of an alleged technical parole violation, and people held on alleged technical parole violations make up an increasing proportion of all people held in City and county jails (Commission 2019; NYS Division of Criminal Justice Services 2020).⁹

Additionally, if someone on parole is arrested for a new criminal charge, they are not eligible for pretrial release, even if the new charge would not typically result in pretrial detention. Through these two vehicles, state parole policies can have large impacts on local jail populations and costs.

While we do not have access to data through which we could observe charging decisions directly, we are able to observe who is held in jails awaiting the resolution of a technical violation charge. Since pre-adjudication detention is required for anyone against whom a warrant for a parole violation is issued, all people who go through revocation proceedings in a jurisdiction are seen by observing jail detention data for that jurisdiction.

Figure 3: New York City populations, disaggregated by race and ethnicity



Sources: U.S. Census Bureau 2019; The City of New York 2020a; 2020b. Note: Figures for New York City residents represent the estimated number of residents of all ages on July 1, 2018. NYC jails demographics are as of February 27, 2020. “Other” includes people who identify as Asian & Pacific Islanders, multiple races, and others. See Appendix B for notes on methodology.

⁹ In January 2019, people held on alleged technical parole violations made up 8% of the state’s overall jail population. By January 2020, that proportion had climbed to 12%. This is because overall jail populations across the state have declined 30% in that time, while the number of people held for alleged technical parole violations remains relatively steady. In 25 counties and New York City, the absolute number of people jailed for alleged technical parole violations increased.

The Justice Lab analyzed data on all people detained in New York City jails, and compared those data to census data on the demographic makeup of the city. Over half (51%) of all people under parole supervision by NYS DOCCS reside in New York City, so while it is an imperfect proxy for the state as a whole, analysis of city data does represent a significant portion of NYS DOCCS activity (NYS DOCCS 2020).

Our analysis indicates that Black people are detained for alleged parole violations in New York City jails at a rate 12 times higher than that for white people, and that Latinx people are detained for alleged parole violations at roughly 4 times the rate of white people (Figure 2).¹⁰

When we examine the impact of being on parole for people charged with new offenses, these inequities become even larger. Among people in New York City jails who are on parole and are also being held for a new charge, a stunning 91% were people of color (The City of New York, 2020b; see Figure 3). This disparity is even more pronounced for people charged with low-level crimes. Among those held for alleged misdemeanor offenses who were also on parole, 99% were people of color. Overall, people on parole comprise two-thirds of all people held in New York City Jails for an alleged misdemeanor charge.

