



## Sentencing Disparities in the United States: Implications of a Second Trump Administration

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### **Abstract**

The United States has historically faced sentencing disparities that stem from racial, socioeconomic, and geographic factors, creating unequal treatment within the criminal justice system. The article analyzes current sentencing disparity conditions with an emphasis on racial and ethnic disparities while assessing how another Trump presidency could influence these patterns. Based on literature reviews and government reports, the paper presents evidence that Trump administration policies and their associated rhetoric might worsen current disparities through stricter sentencing practices alongside reduced enforcement of federal sentencing guidelines and reversal of criminal justice reforms. The paper ends by suggesting strategies to address these disparities amid possible policy changes.

**Keywords:** *Sentencing Disparities; Criminal Justice Reform; Trump Administration; Racial Inequities; Federal Sentencing*

### **Introduction**

Sentencing disparities in the United States are more than just numbers on a page—they represent real lives, families, and communities caught in a system that often treats people differently based on their race, ethnicity, or socioeconomic status. For decades, research has consistently shown that African American and Hispanic defendants receive harsher sentences than their White counterparts for similar crimes (Ulmer, 2012). These disparities are the result of deeply rooted systemic inequities that have shaped the criminal justice system for generations. From the post-Civil War era to the War on Drugs, policies and practices have disproportionately targeted minority communities, creating a legacy of inequality that persists today.

The federal sentencing guidelines were established in the 1980s and were meant to bring fairness and consistency to the system. Instead of leveling the playing field, they have often reinforced existing

disparities. Bound by mandatory minimums and limited discretion, judges have struggled to account for the unique circumstances of each case (Berman, 2017). And while reforms like the First Step Act of 2018 have made strides in addressing these issues, their impact has been erratic, leaving many to wonder whether true progress is possible.

Enter the Trump administration with its emphasis on "law and order" and record of appointing judges who favor stricter sentencing. The administration has raised concerns about the future of criminal justice reform. A second Trump term will likely mean more punitive policies, fewer opportunities for rehabilitation, and a rollback of hard-won reforms (Berman, 2017). This article explores what that might look like, examining how a second Trump administration will likely shape sentencing disparities and what it would mean for communities chronically affected by an unequal system.

By looking at the historical roots of these disparities, the current state of the system, and the potential implications of future policies, this article aims to shed light on one of the most pressing issues in criminal justice today. It is not just about numbers or policies—it is about people.

## ***Literature Review***

A comprehensive understanding of sentencing disparities in the United States demands examination of the underlying forces that influence these differences. African American and Hispanic defendants tend to receive harsher sentences compared to White defendants who commit similar offenses (Ulmer, 2012). What causes select communities to suffer disproportionately from mass imprisonment compared to others who stay mostly unaffected? Individual case analysis fails to provide answers to these questions, which necessitate examining the larger theoretical frameworks that explain the persistence of these disparities.

This section delves into three key theoretical perspectives: critical race theory (CRT), labeling theory, and structural inequality theory. These different theoretical frameworks provide distinctive viewpoints for examining how systemic and institutional elements result in unequal sentencing outcomes. CRT demonstrates how racism becomes entrenched within legal systems (Crenshaw, 1991), and labeling theory explains the impact of societal stereotypes on treatment within the criminal justice system (Western, 2006). Structural inequality theory investigates the ways in which large-scale social, economic, and political structures produce and maintain unjust disparities (Alexander, 2020).

These theories jointly build a complete framework that helps explain the historical and social as well as institutional factors that continue to sustain sentencing disparities. But they also offer hope. Once we uncover the fundamental reasons behind these inequities, we can start to develop a future path that emphasizes fairness alongside equity and justice for everyone.

### **Critical Race Theory (CRT)**

Critical Race Theory (CRT) has become one of the most contentious topics in contemporary academic and political discourse, particularly in the United States, but it did not just appear out of nowhere—it emerged in the late 1970s and 1980s as a response to the shortcomings of traditional civil rights approaches (Crenshaw, 1991). While earlier efforts focused on overt acts of discrimination, CRT scholars argued that racism is not just about individual prejudice; it is woven into the very fabric of society's structures and institutions, including the legal system. In other words, it is not just about a few "bad apples" but about the entire system being rigged in ways that disadvantage certain groups.

