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Incarceration of Women in Washington State: Multi-Year Analysis of Felony Data

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Incarceration of Women in Washington State: Multi-Year Analysis of Felony Data

October 2020

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Incarceration of Women in Washington State:
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Summary

The number of women in prison in Washington has grown consistently in recent decades, yet our scientific knowledge about women in prison remains very limited. Both the total number of incarcerated people and the per capita incarceration rate have decreased for men in Washington over the past 10 years, but steadily increased for women. Information about the overall racial composition and sentences of people in our prisons is released annually, but because women are still a minority of people both sentenced and held in Washington prisons each year, any trends specific to women are drowned out by the data of men.

Washington State cannot begin to create policy and address the unique needs of women in prison without first understanding who we are incarcerating in women's prisons, and why we are incarcerating them. This study is a first look at those questions, using existing data collected by the Caseload Forecast Council (CFC), and analyzed for the first time in a gender-disaggregated way, to better understand the demographics and sentences of the women Washington is sending to prison. The study is preliminary and focuses on only one part of the larger criminal legal system. It provides a descriptive analysis of incarceration of women in Washington State, with a particular focus on racial disparities, to begin to close the information gap and as a foundation for future inquiry and research.

Data

We analyzed CFC data from fiscal years 2019, 2010, and 2000, focusing on Washington's four largest counties. These data were a strong choice for this pilot project, but because they were not collected specifically to examine our research questions, they also have some limitations. The greatest of these is the way that CFC collects and codes information on race and ethnicity, most likely resulting in Hispanic/Latinx people being undercounted in CFC data. Because CFC race/ethnicity categories do not map perfectly onto those in the Census data we used comparatively, our comparisons provide only a first look at potential racial disproportionality in the conviction and sentencing of women in Washington.[1] Additionally, although gender is more complicated than a male-female binary, the data collected by CFC only has the two categories and does not distinguish within those two categories between trans and cisgender men and women. It is also important to note that because CFC data are collected at the time of sentencing, we are not able to identify the precise point(s) in the legal process (e.g., arrest, charging, conviction, sentencing) at which disproportionalities occurred.

[1] We did not include Latinx/Hispanic people in these comparisons because of the major differences between data sources in how people are categorized as Latinx/Hispanic. While we did not conduct racial/ethnic disproportionality analyses for Latinx/Hispanic individuals because CFC data is not comparable to Census data for this population, we did provide statistics describing the total number and percentages of Latinx/Hispanic individuals in the dataset in Tables 1-13, with the understanding that these numbers are likely an undercount.

Results

Gender comparisons. Far more men than women were convicted of felonies and sentenced over the past 20 years in all counties and offense categories. These proportions were typically 80% men to 20% women, with a slight increase for women over time. Counties differed somewhat in the proportions of women and men convicted and sentenced overall, with King County in 2019 the lowest at 13% women and Benton-Franklin in 2000 the highest at 24% women. Proportions of women and men convicted and sentenced were substantially different across offense categories. In all years, women were convicted and sentenced in relatively higher proportions (typically 23 to 30%) in Drug, Property, and particularly Fraud categories.

Disproportionate impact on Black and Native American women by county. We found statistically significant differences indicating racial disproportionality in Washington's conviction and sentencing of women in all the counties we examined, across all time points. Black and Native American women bore the brunt of the disproportionality we documented. Across counties, Black women were typically convicted and sentenced at two or three times the rate we would expect based on their proportion of each county's population. In some counties, in some fiscal years, they were convicted and sentenced at rates up to eight times higher. Native American women, across counties, often made up two to four times as large a proportion of the convicted and sentenced population as they did of the general population of each county.

Disproportionate impact on Black and Native American women by offense category. We also found statistically significant differences indicating racial disproportionality in Washington's conviction and sentencing of women in most of the offense categories we examined, with one notable counter-example. In 2019 data in the drug offense category, Black women were convicted and sentenced in roughly the proportion we would expect based on their representation in the general population of the state. Across offense categories, Black women were typically convicted and sentenced at two or three times the rate we would expect based on their proportion of the state's population. This imbalance was especially pronounced in the violent offense category. Native American women, across offense categories, often made up two to four times as large a proportion of the convicted and sentenced population as they did of the general population of the state.

Discussion and Recommendations

This preliminary study documented racial disproportionality in data on Washington's conviction and sentencing of women over the past 20 years. Encouragingly, this disparity did improve somewhat between 2000 and the present, indicating a small positive trend. However, the consequences of earlier years' high disproportionality are currently being felt by women who may still be in prison right now, and by their communities.

This study takes the first steps on a journey toward Washington State knowing what it needs to know to create policy that addresses the needs of incarcerated women. This pilot research also suggests some next steps, detailed in our recommendations regarding both improvements in data collection and additional analyses and research.

Background

The United States has the highest incarceration rate of any country in the world. Only 5% of the world's female population lives in the US, but the US accounts for 30% of the world's incarcerated women.[2, 3] Women are the fastest-growing segment of the US incarcerated population; state prison populations for women have grown at more than twice the rate of men over the past 40 years.[4]

In Washington, both the total number of incarcerated people and the per capita incarceration rate have been decreasing for men over the past 10 years, but steadily increasing for women.[5] Washington State's women's prisons have been over capacity for years,[6] contributing to decreased access to programming and negatively affecting health, safety, and conditions of confinement.[7]

Black, Indigenous, and women of color are disproportionately affected by all aspects of the criminal legal system. The incarceration rate nationally is twice as high for Black women compared to white women, and Hispanic women are 1.2 times more likely to be incarcerated compared to white women.[8] While less data is available about the experiences of Indigenous women, the Lakota Law People's Project estimates that Native women are incarcerated at six times the rate of white women.[9]

In addition, prisons have historically been designed by men, with cis-male incarcerated populations in mind. Relatively little consideration has been given to designing incarceration systems for women, transgender, and gender non-binary people. This is often apparent in the living conditions, risk assessment systems, disciplinary practices, programming, physical and mental health care, and other aspects of women's carceral facilities. For example, investigations have found a lack of adequate staff for trauma treatment programs for women, and insufficient training on the needs of pregnant individuals and access to feminine hygiene products.[10]

Very little is known about what has driven the dramatic rise in the incarceration of women in Washington prisons in recent years. Further, very little research has been done in Washington to

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[2] https://www.prisonpolicy.org/global/women/2018.html

[3] Note on gender language: A proportion of the people incarcerated in women's facilities do not identify as women, e.g., they may be non-binary or transgender. In this report, in the interest of brevity, we use the terms "female" and "women" interchangeably to refer to people incarcerated in facilities designated for female individuals.