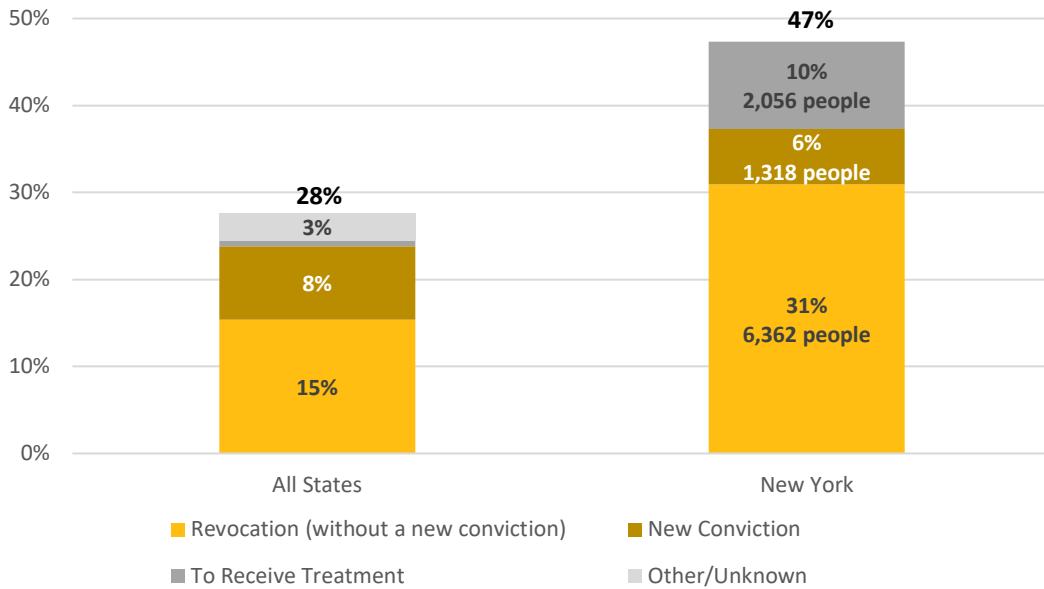
Inequities in Prison Incarceration

There are several frames of reference through which to examine the impact of parole on prison incarceration in New York State. First, we can look at the number of people exiting parole to prison. As of the most recently available national data (2016), New York was an outlier in terms of the number of people exiting parole to incarceration for technical violations – nearly half (47%) of all exits from parole in New York were to incarceration, substantially higher than the national average failure rate of 28% (Kaeble 2018, Appendix Table 7). Moreover, the proportion of people who ended their parole term by being incarcerated for a technical violation – *without* a new conviction – in New York was almost double the national average (See Figure 4).

Secondly, we can examine the number of people who are admitted to prison for parole violations within a certain timeframe. In 2017, people who had previously been under parole supervision comprised 41% of New York State's prison admissions, and 7 times more people (36%) were incarcerated for technical violations than for a new offense (Figure 5) (The Council of State Governments 2019).

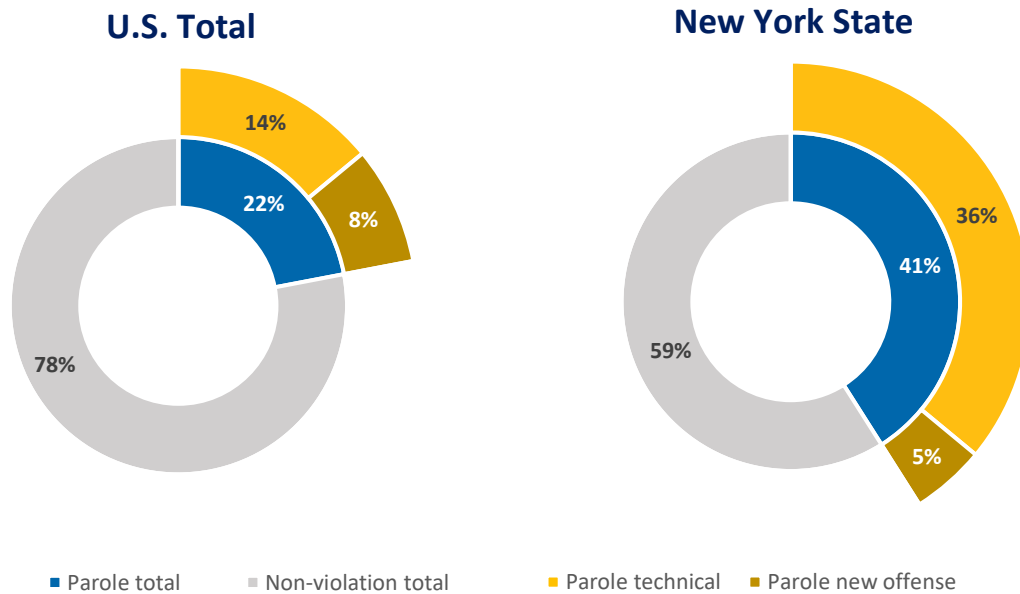
¹⁰ Justice Lab Analysis of The City of New York 2020a; U.S. Census Bureau 2019. See Appendix B for methodology.

Figure 4: Parole exits to incarceration as a percentage of all parole exits, New York vs. all U.S. states, 2016



Source: Justice Lab Analysis of Kaeble 2018, Appendix Table 7.

