

INVISIBLE PUNISHMENTS

Causes And Collateral Consequences Of Racial Profiling and Incarceration In The
United States

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People of all races and social classes face the collateral consequences of their criminal records. However, since Black Americans are incarcerated at a greater rate than any other racial group, Black communities are affected the most by the collateral consequences of incarceration and misconduct (National Association of Criminal Defense Lawyers, 2022). According to the Sentencing Project report, "Black Americans are incarcerated in state prisons across the country at nearly five times the rate of Whites"(Nellis, 2021). Since Black people are disproportionately incarcerated compared to other races, they also suffer from these collateral consequences the most. The Judicial Bench Book of Collateral Consequences defines collateral consequences as legal sanctions and restrictions imposed upon people because of their criminal record". One of the reasons why Black Americans have disproportionate contact with the criminal system is due to racial profiling by the police. American Civil Liberties Union (2017) states that "Racial Profiling refers to the discriminatory practice by law enforcement officials of targeting individuals for suspicion of crime based on the individual's race, ethnicity, religion or national origin". Black Americans are being incarcerated at an alarming rate as a result of discrimination and racial profiling techniques by the police. All of this raises the question: What are the collateral consequences of incarceration in addition to racial profiling that Black people face, and how does it affect the quality of their life and their success potential? When incarcerated individuals (a person who has been confined in a jail or prison for committing a crime (Merriam-Webster, n.d.)) try to re-enter society after being released from prison, they are met with restricted benefits, limited employment, and loss of civil rights. This paper shows how Black Americans are suffering from the many collateral consequences of incarceration, which leave Black incarcerated individuals imprisoned their whole life and unable to reach their true potential.

Many Black Americans who have been incarcerated are restricted from many benefits such as healthcare, food stamps, and other federal benefits. Research shows that many Black incarcerated individuals are left with untreated HIV/AIDS because they are denied by public health officials to be treated due to their racial profile and criminal record. Incarcerated Black people also lose the right to receive federal benefits because of having a criminal record and their race.

Many Black Americans who have been incarcerated do not experience quality public health opportunities. They experience many adverse health outcomes and viruses like Human Immunodeficiency Virus (HIV). An article written in 2017 for the Prison Policy Initiative found that “for each year lived behind bars, a person can expect to lose two years off their life expectancy”(Widra, 2017). This already notes that one of the collateral consequences of incarceration is the worsened health outcomes when you leave prison. An article written in 2022 for the New York Focus found that “In its monitoring visits to eight New York prisons between 2020 and 2021, CANY found that four out of ten incarcerated people reported being unable to access medical care”(Law, 2022). With these adverse health risks already present in prison, plus no or limited access to public healthcare, Black incarcerated individuals are at increased risk of further health issues. Black incarcerated people are also disproportionately affected by HIV. This study states, “According to estimates, between 22% and 28% of Black men infected with HIV in the United States passed through a correctional institution on at least one occasion in 2006” (Hart et al., 2016). This shows that there is a correlation between the percentage of HIV among Black people and the incarceration rates among Black people. Due to their disproportionately high HIV rates, incarcerated black individuals need health care more than other groups, however, public health services are denied to them because of their criminal records. Since Black incarcerated

people lose access to good quality public health care they lose the benefit to treat the many illnesses that they experienced in prison. This worsens many health risks. Because of this, they do not live long-lasting life.

Black incarcerated people are denied federal benefits like SNAP and TANF because of both having a criminal record and racial discrimination. An article states, “The vast majority of released prisoners (91%) reported food insecurity, and 37% reported not having eaten for an entire day because there was not enough money”(Wang et al., 2022). As incarcerated people reenter society, federal benefits like food stamps are often denied to them, causing them to experience food insecurity. From experiencing food insecurity, their basic needs are not met. This is described in the Hierarchy of Needs, “At the bottom of the pyramid are the physiological (or basic) human needs that are required for survival: food, shelter, water, sleep, etc. If these requirements are not met, the body cannot continue to function”(Lumen Learning, 2017). Black people who are incarcerated do not have all their basic needs such as food, met when they reenter society. Since they are not receiving food stamps or SNAP benefits, these collateral consequences cannot provide them with food for basic needs. Our government has contributed to this type of food insecurity by imposing the Welfare Act of 1996. An article states, “The Welfare Act of 1996 law imposed a lifetime ban on cash assistance and food stamps for people who have felony drug convictions from state or federal courts”(National Association of Criminal Defense Lawyers, 2022). Food insecurity is a result of this ban on food stamps and other types of assistance for Black incarcerated people. When black incarcerated individuals reenter society, they are most likely to be facing a financial crisis, and they need support to get back on their feet. However, they are denied these benefits because of their criminal past. Prison and the history of incarceration not only cause black incarcerated people to lose federal benefits and experience

food insecurity, but it is also evident that racial profile is also a factor. This combined with the effects of incarceration can cause detrimental effects on Black Americans who have been incarcerated and decreases the chance of survival because their basic needs are not being met.