[4] https://www.prisonpolicy.org/reports/women_overtime.html

[5] Bureau of Justice Statistics, National Prisoner Statistics Program, 2018

[6] Early releases and home monitoring options due to COVID-19 have recently put both women's prisons within capacity levels. The most current capacity numbers are a departure from the trends of the last ten years and it is unknown if current numbers will continue.
https://www.doc.wa.gov/docs/publications/reports/400-RE002.pdf

[7] Office of the Corrections Ombuds (OCO) Survey of Incarcerated Women, Olympia, WA: Office of Corrections Ombuds, February 2020
. https://oco.wa.gov/sites/default/files/Women%20Survey%20with%20DOC%20Response%20Final_0.pdf

[8] https://www.sentencingproject.org/publications/incarcerated-women-and-girls/

[9] https://www.lakotalaw.org/resources/native-lives-matter

[10] "Women in Prison: Seeking Justice Behind Bars," United States Commission on Civil Rights, February 2020, https://www.usccr.gov/pubs/2020/02-26-Women-in-Prison.pdf

examine who demographically is in our women's prisons and what crimes they are being sent to prison for. Existing data reports tabulate the number of women sent to prison each year[11] and in prison at any given time.[12] No existing analysis, however, details the racial breakdown of women in prison or specifics about their sentences, even though both the courts and Department of Corrections collect these data. While information about the overall racial composition and sentences of people in our prisons is released each year, because women still comprise a minority of people both sentenced and held in Washington prisons each year – roughly 20%[13] and 7%[14] respectively – any trends specific to women are drowned out by the data of men. Existing analyses of overall trends in our prisons that appear gender neutral and that fail to address different populations of women (e.g., Black, Native, Latinx) thus instead report on trends in the majority of the prison population, which is overwhelmingly people in male prisons.

As a state, Washington cannot begin to create policy and address the unique needs of women in prison without first understanding who we are incarcerating in women's prisons, and why we are incarcerating them. This study is a first look at those questions, using existing data collected by Caseload Forecast Council analyzed for the first time in a gender-disaggregated way to better understand the demographics and sentences of the women Washington is sending to prison.

Research Questions

The purpose of this research project was to provide a preliminary descriptive analysis of incarceration of women in Washington State, with a particular focus on racial disparities, to begin to close the information gap and as a foundation for future and inquiry and research. It addresses five research questions.

1. How many women, compared to men, and from what race-ethnicities, were convicted of felonies[15] and sentenced in Washington State in fiscal years 2019, 2010, and 2000? (Table 1)
2. How many women, from what race-ethnicities, were convicted of felonies and sentenced in each of the four largest counties (King, Pierce, Snohomish, and Spokane), and in two additional areas of focus[16] (Yakima County and the Benton-Franklin county dyad)? How does this compare to men? (Tables 2-4)

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11 "Adult Felony Sentencing Data," Washington State Caseload Forecast Council, https://www.cfc.wa.gov/CriminalJustice_ADU_SEN.htm

12 "Fact Card," Department of Corrections Washington State, https://www.doc.wa.gov/information/data/analytics.htm

13 "Adult Felony Sentencing Data," Washington State Caseload Forecast Council, https://www.cfc.wa.gov/CriminalJustice_ADU_SEN.htm

14 "Fact Card," Department of Corrections Washington State, https://www.doc.wa.gov/information/data/analytics.htm

15 Note on the term "convicted and sentenced": This pilot study used existing data collected on individuals who had been charged with, convicted of, and sentenced on felonies. Details on the data appear later in the report.

16 Yakima and Benton-Franklin are areas of focus because when we initially crafted these research questions, we wanted to include counties with substantial Latinx populations so that we could examine disproportionality

3. How many women, from what race-ethnicities, were convicted and sentenced in each felony offense category? How does this compare to men? (Tables 5-7)
4. Were Black, Indigenous, and women of color convicted and sentenced disproportionally in each county and each fiscal year examined? (Tables 8-13)
5. Were Black, Indigenous, and women of color convicted and sentenced disproportionally within each offense category and in each fiscal year examined? (Tables 14-16)

Data

Very little is known scientifically about incarcerated women in Washington State. Reports describing incarcerated people overall are available (e.g., the Caseload Forecast Council's annual *Statistical Summary of Adult Felony Sentencing*), but no analyses that look at the intersection of gender and race and use Washington-specific data currently exist. A study of incarcerated women is therefore needed as the first step in understanding and responding to factors contributing to the growth of this population in our state.

Strengths and Limitations of Caseload Forecast Council Data

This pilot project used existing data from the Washington State Caseload Forecast Council (CFC) as a first step toward understanding the demographic breakdown of women convicted of felonies and sentenced in our state, and what they are incarcerated for, as well as identifying any potential racial/ethnic disparities. These CFC data have many strengths that influenced us to use them for this work. First, they are a frugal choice for a pilot project, being collected and cleaned by the agency, which makes them freely available to researchers. Second, they provide continuity over time, having been collected in a usable format each fiscal year since 2000. Third, they include much useful information, such as which felonies individuals were convicted of, the county they were convicted and sentenced in, and their demographics, including gender and race/ethnicity. Fourth, they include all individuals convicted of felonies and sentenced, whether they are incarcerated in jail or in prison.

However, CFC data were not collected specifically to examine the project's research questions. Five limitations of these data are that (1) cases represent individuals at the time they are sentenced, so do not provide details on their experiences during arrest, charging, conviction, or incarceration; (2) cases represent individuals sentenced to felonies, so cannot shed light on those serving time only for misdemeanors; and (3) information about cases' gender (male/men and female/women) is based on the gender reported in CFC data, and likely includes a proportion of individuals whose gender identity does not align with that of the facility where they are incarcerated (e.g., a transgender man who is incarcerated in a women's prison or jail). Finally, (4) it is not clear whether information on race and ethnicity is self-reported by defendants or reported by other parties (e.g., prosecuting attorneys) based on their perceptions, and (5)

based on ethnicity. Unfortunately, due to the limitations of the dataset (detailed in the Data section) that we discovered after analyses were underway, we were ultimately not able to do so.

information on race and ethnicity is provided by the CFC in only six categories, with race and ethnicity merged into one variable with some inconsistencies in coding.

Race and Ethnicity in CFC Data

This categorization of race and ethnicity deserves special attention, since understanding who is grouped where is critical context for understanding the results that follow, including their limitations. The datasets CFC provides to researchers categorize individuals as Asian American, Black or African American, Hispanic, Native American, white, and unknown (a very small group). After the project was underway, Dr. Masters and Sierra Rotakhina, MPH, Gender Justice Study Project Manager, were able to investigate the CFC's data sources and processes in conversations with their staff, and learned of several key challenges, detailed below.