Figure 5: Prison Admissions, United States and New York State, 2017



Source: The Council of State Governments 2019.

While review of state-issued data indicates that the absolute number of people entering prison for technical violations is declining slightly over time, these two data points – the proportion of people who exit parole into incarceration, and the proportion people entering prison who were on parole – indicate that parole revocations still have an outsized impact on incarceration in New York (NYS DOCCS 2015; 2017; 2019c). Unfortunately, we do not have data disaggregated by race and ethnicity to assess the extent of disparities at either of those points.

However, we do have data through which we can observe people who are in prison at a particular point in time. Since people incarcerated for technical violations serve prison sentences that are shorter than the average across the whole prison population, they tend to be underrepresented in static counts of people in prison at a point in time. Still, people who had previously been under parole supervision comprised 22% of all people in New York State prisons in 2017, and nearly half of those (10%) were people incarcerated for a technical violation alone.

As in supervision and jail detention, we find significant racial and ethnic disparities in these data. Our analysis indicates that Black people are incarcerated for technical violations in New York State prisons at 4.99 times the rate of white people, and that Latinx people are 30% more likely than white people to be incarcerated for a technical parole violation (see Figure 2).¹¹ As with rates of supervision, we found that these inequities were more severe for men – Black men were 5.66 times as likely as white men to be incarcerated for a technical parole violation, and Latino men were 38% more likely to be in New York State prisons for a technical parole violation than their white counterparts.

Importantly, it seems that incarceration may be becoming a more likely disposition for people accused of technical violations in New York. A review of data provided by New York City’s Legal Aid Society indicates that between September 2018 and September 2019, the number of cases that received a disposition of “revoke and restore” – a disposition in which the accused person is found guilty of the parole violation but is allowed to return home following the conclusion of their parole violation hearings – dropped by over 50% (Legal Aid Society 2020). Though missing data makes comparison difficult, available data suggests that this change may more severely impact Black and brown communities (see Table 1).

¹¹ Justice Lab Analysis of NYS DOCCS 2019b and U.S. Census Bureau 2019. See Appendix B for methodology.

Table 1: People Represented by The Legal Aid Society for Parole Violations**Cases Assigned**

	September 2018		September 2019		% Change
Total Cases Assigned	505		491		-3%
Count By Race/Ethnicity	Count	Column %	Count	Column %	
Black	364	72%	326	66%	-10%
White	109	22%	114	23%	5%
Latinx	7	1%	15	3%	114%
Other	1	0%	0	0%	-100%
Unknown or Non-Entered	24	5%	36	7%	50%

Disposition: Revoke and Restore

	September 2018		September 2019		% Change
Total Revoke and Restore	149		70		-53%
Count By Race/Ethnicity	Count	Column %	Count	Column %	
Black	116	78%	46	66%	-60%
White	25	17%	15	21%	-40%
Latinx	2	1%	2	3%	0%
Other	1	1%	0	0%	-100%
Unknown or Non-Entered	5	3%	7	10%	40%

Source: The Legal Aid Society 2020.

Conclusion and Recommendations

While the above analyses do not control for other characteristics of people under supervision in New York, our findings are consistent with national studies that did extensively control for relevant personal and legal characteristics, and still found unwarranted racial and ethnic disparities in parole practices. It is undeniable that the impact of current parole practices in New York falls disproportionately on Black and brown communities – from the experience of supervision, to charging and jail detention, to disposition and prison incarceration. The findings of this research brief indicate that Black and brown people in New York experience disparate outcomes at even higher rates than national average. However, solutions do exist.

Revise Policies and Laws with Inequitable Impact

In their review of racially disparate impacts in the criminal justice system, The Sentencing Project’s first recommendation is to revise policies and laws that have shown disparate impact on Black and brown communities (Ghandnoosh 2015). Given that previous research indicates that being on parole longer increasingly disadvantages Black and brown people, and that people of color are disproportionately likely to be charged with violations and to experience harsher punishment for violations, policy changes in these areas are likely to carry positive effects for these communities.