The collateral consequences of incarceration leave Black Americans who have been incarcerated astray with worsen health outcomes, and loss of federal benefits. The evidence proves that black incarcerated people lose all these types of benefits that everyone should receive in society. This makes them suffer from incarceration the most

Many Black Americans who have been incarcerated are unable to fulfill their economic needs because they lose the chance to find a good job. A criminal record can get them denied a stable job because the employer minimizes the trust between the incarcerated and themselves. The employer will often not even consider the incarcerated candidate but if they do, they will associate them with negligent behavior. Black incarcerated people also experience racial discrimination in the labor market, which combines with the effects of incarceration reduces the chances of getting a stable job.

It is more difficult for Black People with criminal records to find a job not only because of having a criminal record but also of racial discrimination. Research shows that “17% of white Americans with a criminal record get called back after a job interview, compared to 5% of Black Americans with the same history”(Lee-Johnson, 2020). According to this study, Black people are not even considered for a job despite having a similar criminal background. Furthermore, it shows that black people face racial discrimination throughout the employment process. A study conducted on the varying factors that affect employment rates, states, “The employer survey revealed strong effects for criminal justice involvement, with employers expressing preferences for hiring individuals with no prior criminal justice contact. Employers associated prior prison

time with several negative work-related characteristics including tardiness”(Arizona State University, 2019). These employers play a huge role in the interview process and they are the ones that make the decisions that could positively affect or negatively affect their company or business. Consequently, people with a criminal record are associated with reckless behavior and negligence. As a result, they often associate them with tardiness or a failure to do their work properly, and a lack of cohesion among coworkers (Arizona State University, 2019). They often associate this type of behavior with people with criminal records because the employers are often under pressure of whether this employee would make a good impact on the business. This does not allow Black incarcerated people to find stable jobs because of the false assumptions and employers associate someone who is Black and someone as a criminal, which is often not true.

Not only Black incarcerated people get denied jobs because of their history of incarceration but also due to racial discrimination. An article states, “Black men without criminal records are considerably less likely to receive interview callbacks than white men with criminal records”(Craigie, 2017). This shows that racial discrimination exists in the employment process even without a criminal history. Due to their criminal records and race, these Black incarcerated people are discriminated against by their employers, which results in detrimental issues for them. This shows the impact of confirmation bias. Confirmation bias is described as, “Selectively seeking information to back up an opinion that is already held without looking at the bigger picture”(Allegis Group, 2020). This explains that the criminal record upheld by the Black incarcerated people confirms their bias that Black People tend to be dangerous people.

Incarceration causes these situations that Black people with criminal records can not get out of. The collateral consequences of incarceration keep them from getting stable jobs for most of their lives.

Black Americans who have been incarcerated lose their basic civil rights when they reenter society. They lose basic civil rights such as the right to vote and the right to serve jury duty when they are not allowed to give their perspectives on certain issues and are unable to improve their communities. This loss of civil rights dehumanizes them in the eyes of society and they become more vulnerable. With their loss of voting rights, they lose the right to improve their communities and prison environments as they are most likely the only ones who care about it. They lose the right to give their perspectives and issues on certain things as they are not allowed to serve jury duty.

Black Americans who have been incarcerated lose their right to vote. Since the abolishment of slavery, Black Americans have always been restricted or not allowed to vote. An article studying the history of Black Americans states, "Poll taxes, literacy tests, fraud and intimidation all turned African Americans away from the polls. Until the Supreme Court struck it down in 1915, many states used the "grandfather clause " to keep descendants of slaves out of elections"(Library of Congress, n.d.). This explains that ever since when slavery was abolished, these states created many policies to prevent these African American people from even voting. These efforts even continue to this day. An article states, "Black and Hispanic citizens, for whom the poverty rate is close to three times that of whites, were three times as likely as whites to not have the requisite I.D. and to have difficulty finding the correct polling place"(Weeks, 2014). Despite this, Black citizens are still being denied the right to vote in America by not providing the requisite identification. Another article states, "Individuals who have completed their sentences in the eleven states that disenfranchise at least some people post-sentence make up most (43 percent) of the entire disenfranchised population, totaling 2.23 million people"(Uggen et al., 2020). Consequently, black incarcerated people are often deprived of their voting rights