The first key challenge is that sentencing data comes to the CFC in different forms from different counties. The Washington State Supreme Court approves pattern Felony Judgement and Sentencing (J&S) forms, which collect data on race (e.g., white, Black) and ethnicity (i.e., Hispanic/Latinx) separately and provide more racial categories than the six used by CFC (e.g., Pacific Islander, multiracial). But using the pattern J&S forms is not required, and many counties provide data using their own forms, each slightly different in how it obtains race information. Some of these forms apparently do not provide checkboxes, but require that race be written in, creating room for many inconsistencies. CFC reported trying to reconcile data on the J&S form with State Patrol and Administrative Office of the Courts data, but defaulting to the J&S form if there was a conflict between the datasets.

The second key challenge is that, because data provided to CFC comes in so many different forms, their staff does some re-categorizing of race to produce one dataset consistently over time. Three outcomes of this re-categorizing may affect group counts and proportions in CFC data. The first of these is ethnicity. Per CFC staff, most counties are leaving the ethnicity data field blank, so CFC recodes Hispanic as a race if it is marked. People are only coded as Hispanic if race is left blank, is marked as unknown, or if "Hispanic" or "Latino" is written in under race. If a form says "white" and "Hispanic," the person will be coded as white. If it says "Black" and "Hispanic," they will be coded as Black. If it is blank for race or "unknown" for race, and "Hispanic" for ethnicity, then the person will also be coded as Hispanic. This method clearly results in Hispanic/Latinx people being undercounted in CFC data, and in other race categories being slightly inflated, but not in a way that can be quantified.[17] It is perhaps the biggest limitation of using CFC data for this project.[18]

This report highlights the limitation of the data for Hispanic/Latinx individuals throughout. In addition, while the CFC dataset uses the term "Hispanic," it is not clear if every county uses

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[17] This coding methodology likely compounds the existing limitations of Latinx data, as research indicates that there is a "data gap" for Latinx populations already as a result of the way the data is collected. This data gap for Latinx justice system-involved youth was recently highlighted in Sonja Diaz et al. The Latinx Data Gap in the Youth Justice System. (2020). Available at lppi-thelatinxdatagap-2020.pdf.

[18] Regarding the limitations of CFC data, please note two things. First, that Gender Justice Study staff and co-chairs continue their conversation with CFC staff and leadership about ways to remediate these problems. Second, that we make recommendations for future improvements in data collection and management in the Recommendations section of this report.

"Hispanic" on their forms or if other terms such as Latino, Latina, or Latinx are used to collect these data in some counties. These terms are all socially constructed and have their own limitations.[19] The term "Hispanic," for example, is rooted in a history of Spanish "colonialism, slavery, [and] genocide… across the Americas."[20] The term "Latinx" is used to "signify diversity in gender identity and expression [and] is used by a wide range of individuals and organizations,"[21] however a 2019 Pew Research Center survey found that only 3% of the survey respondents who identified as Hispanic or Latino reported using the term "Latinx" to describe themselves.[22] This Pew survey highlights a lack of consensus around the best term(s) to use. This also emphasizes the complexity and limitations of terms that have been used as identifiers for such varied meanings as shared Spanish colonial histories, fluency in the Spanish language, geographic ancestry, ethnicity and/or race.[23] This technical report uses the term "Hispanic/Latinx" throughout when referring to CFC data in an attempt to accurately represent the data as it is presented in the dataset, while also trying to use the broadest language possible to capture the various terms that may be used in the J&S forms across Washington.

Another outcome of re-categorizing is the potential loss of some groups, most notably people who identify as Native Hawaiian or Other Pacific Islander. CFC staff informed us that they very rarely get forms with this racial category marked, raising the possibility that this group is being lost at data collection. If people who mark "Native Hawaiian or Other Pacific Islander" are re-categorized into the Asian American group (as occurs in some other contexts), a slight inflation in this group is likely, or these people may then fall into the small "Unknown" race group. In any case, this type of loss or re-coding removes the possibility of examining differences in sentencing between Pacific Islanders and Asian Americans. Counts for Native American populations may also be an underestimate. This is because CFC data includes only offenses prosecuted and sentenced in state courts, and not offenses prosecuted and sentenced in Tribal courts. Without seeing numbers combined from Tribal and State courts it is impossible to see the full picture of the impact of incarceration on Tribal communities.

Finally, regarding race categories beyond Asian American, Black, Native American, and white, CFC staff report not seeing many forms with "multiracial" checked or with multiple race boxes checked (e.g. "Asian" and "white"). Though they see the "multiracial" box on some forms, such as the pattern J&S forms, according to their accounting to our research team to date, it has rarely been checked. When a form does identify an individual as multiracial, the CFC codes them as "unknown" due to the very small numbers. This seems inconsistent with Office of Financial Management estimates that 388,239 people identified as two or more races in 2020 in

[19] Carlos E. Santos. The History, Struggles, and Potential of the Term Latinx. National Latinx Psychological Association. VOL 4 – ISSUE 2. (2017).

[20] Robyn Schelenz and Nicole Freeling, University of California Newsroom. (2019). Available at https://www.universityofcalifornia.edu/news/whats-in-a-name-how-concepts-hispanic-and-latino-identity-emerged.

[21] Carlos E. Santos. The History, Struggles, and Potential of the Term Latinx. National Latinx Psychological Association. VOL 4 – ISSUE 2 at page 11. (2017).

[22] Luis Noe-Bustamante, Lauren Mora, and Mark Hugo Lopez. About One-in-Four U.S. Hispanics Have Heard of Latinx, but Just 3% Use It. Pew Research Center. (2020). Available at Latinx Used by Just 3% of U.S. Hispanics. About One-in-Four Have Heard of It. | Pew Research Center.

[23] Carlos E. Santos. The History, Struggles, and Potential of the Term Latinx. National Latinx Psychological Association. VOL 4 – ISSUE 2 at page 11. (2017).

Washington State, higher than the estimated Black-identifying population of 317,832.[24] If very few forms are arriving at CFC with multiracial or multiple race boxes checked, this suggests a further problem at the point of data collection.

Census Data as Comparison

The US Census occurs every ten years, so we used information from their smaller annual American Community Survey for 2019 comparisons, and Census data for 2010 and 2000 for those years. For this pilot project, we obtained proportions for Washington State overall and for included counties from censusviewer.com. Census racial categories are not a perfect match for CFC categories for all the reasons detailed above. Thus, our comparisons provide only a first look at potential racial disproportionality in the conviction and sentencing of women in Washington.

Analytic Approach

Data Preparation

After obtaining data from CFC, Dr. Masters prepared separate analysis files for women's and men's data, one file for each fiscal year. If cases were sentenced on more than one offense, she categorized them under the highest level offense to produce data files containing unique individual cases. She combined data from Benton and Franklin counties, using weighted averages when appropriate to account for the difference in these areas' populations.