When we apply CRT to sentencing disparities, it becomes clear how racial biases are baked into laws, policies, and everyday practices. Take mandatory minimum sentencing laws, for example. These laws, which gained traction during the War on Drugs, were supposed to be tough on crime. But in reality, they have been tough on minority communities (Alexander, 2020). African Americans and Hispanics, despite using drugs at similar rates as Whites, have been disproportionately targeted for drug offenses. The result? Longer sentences and higher incarceration rates for people of color (Alexander, 2020).

CRT also shines a light on the role of implicit bias—those unconscious attitudes and stereotypes that influence decision-making. Judges, prosecutors, and other legal actors might not even realize they are favoring White defendants over minority defendants, but the data shows that these biases play out in courtrooms across the country (Rachlinski et al., 2009). For instance, studies have found that Black defendants are more likely to receive harsher sentences than White defendants for the same crimes, especially when the victim is White (Rachlinski et al., 2009).

Another key insight from CRT is its critique of "colorblindness" in the legal system. The idea that we can achieve fairness by ignoring race sounds good in theory, but in practice, it often perpetuates disparities (Crenshaw, 1991). For example, the federal sentencing guidelines were designed to promote uniformity and reduce bias. But by failing to account for the racialized contexts in which crimes occur, like systemic poverty or over-policing in minority neighborhoods, these guidelines end up reinforcing the very inequalities they were meant to address (Alexander, 2020).

In short, CRT does not just point out the problems; it challenges us to rethink the entire system. It asks us to consider how laws and policies that seem neutral on the surface can have deeply unequal consequences—and what we can do to change that.

## Labeling Theory

Labeling theory takes a step back from the courtroom and asks a simple but profound question: What happens when someone is labeled a "criminal"? Rooted in sociology, this theory focuses on the social processes that create and reinforce deviant identities (Western, 2006). It is not just about the crime itself but about how society reacts to it—and how those reactions shape the lives of the people involved.

According to labeling theory, the criminal justice system does not just respond to criminal behavior; it actively constructs and reinforces deviant identities (Western, 2006). Once someone is labeled a "criminal," that label sticks. They are stigmatized, marginalized, and often subjected to harsher penalties—not just by the legal system but by society as a whole. This process does not happen in a vacuum; it is shaped by societal stereotypes and biases, particularly when it comes to race and ethnicity.

In the context of sentencing disparities, labeling theory helps explain why racial and ethnic minorities are statistically more likely to receive harsher sentences than their White counterparts. African American and Hispanic defendants, for example, are often stereotyped as more dangerous or prone to recidivism (Spohn, 2000). These stereotypes can influence judges, prosecutors, and even jurors, leading to longer sentences and fewer opportunities for parole (Spohn, 2000). The depiction of crime in the media contributes to this problem. Disproportionate media associations between minority groups and violence fortify stereotypes, which subsequently hinder fair court treatment for minority defendants (Western, 2006).

But the consequences of labeling do not stop at sentencing. A criminal record can follow someone for life, limiting their access to employment, housing, and even social services (Western, 2006). For many, this creates a cycle of poverty and incarceration that is nearly impossible to break. And

because minority communities are already disproportionately affected by these disparities, the cycle only deepens existing inequalities (Alexander, 2020).

Through its perspective, labeling theory invites us to consider the extensive effects of our criminal justice system. Focusing on punishment instead of rehabilitation harms individuals while sustaining a system that further marginalizes disadvantaged groups (Western, 2006). By understanding how labels shape lives, we can begin to imagine a different approach—one that focuses on reintegration rather than exclusion, and on breaking cycles rather than perpetuating them.

## Structural Inequality Theory

Structural inequality theory takes a big-picture view of sentencing disparities, asking how broader social, economic, and political systems create and sustain inequality (Western, 2006). It is not just about individual cases or even individual biases—it is about the systems and structures that shape outcomes for entire communities. In the context of sentencing, this framework highlights three key factors: systemic racism, economic inequality, and geographic disparities.

Systemic racism refers to the ways racial hierarchies are embedded in societal institutions, including the criminal justice system (Alexander, 2020). The effects persistently show themselves, although they remain unseen. Greater police presence in minority neighborhoods results in increased arrest rates among African American and Hispanic residents. These communities receive inadequate legal resources while facing other challenges. Defendants in minority neighborhoods face challenges in obtaining quality legal representation because their public defenders tend to be both overworked and underfunded (Henrichson & Delaney, 2012). These systemic inequities do not just affect arrest rates—they shape sentencing outcomes, too. Minority defendants are more likely to receive harsher penalties than White defendants for similar offenses, even when the facts of the case are nearly identical (Ulmer, 2012).