Therefore, we recommend that New York State use available policy levers to shorten parole supervision periods, limit the use of jail detention while people are awaiting adjudication of alleged parole violation charges, and limit the possibility of incarceration for technical violations.

Recommendation: Take Legislative Action on Parole Reform

Rather than create our own proposals to accomplish those policy goals, we would like to highlight substantial existing work that has been done in this area specific to New York State policy.

Two separate groups, made up of diverse constituencies, have studied the parole system, and have reached similar conclusions – that New York parole should allow people to earn time off of their supervision sentence, severely limit the use of incarceration as a response to technical violations, and curb the use of jail detention for people accused of technical violations.

In 2019, the New York State Bar Association established an ideologically and geographically diverse *Task Force on the Parole System*, whose mandate included, “conducting a detailed review of parole rules, regulations, practices and procedures in New York and other states, and [...] developing recommendations for areas in which the process can be improved” (NYS Bar Association, at 1). The membership of the task force includes a wide range of legal perspectives, including judges, prosecutors, and defense attorneys from throughout the state. Their initial report, which represents a consensus document signed off on by all members, concluded, “there is little or no evidence that the current revocation process for persons accused of technical parole violations in New York actually enhances public safety... [I]ncarcerating people for technical parole violations plays a decidedly negative role in terms of integrating these persons back into the community, and is extremely costly in human and economic terms. These issues raise troubling questions about the fundamental fairness of the process, and strongly support legislative action to substantially reduce incarceration for technical parole violations in New York” (NYS Bar Association, at 3).

The Task Force’s specific policy recommendations – which include instituting a mechanism for earned time credit, imposing stiff limits on incarceration for technical violations, and eliminating mandatory pre-adjudication jail detention for people accused of technical parole violations – closely track legislation that is currently pending in the New York State legislature.

The pending legislation – the *Less Is More Act* – has received support from six sitting District Attorneys, the New York State Association of Counties, the New York Mayor and City Council, the New York City Bar Association, and a broad coalition of formerly incarcerated and supervised advocates, among others (Katal Center for Health, Equity, and Justice 2020).¹²

The Less Is More Act proposes instituting “earned time credits” to shorten terms of parole, limiting the number of violations for which incarceration is a possible response, capping the amount of time someone can be reincarcerated for the remaining eligible violations, and instituting a pre-adjudication hearing for all individuals charged with parole violations or new offenses to determine whether their jail detention is justified – thereby addressing many of the pressure points identified in this research brief.

¹² A.5493, available: <https://www.nysenate.gov/legislation/bills/2019/a5493/amendment/a> ; S.1343, available: <https://www.nysenate.gov/legislation/bills/2019/s1343>

In short then, New York has a current, actionable opportunity to reform its parole practices in ways that would directly address sources of racial and ethnic disparities that plague the status quo. The two existing, detailed policy proposals – both the pending *Less is More Act* and the New York State Bar Association Task Force report – are similar to one other, and carry support from a broad range of perspectives, demonstrating momentum and a window of opportunity for impactful change. Our main recommendation is therefore that the state not squander this opportunity, and instead take legislative action to reform parole before the window to do that closes.

Parole practices impact too many lives – particularly among Black and brown people and already-vulnerable, underserved communities – for reform to not move forward.