To produce substantively meaningful and statistically comparable offense categories, members of the research team (Dr. William Vesneski, JD and Elizabeth Hendren, JD) created six categories based on offenses in the data. These categories (detailed in the report's appendix) were based on those used by Prison Policy Initiative for their "Whole Pie" reports on incarceration in the US, with some adjustments. For example, due to the significant number of women sentenced in fraud cases, they were broken out as a separate category. Dr. Masters then coded all cases into these categories and analyzed the data using SPSS software, standard in the social sciences.

Disproportionality Analyses

Chi-square (χ^2) is a non-parametric test used to determine whether two distributions of a categorical variable differ from one another in a statistically significant way.

Racial/ethnic disproportionality. We used chi-square to test the statistical significance of differences in the distribution of racial/ethnic groups between CFC data on women and Census data. Our rationale for this method arises from our theoretical stance on race, and is based on the assumption that people of any racial or ethnic group are equally likely to commit offenses as

[24] Office of Financial Management Estimates of April 1 population by age, sex, race and Hispanic origin: Age, sex, race and Hispanic origin data tables (state 2010-2019). Available at https://ofm.wa.gov/washington-data-research/population-demographics/population-estimates/estimates-april-1-population-age-sex-race-and-hispanic-origin.

people of any other. If this is so, and conviction is not racially disproportionate, we would expect to see proportions of convicted and sentenced women (CFC data) across racial groups that were similar to those we saw in the state population overall, or in a specific county (Census data).

We did not include Latinx/Hispanic people in these comparisons because of the major differences between data sources in how people are categorized as Latinx/Hispanic.[25] On Census surveys, race (e.g., Black or African American, white) and ethnicity (i.e., Hispanic/Latinx) are two separate categories, whereas in CFC data, race and ethnicity are combined into one category.

To prepare to conduct our chi-square tests, we followed these steps. First, we computed expected counts, if each race was proportionally represented, for each offense category or county. We did this by using that year's CFC count of people in each of the four included racial/ethnic groups in that offense category or county, then extrapolating a "Census count" that represented Census data proportions of these groups in a population of the CFC count's size. Next, we used these expected values for comparison to actual CFC values in chi-square tests for each county or offense category in each year's data.

This approach has several limitations as a test of racial disproportionality in women's sentencing. First, conducting multiple chi-square tests risks detecting statistical significance when it is not present, also known as Type I error. Second, people may have been mis-categorized in CFC race/ethnicity data, that is, included in a group that does not reflect their own identity or the social position that relevant others (e.g. police officers, court personnel) might perceive them as occupying. Finally, CFC and Census categories (as described above) are not perfectly comparable. However, this method for using existing data to examine the disproportionality question provides a first look. The picture it provides is not yet perfectly in focus, but is certainly an improvement over no picture, and can inform future research.

Gender disproportionality. We did not conduct statistical disproportionality tests comparing the proportions of men and women convicted and sentenced to their proportions in the population. Good statistical practice does not support carrying out such a test without an empirical or theoretical rationale. Our racial disproportionality analyses are based on the assumption that people of any racial or ethnic group are equally likely to commit offenses as people of any other. Because this theoretical perspective does not translate to assuming that men and women are equally likely to commit offenses, we chose to carry out the descriptive and comparative analyses of men's and women's data we report here, but not test the statistical significance of the differences in proportions.

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[25] While we did not conduct racial/ethnic disproportionality analyses for Latinx/Hispanic individuals because CFC data is not comparable to Census data for this population, we did provide statistics describing the total number and percentages of Latinx/Hispanic individuals in the dataset in Tables 1-13. It is important to note that these numbers are likely an undercount as CFC data codes an individual as Latinx/Hispanic only if the J&S form indicates in the race field that the person is Latinx/Hispanic or if the form indicates in the ethnicity field that the person is Latinx/Hispanic AND their race is marked as unknown.

Gender Comparison in Washington State Felony Conviction and Sentencing

Research questions answered by these results:

1. ***How many women, compared to men, and from what race-ethnicities, were convicted of felonies and sentenced in Washington State in fiscal years 2019, 2010, and 2000? (Table 1)***
2. ***How many women, from what race-ethnicities, were convicted of felonies and sentenced in each of the four largest counties (King, Pierce, Snohomish, and Spokane) and in two additional areas of focus (Yakima County and the Benton-Franklin county dyad)? How does this compare to men? (Tables 2-4)***
3. ***How many women, from what race-ethnicities, were convicted and sentenced in each felony offense category? How does this compare to men? (Tables 5-7)***

Summary of Gender Comparison Results

Far more men than women were convicted of felonies and sentenced over the past 20 years in all counties and offense categories. These proportions were typically 80% men to 20% women, with a slight increase for women over time, from women making up 19% of sentences state-wide in 2000 and 2010 and 21% in 2019. Since men and women each make up approximately 50% of the population (both state-wide and by county), men clearly make up a disproportionately higher proportion of convicted and sentenced people than women do, relative to their proportion of the population.[26]

Counties differed somewhat in the proportions of women and men convicted and sentenced, with King County in 2019 the lowest at 13% women and Benton-Franklin in 2000 the highest at 24% women. Proportions of women and men convicted and sentenced were substantially different across offense categories. In all years, women were convicted and sentenced in relatively higher proportions in Drug, Property, and particularly Fraud categories. Women typically comprised 23 to 30% of people convicted and sentenced in these offense categories, with a high of 44% of those convicted and sentenced in Fraud in 2000. In contrast, women made up lower proportions of people convicted of Violent offenses (from 12 to 14%) and much lower proportions of those convicted of Sex offenses (never more than 3%).

[26] This difference in proportions, between "men in the population" at 50% and "men sentenced in CFC data" at 80%, is large and would certainly be statistically significant if it were tested. However, good statistical practice does not support carrying out such a test without an empirical or theoretical rationale about whether men's proportion of the population "should" be similar to their proportion of sentenced individuals.

Table 1

Number of convicted and sentenced men and women by racial/ethnic group in Caseload Forecast Council (CFC) data for Washington State in fiscal years 2019, 2010, and 2000

	2019			2010			2000	
	Men	Women		Men	Women		Men	Women
Asian American	613	136		507	87		475	95
Black	2,648	404		2,905	449		3,381	781
Hispanic/Latinx*	1,680	231		1,425	134		1,986	211
Native American	541	221		474	182		486	164
White	13,715	3,973		13,102	3,406		13,862	3,559
Unknown**	64	29		25	10		9	2
Total by gender	19,261	4,994		18,438	4,268		20,199	4,812
Total convicted and sentenced individuals	24,255			22,706			25,011	
Proportion of total convicted and sentenced individuals	79%	21%		81%	19%		81%	19%

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

** The "unknown" race/ethnicity category rarely makes up more than a negligible proportion of sentenced individuals in CFC data.