because of their race and incarceration history, which is something that every individual should be able to experience. It is difficult for black incarcerated people to improve communities and prison conditions since they are deprived of their right to vote. An article states, “Generally, on Census Day, prisoners are counted at their facility; however, the Census aims to count the people at the right place, namely, where people usually live”(Liu, 2022). These incarcerated individuals are counted last when the Census is conducted. They are therefore unable to support and fund their communities and districts because of how they are disproportionately incarcerated. The Census is used to, “Required by law, the Redistricting Data Program provides states the opportunity to specify the small geographic areas for which they wish to receive decennial population totals for the purpose of reapportionment and redistricting”(United States Census Bureau, 2021). Having been disproportionately incarcerated and being the last to be counted in the Census, Black people will have fewer House representatives representing their communities and states. They might also be the only ones that care about the prison environment since they experienced it before. This in turn means that because of voting restrictions for the incarcerated they will not be able to get their voices heard to improve their communities, and prison environments.

Black Americans who have been incarcerated are not allowed to give their perspectives and opinions on certain cases that courts deal with because they lose the right to serve jury duty. A 2011 study found, “in one county in Georgia, 34% of Black adults—and 63% of Black men—were excluded from juries because of criminal convictions” (Jackson-Gleich, 2021). As a result, these black prisoners are the ones who do not generally serve jury duty since they are disproportionately sent to prison, and they lose their jury duty rights soon thereafter. A study conducted on the effect of a diverse jury states, “On average, diverse juries deliberate 11 minutes

longer, discussed more facts about the case, and made fewer factual errors than all-white juries. Finally, diverse juries were more open to talking about the role of race in the case”(Lyons-Padilla, 2020). There are several benefits to having a diverse jury and how it could benefit the case as a whole. Different perspectives and opinions given by incarcerated black individuals might be beneficial since they are most likely to understand how these cases work since they have already been through them. Having different perspectives and a diverse jury on these types of cases allows for more. But, incarceration does not allow this to happen which makes these Black incarcerated people's voices not heard.

Incarceration leaves these Black Americans who have been incarcerated without the right to vote and the right to serve jury duty. This does not give them a voice and a perspective that could be heard to improve their communities and environments. It could also improve decision-making in certain cases. This is one of the collateral consequences of incarceration by taking their civil rights.

In conclusion, the collateral consequences of incarceration lead more Black Americans who have been incarcerated to live a life where they are not meeting their basic needs of survival. Many of these Black Americans are discriminated against when applying for jobs or benefits because employers are prejudiced and biased against these people. This leads to many issues in the Black incarcerated person's life including unemployment, health issues, restricted benefits, and their loss of basic civil rights. Even though Black incarcerated people are freed after their sentence in prison, they will never truly be free from imprisonment because these collateral consequences follow them for the rest of their life. They find it hard to survive in society since having a prison record means being restricted against many benefits that they need to meet their needs, and loss of civil rights, where their voices are lost and can not improve their

communities or prisons. They also struggle of finding jobs, contributing to the racial gap in employment, and they are also unable to fulfill their economic needs. These employers associate incarcerated people with tardiness and negligence. Their physical health is also at risk when reentering society because of how incarceration affects their health and also how they are being denied public health care which is a benefit that everyone in society should receive. They lose benefits like SNAP or TANF which makes them experience food insecurities. They lose their basic civil rights like the right to vote and the right to serve jury duty as they are not able to give share their own opinions and support their communities and prisons as they are probably the only ones who care about them. during imprisonment and after imprisonment also contribute to this leaving these incarcerated people with a disturbing and short life. Since Black people are disproportionally getting sent to prisons every day, these collateral consequences become even more serious and dangerous. Many people believe that these collateral consequences are needed to decrease crime and stop major offenders. An article states, “The consequence matches the offense. It also may prevent similar offenses from being committed, so it makes the community safer”(Wilson, 2022). This could be understandable if the collateral consequences of incarceration were small and did not overall affect the life of these incarcerated people. But these collateral consequences are massive in their lives and change their lives completely. They are not only experiencing these collateral consequences because of their history of incarceration but also their race. Collateral consequences even encourage recidivism(Malcolm & Seilber, 2017). Since these collateral consequences are only negatively impacting them they might have to do more crimes to survive. Our police and prison system must realize the hidden collateral consequences that they do not usually suspect as a factor in poverty rates in the country. This system needs to create equal opportunities for all incarcerated people, and instead of ignoring them when they

suffer both in prison and out of prison, the system needs to get more involved in fixing the lives of these Black incarcerated people because of mass incarceration. Black people that have been incarcerated should live a natural life after prison and not face these “invisible punishments”.

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