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Appendix A: New York Standard Reporting Conditions

1. I will proceed directly to the area to which I have been released and, within twenty-four (24) hours of my release, make my arrival report to the Community Supervision Office indicated on my release agreement, unless other instructions are designated on the agreement.
2. I will make office and/or written reports as directed.
3. I will not leave the State of New York or any other state to which I am released or transferred, or any area defined in writing by my Parole Officer without permission.
4. I will permit my Parole Officer to visit me at my residence and/or place of employment and I will permit the search and inspection of my person, residence, property. I will discuss any proposed changes in my residence, employment, or program status with my Parole Officer. I understand that I have an immediate and continuing duty to notify my Parole Officer of any changes in my residence, employment, or program status when circumstances beyond my control make prior discussion impossible.
5. I will reply promptly, fully, and truthfully to any inquiry of or communication by my Parole Officer or other representative of the Department of Corrections and Community Supervision.
6. I will notify my Parole Officer immediately any time I am in contact with or arrested by any law enforcement agency. I understand that I have a continuing duty to notify my Parole Officer of such contact or arrest.
7. I will not be in the company of or fraternize with any person I know to have a criminal record or whom I know to have been adjudicated a Youthful Offender except for accidental encounters in public places, work, school, or in any other instance without the permission of my Parole Officer.
8. I will not behave in such a manner as to violate the provisions of any law to which I am subject which provide for a penalty of imprisonment, nor will my behavior threaten the safety or well-being of myself or others.
9. I will not own, possess, or purchase any shotgun, rifle, or firearm of any type without the written permission of my Parole Officer. I will not own, possess, or purchase any deadly weapon as defined in the Penal Law or any dangerous knife, dirk, razor, stiletto, or imitation pistol. In addition, I will not own, possess or purchase any instrument readily capable of causing physical injury without a satisfactory explanation for ownership, possession or purchase.
10. In the event that I leave the jurisdiction of the State of New York, I hereby waive my right to resist extradition to the State of New York from any state in the Union and from any territory or country outside the United States. This waiver shall be in full force and effect until I am discharged from Parole or Conditional Release. I fully understand that I have the right under the Constitution of the United States and under law to contest any effort to extradite me from another state and return me to New York, and I freely and knowingly waive this right as a condition of my Parole or Conditional Release.
11. I will not use or possess any drug paraphernalia or use or possess any controlled substance without proper medical authorization.

12. Special Conditions: (as specified by the Board of Parole, Parole Officer or other authorized representative of DOCCS).
13. I will fully comply with the instructions of my Parole Officer and obey such special additional written conditions as he or she, a member of the Board of Parole, or an authorized representative of the Department of Corrections and Community Supervision, may impose.

Appendix B: Methodology

Relative Rate Indices

In most of our novel analysis for this brief, we used the Relative Rate Index (RRI) as a tool for assessing inequities at various points in the parole supervision and revocation process. The RRI is a method often used in assessing disparities in the juvenile justice system, and is the method of reporting used by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). Following the example and methodology of Hartney and Vuong (2009, at 8), we adopted this method to highlight inequities in representation for Black and brown adults in comparison to white adults.

To calculate the RRI, rates for each racial/ethnic group were first calculated as the number of people at a particular point in the system per 100,000 of the same racial/ethnic group in the general population. Then, the rates for other groups were divided by the rate for the white population. Values over 1 indicate that a group is overrepresented compared to white people, while values less than 1 indicate that a group is underrepresented.

National Data

To develop national rates of parole supervision by race and ethnicity, the Justice Lab used data in the Bureau of Justice Statistics' *Probation and Parole in the United States, 2016* report, the most recent available in that series. We used the percentages reported in Appendix Table 8 of that report, and multiplied by the total count of people under parole supervision, to develop estimated counts by sex and race/ethnicity.

These counts were then divided by the relevant census population and multiplied by 100,000 to obtain a rate of supervision per 100,000 U.S. residents (of all ages) for that group. General population demographics were taken from the U.S. Census Bureau's estimates for July 1, 2016, in their Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States series. Because available used in other sections of this research brief reports only four categories of racial and ethnic identity (Black, White, Hispanic, Other), census data was collapsed to match those categories.

Using the methodology described above, the rates of supervision and incarceration for each racial/ethnic group were then divided by the rate for white people, to obtain a Relative Rate Index. RRIs for supervision are reported in Table 2.