Tables 2-4

Distribution of racial/ethnic groups (within gender and county) among convicted and sentenced men and women in CFC data for selected Washington State counties

Table 2: Fiscal Year 2019

	King		Pierce		Snohomish		Spokane		Yakima		Benton-Franklin*	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Asian American	7%	8%	7%	7%	3%	2%	2%	1.5%	>1%	2%	1%	1%
Black	34%	29%	28%	19%	9%	9%	11%	6%	6%	4%	7%	3%
Hispanic/Latinx**	2%	2%	7%	4%	3%	<1%	1%	1%	49%	31%	21%	10%
Native American	1%	4%	2%	4%	2%	1%	5%	7%	4%	8%	1%	1%
White	56%	57%	56%	65%	83%	88%	81%	84%	41%	55%	69%	80%
Unknown	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	1%	5%
Total count by gender	2,526	385	2,554	573	1,610	438	2,231	529	990	245	940	233
Total convicted and sentenced individuals by county	2,884		3,127		2,048		2,760		1,235		1,173	
Proportion of total convicted and sentenced individuals	87%	13%	82%	18%	79%	21%	81%	19%	80%	20%	80%	20%

* In combining proportions across Benton and Franklin counties, we used weighted averages to account for the difference between the two counties' populations.

** Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

Table 3: Fiscal year 2010

	King		Pierce		Snohomish		Spokane		Yakima		Benton-Franklin*	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Asian American	6%	4%	5%	4%	3%	2%	1%	1%	<1%	0.5%	1%	1%
Black	36%	28%	29%	20%	12%	11%	11%	8%	5%	2%	5%	4%
Hispanic/Latinx**	1%	1%	2%	1%	2%	0%	1%	1%	46%	26%	17%	7%
Native American	1%	2%	3%	5%	2%	3%	3%	6%	6%	8.5%	<1%	3%
White	55%	65%	61%	70%	81%	84%	84%	84%	43%	63%	77%	84%
Unknown	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%
Total count by gender	3,043	454	3,098	823	1,150	265	1,685	396	1,009	220	844	208
Total convicted and sentenced individuals by county	3,497		3,921		1,415		2,081		1,229		1,052	
Proportion of total convicted and sentenced individuals	87%	13%	79%	21%	81%	19%	81%	19%	82%	18%	80%	20%

* In combining proportions across Benton and Franklin counties, we used weighted averages to account for the difference between the two counties' populations.

** Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

Table 4: Fiscal year 2000

	King		Pierce		Snohomish		Spokane		Yakima		Benton-Franklin*	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Asian American	5%	4%	2%	2%	2%	1%	1%	1%	<1%	1%	<1%	1%
Black	37%	41%	23%	23%	10%	8%	15%	8%	3%	3%	6%	8%
Hispanic/Latinx**	7%	2%	5%	1%	4%	1%	2%	1%	45%	28%	22%	12%
Native American	2%	2%	2%	3%	2%	3%	3%	7%	6%	13%	<1%	2%
White	49%	51%	68%	71%	82%	87%	79%	83%	46%	55%	71%	77%
Unknown	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%
Total count by gender	4,742	988	3,568	944	1,315	310	1,229	230	990	227	807	254
Total convicted and sentenced individuals by county	5,730		4,512		1,625		1,459		1,217		1,061	
Proportion of total convicted and sentenced individuals	83%	17%	79%	21%	81%	19%	84%	16%	81%	19%	76%	24%

* In combining proportions across Benton and Franklin counties, we used weighted averages to account for the difference between the two counties' populations.

** Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

Tables 5-7

Distribution of racial/ethnic groups (within gender and offense category), by category of offense, among convicted and sentenced men and women in Washington State CFC data

NOTE: Because this pilot study focuses on women's incarceration, we based these offense categories on the offenses women were currently (in 2019 data) being most commonly convicted of and sentenced on, then categorized men's offenses in the same way to facilitate comparison. Doing so results in more men's offenses – though still a small proportion – falling into the "other" category. The following proportions fell into the "other" category by year and gender:

- In 2019, 0.1% of women's offenses and 2.5% of men's
- In 2010, 1.8% of women's offenses and 4.4% of men's
- In 2000, 11.9% of women's offenses and 20% of men's

"Other" offenses are not included in these tables; more details are available on request.

Table 5: Fiscal year 2019

	Violent		Drug		Property		Fraud		Sex		Public Order	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Asian American	4%	3%	2%	2%	3%	3%	3%	4%	3%	6%	3%	4%
Black	19%	14%	10%	5%	13%	9%	12%	7%	13%	10%	18%	11%
Hispanic/Latinx*	11%	6%	10%	4%	7%	5%	7%	5%	9%	3%	10%	4%
Native American	3%	6%	2%	4%	3%	5%	2%	3%	3%	<1%	3%	5%
White	62%	70%	76%	85%	74%	78%	76%	81%	71%	78%	66%	76%
Unknown	<1%	1%	<1%	<1%	<1%	<1%	<1%	<1%	1%	3%	<1%	<1%
Total count by gender	2,838	468	4,513	1,680	5,204	1,575	1,785	714	1,038	32	3,394	520
Total convicted and sentenced individuals by county	3,306		6,193		6,779		2,499		1,070		3,914	
Proportion of total convicted and sentenced individuals	86%	14%	73%	27%	77%	23%	71%	29%	97%	3%	87%	13%

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

Table 6: Fiscal year 2010

	Violent		Drug		Property		Fraud		Sex		Public Order	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Asian American	3%	3%	2%	1%	3%	3%	3%	2%	2%	12%	3%	1%
Black	18%	18%	15%	8%	14%	10%	16%	11%	12%	12%	19%	13%
Hispanic/Latinx*	9%	3%	9%	3%	6%	3%	7%	4%	7%	0%	8%	3%
Native American	3%	6%	2%	4%	3%	5%	2%	3%	3%	0%	3%	6%
White	67%	70%	71%	84%	74%	79%	71%	80%	75%	73%	67%	77%
Unknown	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	3%	<1%	<1%
Total count by gender	2,819	358	4,293	1,329	5,308	1,472	1,562	678	981	34	2,671	319
Total convicted and sentenced individuals by county	3,177		5,622		6,780		2,240		1,015		2,990	
Proportion of total convicted and sentenced individuals	88%	12%	76%	24%	78%	22%	70%	30%	97%	3%	89%	11%

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

Table 7: Fiscal year 2000

	Violent		Drug		Property		Fraud		Sex		Public Order	
	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women	Men	Women
Asian American	4%	4%	2%	1%	2%	3%	4%	1%	1%	0%	2%	1%
Black	19%	27%	15%	13%	13%	14%	12%	17%	10%	0%	16%	14%
Hispanic/Latinx*	12%	3%	9%	3%	7%	6%	6%	4%	11%	0%	8%	5%
Native American	3%	6%	2%	3%	2%	4%	1%	2%	2%	11%	3%	3%
White	62%	60%	72%	80%	75%	73%	77%	76%	76%	88%	71%	77%
Unknown	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%	<1%
Total count by gender	2,303	295	4,866	1,620	4,896	1,205	1,057	814	379	9	2,595	294
Total convicted and sentenced individuals by county	2,598		6,486		6,101		1,871		388		2,889	
Proportion of total convicted and sentenced individuals	87%	13%	75%	25%	80%	20%	56%	44%	98%	2%	90%	10%

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

Racial/Ethnic Distribution of Convicted and Sentenced Women by County

Research question:

4. ***Were Black, Indigenous, and women of color convicted and sentenced disproportionally in each county and each fiscal year examined? (Tables 8-13)***

Summary of Disproportionality Results by County

We found statistically significant differences indicating racial disproportionality in Washington's conviction and sentencing of women in all of the six counties we examined, across all three time points. This was a robust finding in data from all years and locations except for the Benton-Franklin county area in 2019.