Economic inequality also plays a significant role in sentencing disparities. Harsher sentences are frequently the outcome when defendants from lower-income backgrounds often cannot afford high-quality legal representation (Henrichson & Delaney, 2012). Public defenders, while dedicated, are often stretched thin, handling hundreds of cases at a time. This means they may not have the time or resources to build a strong defense, negotiate favorable plea deals, or present mitigating evidence (Henrichson & Delaney, 2012).

Economic inequality does not exist in a vacuum—it intersects with racial and ethnic disparities. Minority groups are disproportionately represented among low-income populations, which means they face a double disadvantage in the criminal justice system (Western, 2006). For example, a Black defendant from a low-income neighborhood is more likely to be arrested, less likely to afford a private attorney, and more likely to receive a harsher sentence than a White defendant from a wealthier area (Alexander, 2020).

Where you live can also determine how you are treated in the criminal justice system. Sentencing practices vary widely across federal districts, with some regions imposing significantly longer sentences than others (Ulmer, 2012). For example, defendants in the Southern District of Texas are more likely to receive harsh sentences for drug offenses compared to defendants in the District of Massachusetts (Ulmer, 2012). Geographic disparities serve as indicators of widespread inequality throughout different regions. Sentencing practices become harsher in regions with significant poverty levels and substantial minority groups but remain more lenient in affluent areas with a predominantly White population (Western, 2006).

Structural inequality theory reminds us that sentencing disparities are not just about individual cases—they are about the systems that shape those cases. Systemic racism, economic inequality, and

geographic disparities all work together to create a system that is stacked against certain groups. By understanding these structural forces, we can begin to address the root causes of inequality and work toward a more just and equitable system.

## Intersectionality

Intersectionality, a concept developed by Kimberlé Crenshaw, gives us a powerful tool for understanding how different aspects of identity—like race, gender, and class—intersect to shape people's experiences of inequality (Crenshaw, 1991). It is not just about one form of discrimination; it is about how multiple forms of disadvantage overlap and compound, creating unique challenges for individuals who belong to more than one marginalized group.

In the context of sentencing disparities, intersectionality helps us see how the criminal justice system treats people differently based on who they are. For example, Black women often face a double bind in the courtroom. They are stereotyped as both "angry" and "unfit mothers," which can influence how judges and prosecutors view them (Crenshaw, 1991). These stereotypes can lead to harsher penalties for Black women compared to White women or even Black men. It is not just about race or gender—it is about how these identities intersect to create a unique form of discrimination.

The same is true for LGBTQ+ individuals, particularly those of color. They face heightened risks of discrimination and violence within the criminal justice system, which can result in more punitive sentencing outcomes (Spohn, 2000). For instance, a transgender woman of color might be treated more harshly by law enforcement and the courts because of biases related to both her race and her gender identity. These intersecting forms of discrimination make it even harder for marginalized individuals to receive fair treatment.

Through the study of intersecting social factors, intersectionality delivers a deeper comprehension of sentencing disparities. This analysis reveals that inequality stems from the combined effects of race, class, and gender factors on individual lives. The framework prompts us to analyze how systemic inequalities within the criminal justice system continue because they remain hidden when we examine only one identity dimension at a time.

## Historical Context of Sentencing Disparities

The story of sentencing disparities in the United States does not start in a courtroom—it starts at the very founding of the nation. From the beginning, racial hierarchies were written into the fabric of American society, codified into law through slavery, segregation, and discriminatory practices (Alexander, 2020). These systems did not disappear with the end of slavery or the Civil Rights Movement. Instead, their legacy lives on, shaping the way the criminal justice system treats racial and ethnic minorities.

This section examines how historical events influenced sentencing disparities by exploring pivotal moments from the post-Civil War era up to the current day. The narrative unfolds through laws and policies created to sustain racial hierarchies alongside targeted marginalized communities and a system that remains entrenched in historical inequalities (Tonry, 1995). Our comprehension of historical events enables us to grasp the enduring nature of sentencing disparities and the necessary steps for establishing a fairer justice system.