New York State Data

The Justice Lab analyzed two data sets from the New York State Department of Corrections and Community Supervision (NYS DOCCS), made available through the New York Open Data portal. The first, *Parolees Under Community Supervision Beginning 2008*, represents all persons under parole supervision by NYS DOCCS as of March 31 of the snapshot year. We tabulated the *raceethnicity* and *gender* variables for *snapshotyear=2018* to obtain counts of people under supervision on March 31 of 2018, by sex, race, and ethnicity.

The second statewide dataset we analyzed was *Inmates Under Custody Beginning 2008*, which represents all people incarcerated in NYS DOCCS prisons. Here, we tabulated the variables *raceethnicity*, *gender*, and *latestadmissiontype="returned parole violator"* for *snapshotyear=2018*, to obtain counts of people incarcerated for technical parole violations on March 31 of 2018, by sex, race, and ethnicity.

For each of these datasets, the counts were then divided by the relevant census population and multiplied by 100,000 to obtain a rate of supervision or incarceration per 100,000 state residents (of all ages) for that group. General population demographics were taken from the U.S. Census Bureau’s estimates for July 1, 2018, in their Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States and States series. Because available NYS DOCCS data reports only four categories for the *raceethnicity* variable (Black, White, Hispanic, Other), census data was collapsed to match those categories.

Using the methodology described above, the rates of supervision and incarceration for each racial/ethnic group were then divided by the rate for white people, to obtain a Relative Rate Index. RRI for supervision are reported in Table 2; RRI for prison incarceration are reported in Table 4.

New York City Data

The Justice Lab analyzed the *Daily Inmates In Custody* dataset, which is provided by the New York City Department of Correction (NYC DOC) through the New York City Open Data portal, and is automatically updated daily. The data analyzed represents all people in NYC DOC custody on February 27, 2020. By tabulating the *race*, *gender*, and *inmate_status_code* variables, we were able to obtain counts of people incarcerated in New York City jails by race and sex for each type of admission. Latinx/Hispanic ethnicity is not reported in this data set. However, personal communication with analysts at the Mayor’s Office of Criminal Justice indicates that the “Other” category in that data is a strong proxy. Thus, jail incarceration statistics reported for Latinx people is based on analysis of individuals categorized in that data as “Other.”

These counts were then divided by the relevant census population and multiplied by 100,000 to obtain a rate of supervision per 100,000 residents (of all ages) for that group. General population demographics were taken from the U.S. Census Bureau’s estimates for July 1, 2018, in their Annual Estimates of the Resident Population by Sex, Age, Race, and Hispanic Origin for the United States, States, and Counties series – the most recent Census Bureau-derived estimates at the county level. County population estimates for New York City’s five counties – Bronx, New York, Queens, Kings, and Richmond – were aggregated to produce city-wide demographics.

Using the methodology described above, the rates of jail incarceration for each racial/ethnic group were then divided by the rate for white people, to obtain a Relative Rate Index. RRI for jail incarceration are reported in Table 3.

Table 2: Rates and Relative Rate Indices for Supervision

People Under Supervision, U.S. Total (both sexes)

Race / Ethnicity	Estimated Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	332,415	40,243,218	826	4.15
Latinx	131,217	57,572,774	228	1.15
Other	17,496	27,461,407	64	0.32
Unknown	--	--	--	--
White	393,650	197,793,943	199	1.00
Total	874,777	323,071,342	271	--

People Under Supervision, NYS (both sexes)

Race / Ethnicity	Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	17,153	2,833,908	605	6.77
Latinx	8,451	3,754,130	225	2.52
Other	1,180	2,123,647	56	0.62
Unknown	84	--	--	--
White	9,678	10,830,524	89	1.00
Total	36,546	19,542,209	187	--