Black and Native American women bore the brunt of the disproportionality we documented. Across counties, Black women were typically convicted and sentenced at two or three times the rate we would expect based on their proportion of each county's population. In some counties, in some fiscal years, they were convicted and sentenced at rates up to eight times higher. Native American women, across counties, often made up two to four times as large a proportion of the convicted and sentenced population as they did of the general population of each county.

Across counties and time points, white women were typically convicted and sentenced in roughly the same or somewhat lower proportion as their representation in the general population. In general, a lower proportion of Asian American women were convicted and sentenced than in their representation in the general population.[27]

[27] Due to the limitations of the data used in this pilot study (and detailed in the Data section of this report), findings on Asian Americans may mask disparities experienced by subpopulations (e.g., Native Hawaiians or Pacific Islanders) who have been aggregated into the Asian American category.

Tables 8-13

Distribution of racial and ethnic groups among convicted and sentenced women in Caseload Forecast Council (CFC) data, compared to US Census data, for selected Washington counties

NOTE: Due to the data limitations described in detail earlier in this report, we present data on Hispanic/Latinx women descriptively only in Tables 8-13. Census data is not directly comparable to CFC data for this group due to differences in coding, so we were not able to include this group in statistical difference testing for disproportionality.

Table 8: King County

	2019		2010		2000	
	Census	CFC (n = 385)	Census	CFC (n = 454)	Census	CFC (n = 988)
Asian American	19%	8%	15%	4%	11%	4%
Black	7%	29%	6%	28%	5%	41%
Hispanic/Latinx*	–	2%	–	1%	–	2%
Native American	1%	4%	0.8%	2%	0.9%	2%
White	66%	57%	69%	65%	76%	51%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in King County CFC data than in county Census data in all three tested years. In 2019 $\chi^2 = 315$, df 3, $p < 0.001$; in 2010 $\chi^2 = 375$, df 3, $p < 0.001$; and in 2000 $\chi^2 = 2524$, df 3, $p < 0.001$.

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

In King County in fiscal year (FY) 2019, the proportion of Black women convicted and sentenced was four times higher than their proportion in the general population according to Census data. The same was true of Native American women. White women were convicted and sentenced in roughly the same proportion as their representation in the general population, and a lower proportion of Asian American women were convicted and sentenced than in theirs.

In FY 2010 this disproportionality's scale was similar for Black women (6% of the King County general population compared to 28% of convicted and sentenced women). Disproportionality was present but less pronounced in 2010 for Native American women, who were convicted and sentenced at about twice the rate of their representation in the population (2% compared to 0.8%). White women were again convicted and sentenced in roughly the same

proportion as their representation in the general population, and a lower proportion of Asian American women were convicted and sentenced than in theirs.

Racial disproportionality in conviction and sentencing was even more pronounced in FY 2000, with a proportion of Black women convicted and sentenced that was eight times larger than their proportion of the county's population (41% compared to 5%). In this fiscal year, only about two-thirds as many white women were convicted sentenced as would be expected based on their Census proportions.

Table 9: Pierce County

	2019		2010		2000	
	Census	CFC (n = 573)	Census	CFC (n = 823)	Census	CFC (n = 944)
Asian American	7%	7%	6%	4%	5%	2%
Black	8%	19%	7%	20%	7%	23%
Hispanic/Latinx*	–	4%	–	1%	–	1%
Native American	1.8%	4%	1.4%	5%	1.4%	3%
White	75%	65%	74%	70%	78%	71%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in Pierce County CFC data than in county Census data in all three tested years. In 2019 $\chi^2 = 103$, df 3, $p < 0.001$; in 2010 $\chi^2 = 330$, df 3, $p < 0.001$; and in 2000 $\chi^2 = 2524$, df 3, $p < 0.001$.

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

In Pierce County in FY 2019, the proportion of Black women convicted and sentenced was over twice as high as their proportion in the general population according to Census data. The same was true of Native American women. White women and Asian American were convicted and sentenced in roughly the same proportions as their representation in the general population.

In FY 2010 this disproportionality's scale was larger for Black women, who were convicted and sentenced at approximately three times the rate of their proportion of the county's population (20% compared to 7%). Disproportionality was also present in 2010 for Native American women, who were convicted and sentenced at about three times the rate of their representation in the population. White women were again convicted and sentenced in roughly the same proportion as their representation in the general population, and a very slightly lower proportion of Asian American women were convicted and sentenced than in theirs.

Patterns of racial disproportionality in conviction and sentencing were similar in FY 2000, with a proportion of Black women convicted and sentenced that was roughly three times larger than their proportion of the county's population (23% compared to 7%). Native American women were convicted and sentenced approximately twice the rate of their proportion of the county's population.

Table 10: Snohomish County

	2019		2010		2000	
	Census	CFC (n = 438)	Census	CFC (n = 265)	Census	CFC (n = 310)
Asian American	12%	2%	9%	2%	6%	1%
Black	4%	9%	3%	11%	2%	8%
Hispanic/Latinx*	–	<1%	–	0%	–	1%
Native American	1.6%	1%	1.4%	3%	1.4%	3%
White	78%	88%	78%	84%	86%	87%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in Snohomish County CFC data than in county Census data in all three tested years. In 2019 $\chi^2 = 67$, df 3, $p < 0.001$; in 2010 $\chi^2 = 66$, df 3, $p < 0.001$; and in 2000 $\chi^2 = 62$, df 3, $p < 0.001$.

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

In Snohomish County in FY 2019, the proportion of Black women convicted and sentenced was twice as large as their proportion in the general population according to Census data. For Native American women, no large scale disproportionality was evident in the data. White women were convicted and sentenced in a slightly lower proportion than their representation in the general population, and Asian American women in a much lower proportion (2% compared to 12%) than in theirs.

