



FUELING RACIAL INJUSTICE

PROPOSITION 20'S INVESTMENT IN INCARCERATION WOULD DISPARATELY HARM CALIFORNIANS OF COLOR

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INTRODUCTION

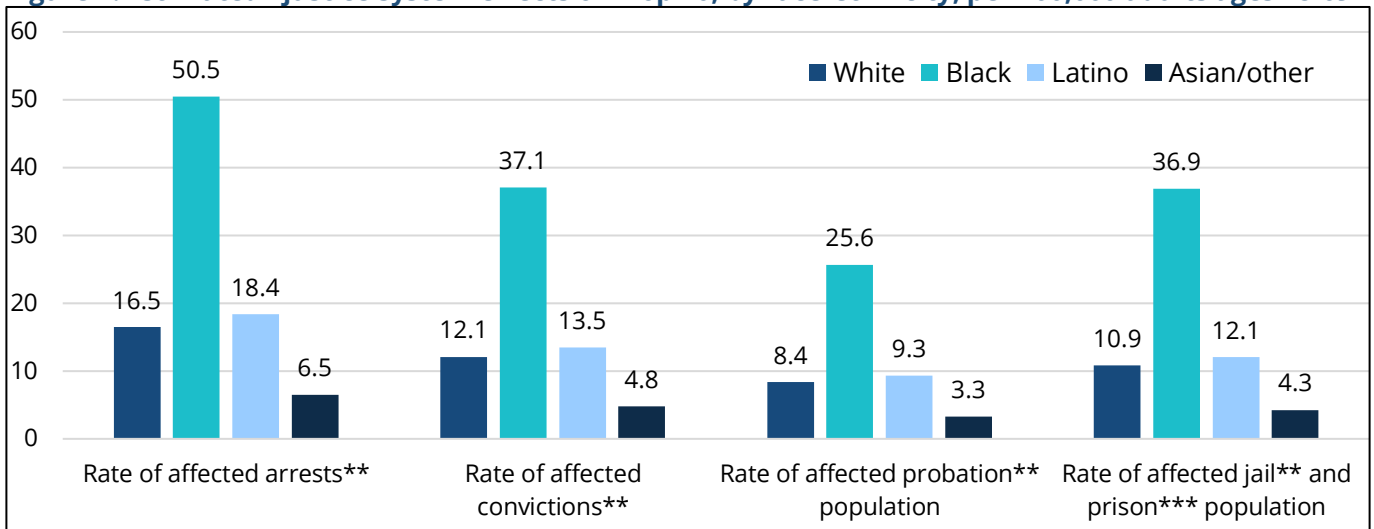
Amid a 50-year low in California’s crime rate, a proposed ballot initiative could send thousands of people of color into jails and prisons each year (CJCJ, 2020). Proposition 20, a measure that seeks to roll back recent criminal justice reforms, could result in a greater share of Black and Latino Californians being arrested, convicted, and incarcerated for felony theft offenses than their white counterparts. If passed in November, the initiative would repeal key elements of Public Safety Realignment, Proposition 47, and Proposition 57 — policies that have measurably reduced prison and jail overcrowding through release opportunities and reduced penalties for low-level offenses. Proposition 20 would transform some misdemeanor theft offenses into potential felonies, prevent certain imprisoned Californians from earning credit for their participation in rehabilitation programs, return people to jail for repeated noncriminal violations of probation, and expand DNA collection for individuals convicted of some misdemeanor offenses (SOS, 2018).

Proposition 20 would make the following patchwork of changes to current law:

- Reduce the threshold for felony theft, which transforms a number of theft offenses from misdemeanors to potential felonies.
- Prevent some incarcerated people from earning credit for good behavior or for their participation in rehabilitative programs.
- Potentially return people to jail for their third violation of probation.

This fact sheet accompanies a research report produced in June by the Center on Juvenile and Criminal Justice that explored the fiscal impacts of Proposition 20 (CJCJ, 2020a). The report found that Proposition 20 could cost state taxpayers and local communities hundreds of millions of dollars annually by increasing felony theft arrests (up to 10,000 new arrests), convictions (up to 7,000 new convictions), and incarcerations (up to 6,000 new jail or prison terms). Proposition 20 would impose heavy social costs as well, devastating families and communities by placing thousands behind bars and on probation, then saddling them with lifelong restrictions on housing, education, and employment (CSJ, 2018). This analysis finds that the burdens of Proposition 20 would fall most heavily on Californians of color.

Figure 1. Estimated* justice system effects of Prop 20, by race/ethnicity, per 100,000 adults ages 18-69



Source: CJCJ, 2020a; DOF, 2020; DOJ, 2020; 2020a. *Assumes 50 percent of potential new felonies will be charged and prosecuted as felonies. **Arrest, conviction, probation, and jail population disparities are predicted based on 2019 data on the race and ethnicity of felony theft arrestees. ***Prison disparities are predicted based on 2016 data from the California Department of Corrections and Rehabilitation on the race and ethnicity of people incarcerated for property offenses (CDCR, 2017). Note: San Francisco has miscategorized Latino arrestees as white and “other” race since at least 1999 (Walter, 2012). Small adjustments to correct San Francisco’s misclassification of California’s theft offenses and Latino populations are used to estimate true statewide arrest totals by race (DOJ, 2020a).

ANTICIPATED EFFECTS

Nearly two-thirds of people incarcerated under Proposition 20 could be people of color.

