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LESSONS LEARNED FROM COVID-19 FOR RACIALLY EQUITABLE DECARCERATION

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In response to the COVID-19 pandemic, jails and prisons underwent the largest recorded one-year population reduction in U.S. history. Notably, racial disparities in the criminal legal system got worse because preexisting sources of racial bias were reinforced and exacerbated through the flawed decarceration approach.

INTRODUCTION

David Clemons* is a Black man from New York who was arrested at the age of 60 in March 2020, as the coronavirus pandemic began. He was initially placed on home confinement with an ankle monitor to await trial. His residence had no refrigerator, so he had to go to the corner store to get food multiple times a day. He eventually violated the conditions of his home confinement when leaving home to get food and, as a result, was detained in a federal jail from September to December 2020 to await trial. These four months in jail were a traumatic time for Mr. Clemons who was seriously concerned for his life. Due to his older age and multiple pre-existing chronic health conditions, Mr. Clemons was at particularly high risk of sickness and death from COVID-19. The jail was under lockdown and Mr. Clemons was confined to his cell for at least 23 hours per day. Every time a new person was admitted into the jail, Mr. Clemons worried about whether they were bringing the virus in with them. In December 2020, the COVID-19 vaccine was not yet available to incarcerated people, and the federal jail where Mr. Clemons was detained was reporting an active outbreak of COVID-19 cases among staff and incarcerated people. Each day of Mr. Clemons's incarceration, solely for awaiting his trial, was filled with serious risks of additional chronic illness and even death.

Mr. Clemons is one of millions of incarcerated Americans during the pandemic who feared for their lives while being disconnected from their families. The U.S. incarcerates a higher number and higher rate of people than any other nation, a phenomenon widely known as “mass incarceration.”¹ A defining feature of mass incarceration is that every stage of the criminal legal system is marked by stark racial disparities. Black people and other people of color are disproportionately targeted through arrest, prosecution, pretrial release, and sentencing. As a result, Black people are incarcerated in jails at about 3 times the rate of white people and incarcerated in prisons at about 5 times the rate of white people.²

After four decades of growth, the size of the U.S. incarcerated population has been declining for the past decade, and racial disparities were beginning to shrink.³ The start of the COVID-19 pandemic triggered immediate calls for decarceration (i.e., reducing the number of people incarcerated) given the high risk of virus spread in congregate settings like jails and prisons and subsequent, inevitable spread to the neighboring community.⁴ Although the majority of incarcerated people were left behind bars to face potential illness and death, the U.S. incarcerated population experienced its largest recorded one-year population reduction in U.S. history.⁵ This large-scale decarceration undoubtedly saved lives and will have long-term benefits for those who were diverted out of jails and prisons, as well as their families and communities.

However, not all benefited from the decarceration equally: **racial disparities in jail and prison worsened during the COVID-19 pandemic, and Black people represented a larger percentage of the incarcerated population as it declined.**

*This name has been changed for privacy reasons

In this brief, we examine the drivers of pandemic-related decarceration, interrogate its impacts on racial disparities, and draw lessons to inform policy recommendations for racially equitable decarceration.

CALLS FOR DECARCERATION

In anticipation of the coronavirus reaching the U.S., corrections officials, health professionals, activists, and incarcerated people sounded the alarm that large-scale decarceration was necessary to avoid untold death and devastation given the high risk of disease spread in jails and prisons.⁶ A substantial body of epidemiologic research demonstrates how mass incarceration exacerbates the spread of infectious disease among incarcerated people and broader communities, even in non-pandemic conditions.⁷ Jails and prisons are often overcrowded with poor ventilation, poor sanitary conditions, and substandard access to healthcare.⁸ Incarcerated people and corrections staff cycle in and out of correctional facilities every day, causing an infectious disease outbreak that starts in a correctional facility to spill into the broader community. Mass incarceration is incompatible with public health—during an infectious disease pandemic and otherwise. The start of the COVID-19 pandemic served as a shock to our carceral system, increasing the urgency of what many have been demanding for decades: dramatically reducing the number of people held in our nation’s jails and prisons.

While reductions in the jail and prison population were widely considered too little and too late,⁹ the U.S. did achieve unprecedented decarceration. However, pandemic decarceration was plagued with failures, including an increase in racial disparities in the criminal legal system.

What is the difference between jail and prison?