In FY 2010 this disproportionality's scale was greater for Black women, with a proportion convicted and sentenced nearly four times as large as their proportion of the general population. Disproportionality was also present in 2010 for Native American women, who were convicted and sentenced at about twice the rate of their representation in the population. White women were convicted and sentenced in roughly the same proportion as their representation in the general population, and a lower proportion of Asian American women were convicted and sentenced than in theirs.

Racial disproportionality in conviction and sentencing was similar in FY 2000, with a proportion of Black women convicted and sentenced that was four times larger than their

proportion of the county's population. Native American women were again convicted and sentenced at about twice the rate of their representation in the county's population. White women were convicted and sentenced in roughly the same proportion as their representation in the general population, and a lower proportion of Asian American women were convicted and sentenced than in theirs.

Table 11: Spokane County

	2019		2010		2000	
	Census	CFC (n = 529)	Census	CFC (n = 396)	Census	CFC (n = 230)
Asian American	2.4%	1.5%	2%	1%	2%	1%
Black	2%	6%	2%	8%	2%	8%
Hispanic/Latinx	–	1%	–	1%	–	1%
Native American	1.8%	7%	1.6%	6%	1.4%	7%
White	89%	84%	89%	84%	91%	83%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in Spokane County CFC data than in county Census data in all three tested years. In 2019 $\chi^2 = 143$, df 3, $p < 0.001$; in 2010 $\chi^2 = 84$, df 3, $p < 0.001$; and in 2000 $\chi^2 = 2524$, df 3, $p < 0.001$.

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

In Spokane County in FY 2019, the proportion of Black women convicted and sentenced was three times higher than their proportion in the general population according to Census data. Approximately the same was true of Native American women. White women were convicted and sentenced in roughly the same proportion as their representation in the general population, as were Asian American women.

Racial disproportionality in conviction and sentencing was even more pronounced in FY 2010, with a proportion of Black women convicted and sentenced that was four times larger than their proportion of the county's population. Native American women were again convicted and sentenced at about three times the rate of their representation in the population (6% compared to 1.6%). Similarly, white women were convicted and sentenced in roughly the same proportion as their representation in the general population, and a lower proportion of Asian American women were convicted and sentenced than in the general population.

In FY 2000, the proportion of Black women convicted and sentenced was again four times larger than their proportion of the county's population (8% compared to 2%). Disproportionate conviction and sentencing affected Native American women even more in 2000 as their

convicted and sentenced proportion (7%) was five times more than their proportion of the county (1.4%). In this fiscal year, slightly fewer white and Asian American women were convicted and sentenced than would be expected based on their Census proportions.

Table 12: Yakima County

	2019		2010		2000	
	Census	CFC (n = 245)	Census	CFC (n = 220)	Census	CFC (n = 227)
Asian American	1.6%	2%	1%	0.5%	1%	1%
Black	1.5%	4%	1%	2%	1%	3%
Hispanic/Latinx	–	31%	–	26%	–	28%
Native American	6.5%	8%	4.3%	8.5%	4.5%	13%
White	87%	55%	64%	63%	66%	55%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in Yakima County CFC data than in county Census data in all three tested years. In 2019 $\chi^2 = 22$, df 3, $p < 0.001$; in 2010 $\chi^2 = 11$, df 3, $p < 0.05$; and in 2000 $\chi^2 = 47$, df 3, $p < 0.001$.

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

In Yakima County in FY 2019, the proportion of Black women convicted sentenced was two and a half times higher than their proportion in the general population according to Census data. Native American women were convicted and sentenced at a slightly higher rate than would be expected based on their proportion of the county's population. White women were convicted and sentenced in a considerably lower proportion (55%) than their representation in the population (87%). Asian American women were convicted and sentenced in roughly the same proportion as their representation in the population.

Racial disproportionality in conviction and sentencing was also present in FY 2010, with proportions of Black and Native American women convicted and sentenced that were twice as large as their respective proportions of the county's population. White and Asian American women were convicted and sentenced in roughly the same proportions as their respective representation in the population.

In FY 2000, the proportion of Black women convicted and sentenced was three times larger than their proportion of the county's population. Disproportionate sentencing affected Native American women even more in 2000 as their convicted and sentenced proportion (13%) was nearly three times more than their proportion of the county (4.5%). In this fiscal year, about the

same proportions of white and Asian American women were convicted and sentenced as would be expected based on their Census proportions.

Table 13: Benton and Franklin Counties combined

	2019		2010		2000	
	Census	CFC (n = 233)	Census	CFC (n = 208)	Census	CFC (n = 254)
Asian American	3%	1%	2.4%	1%	2%	1%
Black	2%	3%	1.5%	4%	1.3%	8%
Hispanic/Latinx*	–	10%	–	7%	–	12%
Native American	1.4%	1%	0.8%	3%	0.8%	2%
White	90%	80%	76%	84%	80%	77%
Unknown**	–	5%	–	–	–	–

Statistical significance of differences:

Proportions of women across racial categories were significantly different in Benton and Franklin Counties combined CFC data than in these counties' Census data in two of three tested years. In 2019, $\chi^2 = 4$, df 3, $p = 0.26$, indicating no statistically significant difference. In 2010 $\chi^2 = 17$, df 3, $p < 0.01$; and in 2000 $\chi^2 = 75$, df 3, $p < 0.001$.

Weighted averages:

In combining proportions across Benton and Franklin counties, we used weighted averages to account for the difference between the two counties' populations.

* Hispanic/Latinx figures are likely an undercount due to CFC coding methodology and should be interpreted with caution.

** The "unknown" category appears in CFC data from all counties, but only in Benton and Franklin counties in FY 2019 does it make up more than a negligible (i.e., > 0.5%) proportion of sentenced women.

In Benton and Franklin Counties combined in FY 2019, testing indicates no statistically significant racial disproportionality in conviction and sentencing. Proportions of people in each racial category are roughly similar in CFC data and in Census data.

In FY 2010, the proportion of Black women convicted and sentenced was two and a half times higher than their proportion in the general population according to Census data. Native American women were convicted and sentenced at three times the rate as would be expected based on their proportion of the county's population. Unusually, white women were convicted and sentenced in a proportion (84%) slightly larger than their proportion of the population

(76%). In this fiscal year, fewer Asian American women were convicted and sentenced than would be expected based on their Census proportions.

Racial disproportionality in conviction and sentencing was also present in FY 2000. Proportions of Black and Native American women convicted and sentenced were over four times as large, and twice as large, as their respective proportions of the county's population. Fewer white and Asian American women were convicted and sentenced than would be expected based on their Census proportions.