## Post-Civil War Era and Jim Crow Laws

The abolition of slavery in 1865 appeared to open a new chapter where African Americans would become equal members of American society. But the reality was far more complicated. Following the Civil War, the Reconstruction era experienced strong opposition from White supremacist groups alongside legislation that sought to preserve White supremacy (Alexander, 2020). The Black Codes included laws that turned behaviors such as vagrancy and loitering into criminal offenses. The laws appeared neutral by their wording, yet functioned to disproportionately incarcerate Black people through selective enforcement (Alexander, 2020).

The conclusion of Reconstruction in 1877 signaled not a period of relief but the beginning of the Jim Crow era. During this era, state and local legislation mandated racial segregation while simultaneously removing African Americans' rights (Tonry, 1995). The criminal justice system became a key tool for maintaining racial hierarchies. African Americans were subjected to harsher penalties than Whites for similar offenses, and the system was rigged to keep them in a cycle of poverty and oppression (Alexander, 2020).

The convict leasing system stands as one of the most brutal manifestations of this system, which originated in the Southern United States. African Americans frequently received convictions for minor offenses and faced forced labor sentences through fabricated charges (Alexander, 2020). Private enterprises and plantations obtained convict labor through state leases to exploit their work for financial benefit. It was slavery by another name, and it laid the groundwork for the racial disparities we see in sentencing today.

## The War on Drugs and Mass Incarceration

The latter half of the 20th century marked a turning point in U.S. criminal justice policy with the declaration of the War on Drugs in the 1970s and 1980s (Tonry, 1995). What began as a campaign to combat drug abuse quickly became a vehicle for punitive policies that disproportionately targeted minority communities. Initiated under President Richard Nixon and expanded by Presidents Ronald Reagan and George H.W. Bush, the War on Drugs introduced harsh measures like mandatory minimum sentencing laws and escalated penalties for drug offenses (Alexander, 2020). While it was framed as a race-neutral effort to address a public health crisis, its enforcement told a different story. African American and Hispanic communities bore the brunt of these policies, even though drug use rates were similar across racial groups (Tonry, 1995).

One of the most glaring examples of this disparity was the Anti-Drug Abuse Act of 1986. This law established mandatory minimum sentences for drug offenses, including a 100-to-1 sentencing disparity between crack cocaine (more commonly used by African Americans) and powder cocaine (more commonly used by Whites) (Alexander, 2020). The result? African American defendants received significantly longer sentences for crack cocaine offenses, despite the fact that the two forms of the drug are pharmacologically identical (Tonry, 1995).

The Violent Crime Control and Law Enforcement Act of 1994, which President Bill Clinton signed, served to deepen existing disparities. The 1994 Crime Bill widened mandatory minimum sentencing while directing billions to build new prison facilities (Alexander, 2020). The message was clear: punishment, not rehabilitation, would be the cornerstone of U.S. criminal justice policy.

The consequences were staggering. Between 1980 and 2000, the U.S. prison population quadrupled, with African Americans and Hispanics accounting for a disproportionate part of this growth



(Tonry, 1995). By the early 2000s, the United States had the highest incarceration rate in the world, with racial and ethnic minorities paying the heaviest price (Alexander, 2020). The War on Drugs did not just fail to solve the drug problem. It created a new one of mass incarceration, with all its devastating social and economic consequences.

## Federal Sentencing Guidelines and Judicial Discretion

By the time the 1980s arrived, the problem of sentencing disparities had become a major issue. Congress enacted the Sentencing Reform Act of 1984 to respond to these concerns (Berman, 2017). The U.S. Sentencing Commission received direction from Congress to develop federal sentencing guidelines after the Sentencing Reform Act of 1984 was passed (Berman, 2017). The goal was to promote uniformity and reduce disparities by providing judges with a standardized framework for determining sentences (Ulmer, 2012). On paper, it seemed like a step forward. But in practice, the guidelines were far from perfect.

The guidelines received criticism for their inflexibility, which prevented judges from accounting for unique case details (Berman, 2017). Judicial decisions typically ignored elements such as socioeconomic background and rehabilitation evidence because officials applied standardized sentencing rules (Ulmer, 2012). This inflexibility did not just limit judicial discretion. It reinforced existing disparities, especially for minority defendants who were more likely to face harsher penalties under the guidelines (Berman, 2017).