Men Under Supervision, NYS

Race / Ethnicity	Count	Male Census Population	Rate per 100K Male Residents	Relative Rate Index
Black	16,289	1,321,080	1,233	7.76
Latinx	8,142	1,849,810	440	2.77
Other	1,130	1,015,381	111	0.70
Unknown	78	--	--	--
White	8,422	5,302,159	159	1.00
Total	34,061	9,488,430	359	--

Women Under Supervision, NYS

Race / Ethnicity	Count	Female Census Population	Rate per 100K Female Residents	Relative Rate Index
Black	864	1,512,828	57.1	2.51
Latinx	309	1,904,320	16.2	0.71
Other	50	1,108,266	4.5	0.20
Unknown	6	--	--	--
White	1,256	5,528,365	22.7	1.00
Total	2,485	10,053,779	24.7	--

Sources: U.S. Census Bureau 2019; Kaeble 2018, Appendix Table 8; NYS Department of Corrections and Community Supervision 2019a. Note: Supervision counts for U.S. Total are from 2016, and census figures are from July 1, 2016. Supervision counts for NYS are from March 31, 2018, and census figures are from July 1, 2018.

Table 3: Rates and Relative Rate Indices for Jail Detention**People Detained in NYC Jails, technical parole violation only**

Race / Ethnicity	Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	405	1,933,632	21	12.0
Latinx	187	2,570,631	7	4.2
Other	11	1,377,497	1	0.5
White	49	2,800,638	2	1.0
Total	652	8,682,398	8	--

People Detained in NYC Jails, new charge and parole violation

Race / Ethnicity	Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	511	1,933,632	26	10.0
Latinx	206	2,570,631	8	3.0
Other	7	1,377,497	1	0.2
White	74	2,800,638	3	1.0
Total	796	8,682,398	9	--

People Detained in NYC Jails, no parole violation

Race / Ethnicity	Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	1,889	1,933,632	98	8.1
Latinx	957	2,570,631	37	3.1
Other	79	1,377,497	6	0.5
White	337	2,800,638	12	1.0
Total	3,262	8,682,398	38	--

People Detained in NYC Jails, all offenses

Race / Ethnicity	Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	2,805	1,933,632	145	8.9
Latinx	1,350	2,570,631	53	3.2
Other	97	1,377,497	7	0.4
White	458	2,800,638	16	1.0
Total	4,710	8,682,398	54	--

Sources: U.S. Census Bureau 2019; The City of New York 2020a. Note: Jail detention counts are from February 27, 2020, and census figures are from July 1, 2018.

Table 4: Rates and Relative Rate Indices for Prison Incarceration**People Incarcerated for Technical Parole Violations, NYS (both sexes)**

Race / Ethnicity	Count	Census Population	Rate per 100K Residents	Relative Rate Index
Black	2,030	2,833,908	72	5.0
Latinx	693	3,754,130	18	1.3
Other	133	2,123,647	6	0.4
Unknown	4	--	--	--
White	1,554	10,830,524	14	1.0
Total	4,414	19,542,209	23	--

Men Incarcerated for Technical Parole Violations, NYS

Race / Ethnicity	Count	Male Census Population	Rate per 100K Male Residents	Relative Rate Index
Black	1,960	1,321,080	148	5.7
Latinx	668	1,849,810	36	1.4
Other	127	1,015,381	13	0.5
Unknown	3	--	--	--
White	1,390	5,302,159	26	1.0
Total	4,148	9,488,430	44	--

Women Incarcerated for Technical Parole Violations, NYS

Race / Ethnicity	Count	Female Census Population	Rate per 100K Female Residents	Relative Rate Index
Black	70	1,512,828	4.6	1.56
Latinx	25	1,904,320	1.3	0.44
Other	6	1,108,266	0.5	0.18
Unknown	1	--	--	--
White	164	5,528,365	3.0	1.00
Total	266	10,053,779	2.6	--

Sources: U.S. Census Bureau 2019; NYS Department of Corrections and Community Supervision 2019b. Note: Prison incarceration counts are from March 31, 2018, and census figures are from July 1, 2018.