Both jails and prisons are correctional facilities, but they have important differences. Jails are designed to be short-term facilities primarily used to detain people who have not been released while awaiting trial. Jails may also hold people who have been sentenced to a short term of incarceration (generally one year or less). Prisons are designed to be long-term facilities primarily used to detain people who have been convicted of a crime and have been sentenced to a longer term of incarceration (generally more than one year). Jails are typically managed at the local level (city or county) while prisons are typically managed at the state or federal level.

WHAT CAUSED JAIL AND PRISON POPULATIONS TO DROP?

From 2019 to 2020, the average daily population of U.S. jails dropped 11%¹⁰ and the population of U.S. prisons dropped 15% (see Figure 1).¹¹ To understand why pandemic decarceration led to worse racial disparities in jails and prisons, it is important to identify the changes that caused pandemic decarceration.

Figure 1A. Annual average daily population of U.S. jails



Source: Bureau of Justice Statistics, Jail Inmates in 2020 - Statistical Tables • Created with Datawrapper

Figure 1B. Annual year-end population of U.S. prisons



Source: Bureau of Justice Statistics, Prisoners in 2020 - Statistical Tables • Created with Datawrapper

Contrary to popular belief, this dramatic reduction in the jail and prison population was not primarily due to mass releases from jails and prisons. In fact, **there were fewer releases from prison in 2020 than in 2019**, and the average length of time someone was held in jail *increased* from 26 days in June 2019 to 28 days in June 2020.¹² Instead, pandemic decarceration was primarily driven by a significant reduction in new admissions into jails and prisons. Specifically, the number of annual admissions into U.S. jails dropped from 10,300,000 in 2019 to 8,700,000 in 2020, a 16.2% decrease.¹³ The number of annual prison admissions dropped 40% from 576,956 in 2019 to 346,461 in 2020.¹⁴

Below, we discuss some of the key drivers of these reductions in jail and prison admissions.

Decline in criminalized activity, police stops, and arrests. During the beginning of the pandemic, there was a substantial decline in interactions with law enforcement and entry into the criminal legal system, likely because people were generally staying at home and limiting social interactions. Although there was an increase in some violent crime between 2019 and 2020, overall crime reported by the FBI declined by 6% from 2019 to 2020.¹⁵ In addition to a decline in criminalized activity, police were making fewer arrests. The total number of arrests reported by the FBI declined by 24% from 2019 to 2020.¹⁶ This was due in part to several police agencies temporarily halting arrests and/or prosecutors temporarily halting prosecution for low-level or quality-of-life offenses such as low-level theft, drug possession, and vandalism.¹⁷

Decreased use of incarceration pretrial and as sanction for supervision violations. The reduction in jail admissions can also be explained by an increase in the use of pretrial supervision outside a jail (e.g., electronic monitoring, home

detention, etc.). The number of people under pretrial supervision increased from 38,700 in June 2019 to 50,100 in June 2020.¹⁸ Additionally, fewer people entered jail or prison from probation and parole. A common pathway into jail or prison is when a person violates a condition of probation or parole, which could involve allegedly committing a new crime and/or a technical violation such as missing an appointment with a probation/parole officer or missing a curfew.¹⁹ The number of times someone exited probation to serve a period of incarceration decreased roughly 38% from 2019 to 2020.²⁰ Similarly, the number of parole exits to serve a period of incarceration decreased roughly 35%.²¹ This reduction is likely due to the fact that many probation and parole agencies suspended supervision and reporting requirements at some time during 2020 due to the pandemic.²² Some jurisdictions also temporarily eliminated the use of incarceration for technical violations.²³

Court closures and delays. The large majority of courts in the U.S. closed at the start of the COVID-19 pandemic and extended case filing deadlines.²⁴ This delay in court processing essentially halted new prison admissions while states adapted to the pandemic and developed policies for remote proceedings. Although the total number of filed criminal court cases decreased in 2020 compared to 2019, the number of cases completed in 2020 decreased even more, creating a backlog of cases. Based on data from the Court Statistics Project through December 2021, courts are still working through this backlog of cases.²⁵

Suspension of transfers from jail to prison. The transfer of people from local jails to state prisons post-conviction slowed significantly during the pandemic, which contributed to the reduction in prison admissions.²⁶ This decrease in prison admissions is not, in fact, decarceration given that people remained incarcerated in jails. For example, Illinois Governor J.B. Pritzker suspended all transfers to state prisons in March 2020. Transfers were allowed to resume by late July 2020 but remained slow.²⁷ In September 2021, the Cook County (Chicago) Sheriff filed a petition to force the state corrections department to accept more transfers from the jail because the jail held more than 500 people who were awaiting transfer.²⁸ In the early months of the pandemic, the Cook County Jail was the top hotspot for coronavirus infections in the country, so halting transfers and keeping the jail crowded likely exacerbated the spread of COVID-19 in the jail and the broader community.²⁹

WHAT WERE THE IMPACTS OF PANDEMIC DECARCERATION?