The Supreme Court aimed to resolve this issue through its decision in *United States v. Booker* (2005). The Court allowed judges more sentencing flexibility by making the guidelines advisory instead of mandatory (Berman, 2017). Judges were theoretically able to assess each situation individually to create appropriate sentences. In practice, this system reinstated the potential for unequal sentencing (Ulmer, 2012). Judges' sentencing decisions frequently reflected their personal biases and legal interpretations due to the lack of strict guidelines (Rachlinski et al., 2009).

For example, studies have shown that some judges are more likely to impose harsher sentences on minority defendants, particularly in cases involving drug offenses (Rachlinski et al., 2009). This is not necessarily because these judges are overtly biased. It is often the result of implicit biases shaping their decisions without their conscious control (Rachlinski et al., 2009). The result is a system that, despite efforts to promote fairness, continues to produce unequal outcomes.

## Recent Reforms and the First Step Act

Both major political parties now acknowledge the necessity for urgent reform of the U.S. criminal justice system (Berman, 2019). Lawmakers have started to address the issues of sentencing disparities and mass incarceration due to growing scrutiny of these matters (Gramlich, 2020). One of the first major steps was the Fair Sentencing Act of 2010, which aimed to tackle one of the most glaring examples of racial inequity in drug sentencing: The criminal justice system displayed a 100-to-1 sentencing gap between crack cocaine and powder cocaine (Berman, 2019). The legislation decreased the sentencing gap to 18-to-1, representing substantial progress, yet it remains an incomplete solution (Gramlich, 2020).

However, the Fair Sentencing Act had a major flaw in that it was not retroactive (Berman, 2019). This meant that thousands of individuals, mostly African Americans, continued to serve disproportionately long sentences for crack cocaine offenses committed before the law was passed (Gramlich, 2020). For many, it felt like too little, too late.

The First Step Act of 2018 marked a significant legislative effort to overhaul federal sentencing rules (Berman, 2019). The bipartisan bill decreased mandatory minimum sentences for specific drug crimes while extending early release opportunities and granting retroactive sentencing relief to those convicted under outdated crack-powder cocaine laws (First Step Act of 2018, 2018). It was hailed as a landmark achievement, a rare example of Democrats and Republicans coming together to address a pressing issue (Gramlich, 2020).

Like many reforms, the First Step Act has not been without its challenges (Berman, 2019). Its impact has been limited by inconsistent implementation and law enforcement resistance (Gramlich, 2020). For example, many individuals eligible for early release face bureaucratic delays, leaving them stuck in prison long after they should have been freed (Berman, 2019). These obstacles highlight the gap between passing reforms and ensuring they are carried out effectively.

## The Role of Political Rhetoric and Public Opinion

The way we talk about crime has always shaped the way we respond to it. In the 1980s and 1990s, "tough on crime" rhetoric dominated the political landscape (Tonry, 1995). Politicians from both parties competed to show who could be harsher on criminals, pushing for punitive measures like mandatory minimum sentences and three-strikes laws (Alexander, 2020). The rhetoric altered public opinion and established a belief that strict sentencing was essential for community safety while influencing policy (Western, 2006). Mass incarceration rates soared dramatically while sentencing became characterized by significant racial disparities (Gramlich, 2020).

But times are changing. Over the past decade, there has been a growing recognition of the economic and social costs of mass incarceration (Henrichson & Delaney, 2012). The U.S. spends billions of dollars each year on prisons, and the human cost of families torn apart and communities destabilized is even higher (Western, 2006). This has led to a shift in public opinion, with more people supporting criminal justice reform and alternatives to incarceration (Gramlich, 2020).

Still, political polarization remains a major obstacle. Evidence-based approaches to reducing disparities have gained support from some policymakers, but others keep pushing punitive policies concerning drug offenses and violent crime (Berman, 2017). The Trump administration's emphasis on "law and order" and its rollback of Obama-era and, now, Biden-era reforms highlight this divide (Berman, 2017). For every step forward, there is a risk of two steps back, as the debate over criminal justice reform continues to be shaped by competing visions of what justice should look like.