Of the approximately 3,000 to 6,000 new jail and prison terms expected to result from Proposition 20, an estimated 66 percent would be for Black, Latino, Asian, and other Californians of color. Our prior analysis presumed that the initiative would impose an additional six-month term in jail and a 1.3-year term in prison (CJCJ, 2020a). These lengthy periods of incarceration would separate parents from their children, leave families without an income earner, and send substantial ripple effects through communities of color.

Black Californians may be affected by the initiative at three to five times the rate of white Californians.

Black people, who make up about 6 percent of California’s adult population, could comprise nearly 20 percent of new arrests and more than 25 percent of imprisonments under the initiative. As shown in Figure 1 and Table 1, new felony arrests, convictions, and probation, jail, and prison terms resulting from the initiative could disproportionately affect Black and, to a lesser extent, Latino Californians. Black Californians could experience increased arrest and imprisonment rates that are three to five times higher than the rate experienced by white Californians (50.5 arrests and 9.1 imprisonments per 100,000 Black adults ages 18-69 vs. 16.5 arrests and 1.8 imprisonments per 100,000 white adults ages 18-69) (Table 1).

Table 1. Estimated one-year increase in justice system involvement due to Prop 20, by race/ethnicity

	White	Black	Latino	Asian/other	Total
Affected arrests*	1,600 to 3,200	900 to 1,700	1,900 to 3,800	300 to 700	4,700 to 9,400
Rate of affected arrests	16.5 to 32.9	50.5 to 101.0	18.4 to 36.7	6.5 to 13.1	17.5 to 35.0
Felony convictions*	1,200 to 2,400	600 to 1,300	1,400 to 2,800	200 to 500	3,400 to 6,900
Rate of affected convictions	12.1 to 24.2	37.1 to 74.2	13.5 to 27.0	4.8 to 9.6	12.9 to 25.7
Probation*	800 to 1,600	400 to 900	1,000 to 1,900	200 to 300	2,400 to 4,800
Rate of affected probation	8.4 to 16.7	25.6 to 51.3	9.3 to 18.7	3.3 to 6.6	8.9 to 17.8
Jail*	900 to 1,800	500 to 900	1,000 to 2,100	200 to 400	2,600 to 5,200
Rate of affected jail population	9.1 to 18.1	27.8 to 55.6	10.1 to 20.2	3.6 to 7.2	9.6 to 19.3
Prison**	200 to 400	200 to 300	200 to 400	30 to 70	600 to 1,100
Rate of affected prison population	1.8 to 3.6	9.1 to 18.2	1.9 to 3.9	0.7 to 1.3	2.1 to 4.2

Source: CJCJ, 2020a; DOF, 2020; DOJ, 2020; 2020a. Note: Rates are per 100,000 people ages 18-69. Small adjustments to correct San Francisco’s misclassification of California’s theft offenses and Latino populations are used to estimate true statewide arrest totals by race (DOJ, 2020a). *Arrest, conviction, probation, and jail population disparities are predicted based on 2019 data on race and ethnicity of felony theft arrestees. **Prison disparities are predicted based on 2016 data from the California Department of Corrections and Rehabilitation on the race and ethnicity of people incarcerated for property offenses (CDCR, 2017).

Proposition 20 could subject Latino Californians to more felony arrests, convictions, and probation, jail, and prison terms compared to white Californians.

Latino Californians are already more likely to be charged with felony theft, a pattern that could continue under Proposition 20. Because of this, the initiative could subject Latino Californians to more felony arrests, convictions, and probation, jail, and prison terms compared to white Californians (Table 1) despite lower overall theft rates (178.1 per 100,000 Latino adults ages 18-69 vs. 192.2 per 100,000 white adults ages 18-69) (DOJ, 2020). While white, Black, and Asian/other Californians were more likely to be charged with misdemeanor rather than felony theft in 2019, Latino Californians were charged with more felonies than misdemeanors. This pattern, if it extends to the offenses that would be newly chargeable as felonies under the initiative, could result in charging decisions that skew increasingly punitive for Latino Californians.

Disparities are likely to grow as people of color are prosecuted, sentenced, and punished for theft offenses.

These predictions do not fully account for the extent to which disparities accumulate throughout the justice system, from arrest to conviction to punishment. National research has shown that Black Americans are more likely to be sentenced to prison and less likely to receive a sentence of probation compared to white Americans for equivalent offenses (Hartney & Vuong, 2009). Likewise, studies have shown that Black Americans experience bias in pretrial release and bail decisions, charging decisions, and sentencing (Hinton et al., 2018; Jones, 2013; Kutateladze et al., 2012; Rachlinski et al., 2009). California Department of Corrections and Rehabilitation figures indicate that Black Californians are 4.1 times more likely to be sentenced to prison and 5.1 times more likely to be in prison for property offenses than are white Californians (CDCR, 2017; DOF, 2020). Latino Californians are 19 percent more likely to be admitted to prison and 9 percent more likely to be in prison for property offenses than are white Californians (CDCR, 2017; DOF, 2020). An analysis of San Francisco case-level data found that people of color are more likely to be convicted of a felony than a misdemeanor and receive longer sentences for equivalent offenses compared to their white counterparts (Owens, et al., 2017).

Proposition 20 would come at a high cost to the state and counties (CJCJ, 2020a). Yet Californians of color would pay the greatest price with rates of arrest, conviction, probation, jail, and prison that far exceed those of white Californians. By rolling back progressive criminal justice reforms, Proposition 20 would exacerbate the harmful racial and ethnic disparities in California's justice system and leave lasting negative effects on communities of color.

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Please note: Jurisdictions submit their data to the official statewide or national databases maintained by appointed governmental bodies. While every effort is made to review data for accuracy and to correct information upon revision, CJCJ cannot be responsible for data reporting errors made at the county, state, or national level.

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