A major positive outcome of pandemic decarceration was that hundreds of thousands of people avoided incarceration with no measurable negative impact on public safety. However, major flaws in pandemic decarceration led to heightened racial disparities in the system and thousands of preventable deaths due to COVID-19.

The benefits of pandemic decarceration

By undergoing the largest one-year reduction in the jail and prison population, the U.S. demonstrated that large-scale decarceration is possible and can be done quickly and safely when there is the will to do so.

The personal and societal benefits of diverting even one person out of jail or prison cannot be overstated. After being held for four months as the pandemic raged on, David Clemons was eventually released from jail and placed on pretrial supervision. While his freedom was severely restricted by an ankle monitor, Mr. Clemons' release opened important opportunities for him and his family. Since being released, Mr. Clemons began taking classes with the goal of becoming a certified peer recovery advocate for people who struggle with substance use. He is now able to see his doctors regularly and monitor his health. He is also moving out of a shelter and into his own apartment. For Mr. Clemons, the biggest benefit of his release from pretrial detention was being able to pick up his children from school.

There are hundreds of thousands of others who experienced similar benefits due to pandemic decarceration. As a society, we will continue to feel the long-term benefits of decarceration through the lives saved from COVID-19, the prevention of further loss of jobs and housing, and the protection of families from forced separation.

Notably, there is no evidence linking this record-breaking reduction in the incarcerated population to a decline in public safety. As previously discussed, crime reported to police declined in 2020. Additionally, data from the National Crime Victimization Survey, which reflects police-reported and non-police-reported crime victimization, demonstrate that the nation's total violent victimization rate declined 22% from 2019 to 2020.³⁰ The property crime victimization rate (e.g., burglary, theft) also declined.³¹ While early releases from jail and prison were not the primary driver of pandemic decarceration, early releases due to COVID-19 did occur, and there are no data linking these releases with increased crime. Data from New York and New Jersey show that people who were released early had lower rates of rearrest and reincarceration than people released pre-pandemic or by normal release procedures.³² Additionally, in August 2022, the Bureau of Prisons reported that **only 17 of the more than 11,000 people who were released from federal prison during the pandemic were charged with new crimes.**³³

Deaths due to COVID-19

People incarcerated in jails and prisons were among the most vulnerable groups at risk of exposure, illness, and death due to the coronavirus. While hundreds of thousands of people avoided incarceration during the pandemic, many remained behind bars to face the devastation of COVID-19. The COVID-19 death rate in prisons has been consistently higher than the death rate in the general U.S. population and, as of September 2022, there have been more than 3,100 reported deaths of incarcerated people due to COVID-19.³⁴ The actual number of deaths due to coronavirus exposure in jail or prison is likely much higher due to underreporting and the absence of tracking post-release.³⁵

A lack of transparency in data has made it difficult to determine COVID-19 death rates in prison by race accurately. However, a team of researchers was able to collect this data from 11 states through Freedom of Information Act (FOIA) requests. Their analysis showed that, after adjusting for age differences between the Black and white prison populations, the COVID-19 death rate for Black incarcerated people was almost double the rate for white incarcerated people.³⁶ This statistic is similar to the higher age-adjusted mortality rate for Black people compared to white people in the general U.S. population.³⁷

Jail and prison incarceration has also been an important driver of COVID-19 spread in the broader community, likely contributing to tens of thousands of deaths, due to the high number of incarcerated people and correctional staff cycling in and out of jails and prisons every day.³⁸

An epidemiologic model presented by the ACLU in April 2020 projected at least 100,000 additional COVID-19 deaths in the U.S. due to viral spread via jails alone.³⁹

All of these deaths could have been prevented by a more effective strategy for decarceration. People currently detained in jails and prisons remain at very high risk of COVID-19 given the generally higher prevalence of chronic health conditions among incarcerated people, limited access to appropriate healthcare, and insufficient virus mitigation strategies.⁴⁰ There is very limited data available concerning vaccination and booster access for incarcerated people, creating uncertainties as to whether incarcerated people are being offered booster shots to protect against the virus.⁴¹ More illness, and potentially death, is expected, especially as jails and prisons return to business as usual.