## Current State of Sentencing Disparities

### Racial and Ethnic Disparities

The U.S. criminal justice system continues to show deep-rooted racial and ethnic sentencing disparities (U.S. Sentencing Commission, 2021). Many years of research and justice reforms have not succeeded in ending the trend where African American and Hispanic defendants face tougher sentences compared to White defendants for equivalent crimes. According to the U.S. Sentencing Commission (2021), on average, Black male offenders received sentences that were 19.1% longer than those of White male offenders for similar crimes between 2016 and 2020. Hispanic offenders also faced longer sentences compared to White offenders, though the disparity was slightly smaller (U.S. Sentencing Commission, 2021). These disparities are not isolated incidents; they are part of a broader pattern of systemic inequities rooted in the historical and institutionalized racism of the criminal justice system (Alexander, 2020).



The existence of implicit bias serves as a major factor that maintains these systemic disparities (Rachlinski et al., 2009). Legal professionals, including judges and prosecutors, can unknowingly show a preference towards White defendants, which results in unequal treatment of minority defendants. Research from 2012 showed that judges handed down tougher punishments for Black defendants when the victim was White, indicating underlying systemic racial prejudices (Rachlinski et al., 2009). Implicit bias can also influence how prosecutors charge defendants, with minority defendants more likely to face charges that carry mandatory minimum sentences (Spohn, 2000).

The War on Drugs has had a particularly devastating impact on racial and ethnic minorities. Policies like the Anti-Drug Abuse Act of 1986, which established a 100-to-1 sentencing disparity between crack cocaine (more commonly used by African Americans) and powder cocaine (more commonly used by Whites), resulted in significantly longer sentences for African American defendants, despite similar rates of drug use across racial groups (Alexander, 2020). Although the Fair Sentencing Act of 2010 reduced this disparity to 18-to-1, the legacy of these policies continues to affect minority communities (Berman, 2019).

## Socioeconomic and Geographic Factors

Defendants' geographic locations and socioeconomic conditions contribute to sentencing disparities that frequently intersect with racial and ethnic inequalities (Western, 2006). People with low-income backgrounds struggle to pay for high-quality legal representation, leading to more severe legal sentences (Henrichson & Delaney, 2012). Public defenders, who are often overworked and underfunded, may lack the resources to mount an effective defense, particularly in cases involving complex legal issues or extensive evidence (Spohn, 2000). In addition, minority defendants are disproportionately represented among low-income populations, multiplying the disadvantages they face in the criminal justice system (Alexander, 2020).

Sentencing practices vary across federal districts, with some regions imposing significantly longer sentences than others (Ulmer, 2012). For example, defendants in the Southern District of Texas are more likely to receive harsh sentences for drug offenses compared to defendants in the District of Massachusetts (U.S. Sentencing Commission, 2021). These geographic disparities reflect broader patterns of inequality, where regions with higher poverty rates and larger minority populations tend to have more punitive sentencing practices (Western, 2006). Rural areas frequently do not have enough resources or infrastructure to sustain alternatives to imprisonment like drug courts and rehabilitation programs, which results in more people being imprisoned (Henrichson & Delaney, 2012).

## Intersectionality and Cumulative Disparities

Intersectionality, a concept developed by Kimberlé Crenshaw, highlights how multiple aspects of identity—such as race, gender, and class—intersect to shape individuals' experiences of inequality (Crenshaw, 1991). Intersectionality serves as a tool to understand how minority women encounter distinctive challenges within sentencing disparities. Judicial outcomes for Black women face negative impacts because stereotypes label them as "angry" and "unfit mothers," resulting in more severe punishments than those given to White women or Black men (Crenshaw, 1991). Similarly, Latina women may face discrimination based on both their race and immigration status, resulting in more punitive sentencing outcomes (Spohn, 2000).

These disparities have wide-reaching effects that extend past the individuals who are directly affected. Harsh sentencing practices create cycles of poverty and incarceration, which deeply affect families and communities (Western, 2006). For example, parental imprisonment leads to lasting negative consequences for children by lowering their educational achievements and raising their chances of

entering the criminal justice system (Henrichson & Delaney, 2012). Additionally, communities with high rates of incarceration often experience economic decline, as resources are diverted away from education, healthcare, and other social services (Alexander, 2020).

## **Potential Implications of a Second Trump Administration**

The United States might experience significant changes in sentencing disparities under another Trump administration due to its strong "law and order" focus and its history of selecting judges with conservative criminal justice perspectives (Berman, 2017). This section examines three key areas where a second Trump administration might impact sentencing disparities: A second term for Trump could strengthen sentencing disparities through conservative judicial appointments and the reversal of criminal justice reforms, which might worsen racial and ethnic inequalities.

### **Judicial Appointments**

A second Trump administration will likely continue to prioritize the appointment of federal judges who favor stricter sentencing practices. During his first term, President Trump appointed over 230 federal judges, including three Supreme Court justices and a significant number of appellate and district court judges (Gramlich, 2020). Many of these appointees have been criticized for their conservative views on criminal justice, including support for mandatory minimum sentences and skepticism toward sentencing reforms (Berman, 2017).

Federal judges hold lifetime terms, which means these judicial appointments have enduring consequences. Judges with a preference for punitive sentencing methods tend to deliver more severe punishments when dealing with drug offenses and violent crime cases (Ulmer, 2012). This could lead to a reduction in judicial discretion and an increased reliance on mandatory minimums, which have historically contributed to racial and ethnic disparities in sentencing (Alexander, 2020). For example, judges appointed by Trump have been more likely to uphold mandatory minimum sentences for drug offenses, even in cases where the defendant's role was minor or where mitigating factors were present (Berman, 2017).

The ideological shift among judges could reshape how sentencing guidelines are interpreted and how legal precedents are applied. Judges who hold conservative perspectives tend to discount elements like socioeconomic status and signs of rehabilitation when determining sentences, thereby intensifying sentencing inequalities (Rachlinski et al., 2009).

### **Rollback of Criminal Justice Reforms**

Bipartisan support allowed the passage of the First Step Act of 2018, which targeted sentencing disparities by changing mandatory minimums and broadening early release options (First Step Act of 2018, 2018). However, a second Trump administration will likely seek to roll back these reforms, particularly if it adopts a more punitive approach to criminal justice (Berman, 2019).

The First Step Act faces possible erosion in its key provisions, which creates concern. The administration might cut budgets for programs that help with early release and rehabilitation, which would decrease their effectiveness (Henrichson & Delaney, 2012). The Department of Justice, under a potential second Trump administration, could release guidelines pushing federal prosecutors to seek stiffer punishments for drug offenders and violent criminals (Berman, 2017). The proposed changes will reverse First Step Act achievements while raising mandatory minimum sentences that unfairly target racial and ethnic minorities (Alexander, 2020).

The administration could potentially change its current method for granting clemency. The Trump administration's clemency decisions throughout its first term faced criticism because they demonstrated selective application and insufficient transparency (Berman, 2019). A second Trump administration might further restrict clemency opportunities, leaving thousands of individuals serving disproportionately long sentences without recourse (Berman, 2019).

## **Impact on Racial and Ethnic Minorities**

Critics argue that the Trump administration's provocative rhetoric and policies have amplified racial tensions and a new term could further widen racial and ethnic sentencing gaps (Alexander, 2020). The administration's focus on "law and order" policies alongside its backing of strict sentencing approaches may lead federal prosecutors to seek tougher punishments for minority defendants (Spohn, 2000).

Studies have shown that minority defendants are already more likely to be charged with offenses that carry mandatory minimum sentences, and this trend could worsen under a second Trump administration (U.S. Sentencing Commission, 2021). Federal prosecutors often prefer to charge African American and Hispanic defendants with drug offenses carrying mandatory minimum sentences, but they tend to give White defendants plea deals that lead to reduced penalties (Spohn, 2000). This selective enforcement would further entrench racial and ethnic disparities in sentencing outcomes.

Additionally, the administration's rhetoric will possibly contribute to a broader cultural shift that normalizes harsher sentencing practices for minority defendants. For example, the administration's frequent use of divisive language and its portrayal of minority communities as inherently criminal could influence public opinion and judicial decision-making, leading to more punitive outcomes (Western, 2006). We have already seen some of this portrayed in the media when MAGA voters are interviewed.

## **Broader Implications for Criminal Justice Policy**

The potential implications of a second Trump administration extend beyond sentencing disparities to broader criminal justice policy. The administration's focus on punitive measures could lead to increased funding for prisons and law enforcement, while diverting resources away from rehabilitation programs and alternatives to incarceration (Henrichson & Delaney, 2012). This would disproportionately affect minority communities, which already disproportionately suffer from the current trend of mass incarceration (Alexander, 2020).

A second Trump administration could show resistance toward efforts to eliminate systemic racism from the criminal justice system. The administration stands ready to undo Obama-era programs that worked to lower racial profiling and boost police-community relationships (Berman, 2017). This would undermine efforts to address the root causes of sentencing disparities and perpetuate cycles of inequality (Western, 2006).