Racial disparities in jails and prisons worsened

A major failure of pandemic-related decarceration is that racial disparities in the incarcerated population grew: white jail and prison populations experienced a larger reduction in size than Black jail and prison populations. **In 2019, the Black jail incarceration rate was 3.26 times the white jail incarceration rate, and the Black prison incarceration rate was 5.08 times the white prison incarceration rate. In 2020, those figures increased to 3.50 times and 5.13 times, respectively.** For several years, racial disparities in incarcerated populations had been shrinking as overall populations were declining. Figure 2 displays this reversal of trends as the percentage of the incarcerated population that is Black increased in 2020.

Figure 2A. Black percentage of jail population



Source: Bureau of Justice Statistics, Jail Inmates in 2020 - Statistical Tables • Created with Datawrapper

Figure 2B. Black percentage of prison population



Source: Bureau of Justice Statistics, Prisoners in 2020 - Statistical Tables • Created with Datawrapper

WHY DID PANDEMIC DECARCERATION EXACERBATE RACIAL DISPARITIES?

The procedures and practices that guided pandemic decarceration are responsible for the subsequent, heightened racial disparities. Flawed decarceration strategies reinforced preexisting sources of structural racism in the criminal legal system and created new opportunities for structural racism to produce biased outcomes.

Discretionary decision-making. The criminal legal system is composed of several points of discretionary decision-making. For example, police exercise discretion when making stops and arrests, prosecutors exercise discretion when bringing charges, and judges exercise discretion when sentencing. Therefore, at each of these discretionary decision points, there is an opportunity for bias and discrimination to produce inequitable outcomes for people of color. Pandemic decarceration resulted, in part, from changes that heavily rely on such discretionary decisions, such as police officers being advised to cut down on arrests to minimize contact with the public. Given the heightened role of discretion, it is likely that racial disparities worsened because white people disproportionately benefited from these discretionary changes. For example, The Marshall Project conducted an analysis of five cities and found that, while total arrests declined, arrests of white people dropped 17% more than arrests of Black people.⁴² Similarly, a case study of traffic stops in Texas showed that the overall number of traffic violations declined in 2020, but the percentage of traffic violations involving Black or Latinx drivers increased from March to May 2020.⁴³

Court closures and slowdowns. Court closures and slowdowns contributed significantly to the reduction in prison admissions in 2020 and likely also contributed to the exacerbation of racial disparities in prison. Because jury trials were halted, more people were incentivized to take plea deals.⁴⁴ Black people are more likely to have prison time included in their plea agreement than similarly situated white people, so an increase in the frequency of plea deals could have led to a higher proportion of Black people sentenced to prison than white people.⁴⁵

Criteria for early release eligibility. As discussed, early release from prison was not a primary driver of pandemic decarceration given that the overall number of releases declined in 2020. However, some jurisdictions did enact policies for early releases. These early release policies may have disproportionately benefited white incarcerated people because the criteria for early release eligibility were racially discriminatory. Major criteria used to determine release eligibility were type of crime, risk to public safety, vulnerability to COVID-19, and time left on sentence.⁴⁶

- **Type of crime:** It was common for jurisdictions to limit early release to those convicted of non-violent offenses only. National data demonstrate that Black people are overrepresented in arrests for nonfatal violent crimes relative to their involvement in nonfatal violent crimes. Meanwhile, white people are underrepresented in arrests for nonfatal violent crimes relative to their involvement in such crimes.⁴⁷ Therefore, limiting release eligibility to people convicted of only non-violent offenses is expected to have a discriminatory impact on Black incarcerated people.
- **Risk to public safety:** Many jurisdictions used risk assessment tools to determine who should be eligible for release.⁴⁸ There is a large body of evidence demonstrating that risk assessment tools reinforce and exacerbate racial disparities in the criminal legal

system by statistically rating white people as lower risk than Black people.⁴⁹ Even when risk assessment tools explicitly exclude race as a predictive variable, they often still reflect racial bias by including variables that serve as proxies for race, such as zip code (due to residential segregation) and age at first arrest (due to preexisting structural racism in policing).⁵⁰