## **Discussion**

The effects of sentencing disparities in the United States extend beyond individual defendants to influence families and communities and create broader societal issues. The effects of a disproportionately harsh sentence reach far beyond legal proceedings. For instance, the incarceration of a parent can leave children without a stable home, disrupt their education, and increase the likelihood that they, too, will become entangled in the criminal justice system (Western, 2006). These cycles of disadvantage are

particularly pronounced in minority communities, where systemic inequities have already created significant barriers to opportunity (Alexander, 2020). Families are often left to pick up the pieces, struggling with the emotional and financial toll of losing a loved one to incarceration (Henrichson & Delaney, 2012).

The financial consequences resulting from these disparities are truly monumental. The United States spends upwards of \$80 billion every year on corrections without including the hidden costs associated with mass incarceration (Henrichson & Delaney, 2012). The disproportionate imprisonment of minority populations results in significant economic losses for their communities. Significant employment barriers create challenges for formerly incarcerated people to rebuild their lives and make economic contributions (Western, 2006). High incarceration rates in communities result in reduced investments in education and healthcare services that deepen poverty and inequality (Alexander, 2020).

Looking beyond the United States, it is clear that our approach to sentencing is out of step with much of the developed world. Countries like Norway and Germany have adopted more rehabilitative models, focusing on reintegration rather than punishment (Lappi-Seppälä, 2012). For example, Norway's emphasis on restorative justice and humane prison conditions has resulted in one of the lowest recidivism rates globally (Walmsley, 2018). In contrast, the U.S. reliance on punitive measures has led to overcrowded prisons and high rates of reoffending (Gramlich, 2020). These international examples offer valuable lessons: Through the prioritization of rehabilitation instead of punishment, we can establish systems that reduce disparities while simultaneously creating safer and more equitable communities.

## ***Recommendations***

A multifaceted strategy to combat sentencing disparities requires addressing fundamental inequity causes and advancing both fairness and accountability. Strengthening federal sentencing guidelines represents a critical reform requirement, especially for mandatory minimum cases. The sentencing process would benefit from detailed instructions for judges to evaluate mitigating aspects like socioeconomic status or rehabilitation attempts (Berman, 2019). This would help ensure that sentences are proportionate and fair, rather than one-size-fits-all. Additionally, judges should be encouraged to consider alternatives to incarceration, especially for nonviolent offenses, to reduce the overreliance on imprisonment (Ulmer, 2012).

The First Step Act of 2018 was a significant step forward, but its impact has been uneven. To build on its successes, we need to expand its provisions, such as further reducing mandatory minimums for nonviolent drug offenses and broadening eligibility for early release programs (Berman, 2019). We need to address the bureaucratic obstacles that have stopped many qualified people from taking advantage of these reforms (Gramlich, 2020). Sentencing oversight requires independent organizations to analyze results for bias patterns and offer evidence-based suggestions for changes (U.S. Sentencing Commission, 2021).

Alternatives to incarceration, such as diversion programs and drug courts, have shown real promise in addressing the underlying causes of criminal behavior. These programs focus on treatment and rehabilitation rather than punishment, helping individuals reintegrate into society and reducing the likelihood of reoffending (Spohn, 2000). For example, drug courts that prioritize treatment over incarceration have been shown to lower recidivism rates and improve outcomes for participants (Lappi-Seppälä, 2012). By shifting the focus from punishment to rehabilitation, we can break the cycle of poverty and incarceration that disproportionately affects minority communities (Alexander, 2020).

Another critical step is addressing implicit bias within the criminal justice system. Judges, prosecutors, and law enforcement officers should undergo regular training to recognize and counteract unconscious biases that influence decision-making (Rachlinski et al., 2009). These programs must be evidence-based and regularly evaluated to ensure they are effective. Additionally, diversifying the judiciary and law enforcement can help ensure that the system better reflects the communities it serves, reducing the likelihood of biased outcomes (Spohn, 2000).

Meaningful reform demands cooperation between political parties and strong backing from the general public. Recent years have seen a major shift in public opinion as awareness about mass incarceration's economic and social costs has grown (Gramlich, 2020). By prioritizing fairness, equity, and evidence-based practices, we can move closer to a criminal justice system that truly upholds the principles of justice for all (Berman, 2019).

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