- **Vulnerability to COVID-19:** Some incarcerated people were granted medical releases if they had a preexisting health condition that increased their vulnerability to COVID-19. There is evidence of judges using biased, race-based adjustments to determine whether a person's health condition is severe enough to make them eligible for medical release.⁵¹ For example, the use of an outdated race-based adjustment for kidney function test scores. In some cases, these race-based adjustments prevented medical release for otherwise eligible Black incarcerated people.⁵²
- **Time left on sentence:** In many jurisdictions, having a short time left on a sentence (e.g., one year remaining) was a requirement for early release.⁵³ Yet, there are pronounced and consistent racial disparities in the length of sentences imposed. For example, Black men in the federal prison system are sentenced to prison terms that are about 19% longer than similarly situated white men.⁵⁴ Thus, using time left on sentence as an early release eligibility criterion is expected to disproportionately benefit white incarcerated people.

Discrimination in early release eligibility was likely one of the drivers of increased racial disparities as **data from multiple states and the federal prison system demonstrate that a higher percentage of white incarcerated people were deemed eligible for early release than Black incarcerated people.**⁵⁵

LESSONS FOR RACIALLY EQUITABLE DECARCERATION

In one year, U.S. stakeholders mobilized to achieve dramatic decarceration resulting in the largest single-year reduction in the incarcerated population. However, due to inherent racial bias in the system, pandemic-related decarceration further exacerbated preexisting racial disparities. Additionally, because the strategies for decarceration were not codified into long-term policy, jail and prison populations are increasing and quickly approaching pre-pandemic levels. Police agencies have resumed arrests for low-level and quality-of-life offenses,⁵⁶ courts are back in session,⁵⁷ more people are being held pretrial because they cannot afford bail,⁵⁸ and some of the people released from prison have been ordered to return.⁵⁹ Nineteen states and the federal government increased their prison populations from 2020 to 2021 despite new, highly contagious waves of the coronavirus in 2021.⁶⁰

We now face an opportunity to learn from past mistakes and decarcerate in a systematic and sustained fashion to ensure racial equity and lasting change. While there are a number of strategies for racially equitable decarceration, this brief focuses on adapting and improving strategies that already occurred in 2020 in response to the pandemic. We focus on these strategies because pandemic decarceration demonstrated that these changes can be made quickly and safely with no documented negative impact on public safety. Because these strategies, as previously implemented, were insufficient and exacerbated racial disparities, we apply a racial equity lens to improve upon these approaches through systematic, policy-based strategies for equitable and sustained decarceration.

Decriminalize or decline to arrest and prosecute low-level offenses.

In 2020, police officers in many jurisdictions were temporarily discouraged from making arrests for low-level or quality-of-life offenses (e.g., theft, drug possession, and vandalism) to curb the spread of COVID-19 in jails. Police and prosecutors have an opportunity to enact permanent policies to decline to arrest and prosecute offenses that are unrelated to public safety. Without formal policies, there is a high risk of discretion exacerbating racial disparities. When District Attorney Rachael Rollins was elected in Suffolk County, MA (Boston) in 2018, she announced the office would not prosecute low-level misdemeanor offenses citing how these offenses were primarily driven by poverty, mental health, and substance use – issues that are better addressed outside the criminal legal system.⁶¹ A study of this policy change found that people not prosecuted had fewer future arrests than those who were prosecuted, and the policy did not result in an increase in crime.⁶² Lawmakers can also codify these changes through legislation by moving to decriminalize these types of offenses. If these systematic decriminalization or declination policies are not formally instated, Black people will continue to disproportionately suffer from discretionary arrest and prosecution decisions as racial bias, including implicit bias, infects these discretionary decisions.

Eliminate money bail.

To reduce the use of jail detention during the pandemic, several jurisdictions released people who were held in jail for the sole reason that they were unable to pay bail and/or set bail at zero for certain types of offenses. The rationale was that no one should be held in jail, facing exposure to a deadly virus, simply because they cannot afford bail. This begs the question of why anyone should be held in jail solely because they cannot afford bail, even in non-pandemic circumstances. However, these changes were temporary, and money bail is still used to detain pretrial people who have not been convicted of a crime and thus presumed innocent, and continues to be a driver of racial disparities in jail detention.⁶³ For example, California judges adopted a statewide emergency rule to set bail at zero for most misdemeanors and low-level felonies in April 2020, but the rule quickly expired in June 2020.⁶⁴ More positively, in 2021, Illinois became the first state to abolish money bail, paving the way for more states to end this discriminatory practice.⁶⁵ Importantly, strategies to eliminate money bail should avoid replacing the practice with the use of risk assessment tools, which also perpetuate racial discrimination as described above.⁶⁶

Eliminate incarceration due to probation or parole violations.

As discussed, far fewer people were incarcerated for a probation or parole violation in 2020 compared to 2019, due primarily to informal, reactionary changes such as agency closures and reductions in reporting requirements. Again, this can be adapted into a systematic policy change to eliminate incarceration due to a probation or parole violation, especially for technical violations, such as missing an appointment or curfew. There is no evidence to suggest that incarceration as a sanction for probation or parole violations has any positive impact on future risk of violations.⁶⁷ Systematic implementation of this policy is likely to address racial disparities because Black people are more likely to have technical violations while on probation and are more likely to be rearrested while on probation.⁶⁸ These disparities are likely explained by discrimination in the system (e.g., higher levels of police surveillance and stops in Black neighborhoods) and social and structural discrimination that increases the likelihood of violations (e.g., housing instability).⁶⁹ As with other sentencing disparities, Black people are also more likely to be incarcerated for probation violations than white people.⁷⁰ Additionally, reforms

can be made to probation and parole to reduce the risk of reincarceration, such as reducing the length and conditions of community supervision sentences and sentencing fewer people to probation in favor of less punitive alternatives.

Reform sentencing practices.

While pandemic decarceration was driven more by reduced admissions than increased releases, courts shortened sentences and granted early releases in some cases.⁷¹ As previously discussed, there is no evidence to suggest these sentence reductions and releases negatively impacted public safety. The U.S. prison system is characterized by extremely long sentences, which are often enforced by mandatory minimum sentencing laws. One in every nine people in a U.S. prison is serving a life sentence, half of whom are Black.⁷² Additionally, Black men are more likely to be sentenced to incarceration and to receive longer sentences than white men convicted of similar crimes.⁷³ There are several sentencing reforms that would advance racially equitable decarceration, including eliminating life sentences, mandatory minimum sentences, and habitual offender laws, all of which disproportionately punish Black people in the system.

CONCLUSION

A record-breaking reduction in the jail and prison population occurred because stakeholders determined that the societal cost of incarceration was too high to tolerate during the COVID-19 pandemic. While flaws in the decarceration approach led to increased racial disparities in the criminal legal system, hundreds of thousands of people were diverted away from incarceration, which saved lives, kept families together, and did not impact crime. Having learned these lessons, why should stakeholders tolerate the cost of incarceration moving forward? Jails and prisons have never been safe or healthy environments, and the safety and health of broader communities, especially Black communities, is threatened by our system of mass incarceration. Pandemic decarceration demonstrated that there is no benefit attained from incarcerating more than two million people, the highest incarceration rate and number in the world. The U.S. has a critical opportunity to learn from the 2020 aberration in its system of mass incarceration and enact systematic, long-term policies for racially equitable decarceration.

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2021 UPDATE

This brief is focused on the pandemic decarceration that occurred in 2020. New 2021 data on U.S. jail and prison populations were released by the Bureau of Justice Statistics on December 20, 2022, providing a more up-to-date picture. In general, the criminal legal system returned to business as usual in 2021. Many of the temporary pandemic-related changes in 2020 that led to decarceration (e.g., arrest/prosecution declination policies, court closures and halting of jury trials, decreased use of incarceration for supervision violations) ended. The new data show that the number of people incarcerated in jails (measured at midyear) increased by 16% from 549,100 in 2020 to 636,300 in 2021.⁷⁴ This increase was driven by a 19% increase in unconvicted people held in jail, a 33% increase in people held in jail for a parole violation, and a 20% increase in the number of people held in jail for a probation violation.⁷⁵ Prison admissions (measured at yearend) increased 22% from 2020 to 2021, but prison releases slightly outpaced admissions resulting in a small 1% decline in the total prison population.⁷⁶

Racial disparities in jails and prisons declined slightly but remain stark. In 2021, the Black jail incarceration rate was 3.4 times the white jail incarceration rate compared to 3.5 in 2020 and 3.3 in 2019.⁷⁷ The Black prison incarceration rate was 5.0 times the white prison incarceration rate in 2021 compared to 5.1 in 2020 and 5.1 in 2019.⁷⁸ As discussed in the brief, the aforementioned pandemic-related changes in 2020 led to larger reductions in the white incarcerated population than the Black incarcerated population. Thus, it is likely that the rolling back of those changes in 2021 resulted in racial disparities returning to or approaching 2019 levels.

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