Racial/Ethnic Distribution of Convicted and Sentenced Women by Offense Category

Research question:

5. ***Were Black, Indigenous, and women of color convicted and sentenced disproportionally within each offense category and in each fiscal year examined? (Tables 14-16)***

Summary of Disproportionality Results by Offense Category

We found statistically significant differences indicating racial disproportionality in Washington's conviction and sentencing of women in most of the offense categories we examined. This was a robust finding with one notable counter-example. In 2019 data in the drug offense category, Black women were convicted and sentenced in roughly the proportion we would expect based on their representation in the general population of the state.

Black and Native American women bore the brunt of the disproportionality we documented. Across offense categories, Black women were typically convicted and sentenced at two or three times the rate we would expect based on their proportion of the state's population. This imbalance was especially pronounced in the violent offense category, where in 2000 nine times as many Black women were convicted and sentenced as their Census proportion would predict. Native American women, across offense categories, often made up two to four times as large a proportion of the convicted and sentenced population as they did of the general population of the state.

For violent offenses, white women were convicted and sentenced in a lower proportion than their representation in the general population across all three timepoints we examined. For drug offenses, they were convicted and sentenced in a higher proportion in two out of three years. A lower proportion of Asian American women were convicted and sentenced than their representation in the general population across nearly all offense categories.

Table 14: Distribution of racial groups among convicted and sentenced women in Caseload Forecast Council (CFC) data, compared to Washington State Census data, for selected offense categories, FY 2019

	Asian American		Black		Native American		White	
	Census	CFC	Census	CFC	Census	CFC	Census	CFC
Violent (n = 433)	9%	3%	4%	15%	2%	6%	79%	70%
Drug (n = 1607)	9%	2%	4%	5%	2%	4%	79%	85%
Property (n = 1484)	9%	3%	4%	9%	2%	5%	79%	78%
Fraud (n = 677)	9%	4%	4%	7%	2%	3%	79%	81%
Public Order (n = 498)	9%	4%	4%	11%	2%	5%	79%	76%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in CFC data than in Washington State Census data in all offense categories. Violent $\chi^2 = 190$, df 3, $p < 0.001$; Drug $\chi^2 = 136$, df 3, $p < 0.001$; Property $\chi^2 = 226$, df 3, $p < 0.001$; Fraud $\chi^2 = 45$, df 3, $p < 0.001$; and Public Order $\chi^2 = 106$, df 3, $p < 0.001$.

The differences in proportions of women in each racial category in Census compared to CFC data varied depending on offense category in fiscal year (FY) 2019. In most offense categories, Black women made up a higher proportion of convicted and sentenced women than would be expected based on their proportion in the general population (e.g., approximately four times as many women in this group were convicted of violent offenses and sentenced [15%] as their Census proportion of 4%). Public order offenses were another category in which Black women were convicted and sentenced at particularly high rates (11%) compared to their representation in Census data. A notable exception to this pattern was drug offenses, where proportions were roughly similar (4% vs. 5%).

This disproportionality was also evident for Native American women, particularly in violent, property, and public order offenses. A lower proportion of Asian American women were convicted and sentenced than their representation in the general population across all offense categories. This was also true of white women for violent offenses. In the drug and fraud offense categories, white women were convicted and sentenced at slightly higher rates than would be expected based on their proportion of the general population, and in the property and public order offense categories, roughly similar rates to their representation in Census data.

Table 15: Distribution of racial groups among convicted and sentenced women in Caseload Forecast Council (CFC) data, compared to Washington State Census data, for selected offense categories, FY 2010

	Asian American		Black		Native American		White	
	Census	CFC	Census	CFC	Census	CFC	Census	CFC
Violent (n = 347)	7%	3%	4%	18%	1.5%	6%	77%	70%
Drug (n = 1291)	7%	1%	4%	8%	1.5%	4%	77%	84%
Property (n = 1420)	7%	3%	4%	10%	1.5%	5%	77%	79%
Fraud (n = 646)	7%	2%	4%	11%	1.5%	3%	77%	80%
Public Order (n = 309)	7%	1%	4%	13%	1.5%	6%	77%	77%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in CFC data than in Washington State Census data in all offense categories. Violent $\chi^2 = 230$, df 3, $p < 0.001$; Drug $\chi^2 = 155$, df 3, $p < 0.001$; Property $\chi^2 = 244$, df 3, $p < 0.001$; Fraud $\chi^2 = 108$, df 3, $p < 0.001$; and Public Order $\chi^2 = 104$, df 3, $p < 0.001$.

Findings for FY 2010 were similar overall to those for FY 2019 with several notable exceptions. The differences in proportions of women in each racial category in Census compared to CFC data again varied depending on offense category. In most offense categories, Black women made up a higher proportion of convicted and sentenced women than would be expected based on their proportion in the general population (e.g., approximately five times as many women in this group were convicted of violent offenses and sentenced (18%) as their Census proportion of 4%). However, unlike in 2019, the drug offenses exception to this pattern was not apparent in 2010.

This disproportionality was also evident for Native American women, particularly in violent, property, and public order offenses. In the violent and public order offense categories, these women were convicted and sentenced in proportions four times greater (6% vs. 1.5%) than their proportions of Census data. Again, a lower proportion of Asian American women were convicted and sentenced than their representation in the general population across all offense categories. This was also true of white women for violent offenses. In the drug offense category, white women were convicted and sentenced at slightly higher rates than would be expected based on their proportion of the general population, and in the property, fraud, and public order offense categories, roughly similar rates to their representation in Census data.

Table 16: Distribution of racial groups among convicted and sentenced women in Caseload Forecast Council (CFC) data, compared to Washington State Census data, for selected offense categories, FY 2000

	Asian American		Black		Native American		White	
	Census	CFC	Census	CFC	Census	CFC	Census	CFC
Violent (n = 287)	5%	4%	3%	27%	1.6%	6%	82%	60%
Drug (n = 1573)	5%	1%	3%	13%	1.6%	3%	82%	80%
Property (n = 1138)	5%	3%	3%	14%	1.6%	4%	82%	73%
Fraud (n = 781)	5%	1%	3%	17%	1.6%	2%	82%	76%
Public Order (n = 280)	5%	1%	3%	14%	1.6%	3%	82%	77%

Statistical significance of differences:

Proportions of women across racial categories were significantly different in CFC data than in Washington State Census data in all offense categories. Violent $\chi^2 = 546$, df 3, $p < 0.001$; Drug $\chi^2 = 526$, df 3, $p < 0.001$; Property $\chi^2 = 577$, df 3, $p < 0.001$; Fraud $\chi^2 = 528$, df 3, $p < 0.001$; and Public Order $\chi^2 = 143$, df 3, $p < 0.001$.

Taken together, findings for FY 2000 were similar overall to those for FY 2010. The differences in proportions of women in each racial category in Census compared to CFC data again varied depending on offense category. In all offense categories, Black women made up a higher proportion of convicted and sentenced women than would be expected based on their proportion in the general population. This disproportionality was especially pronounced in the violent offense category, where nine times as many Black women were convicted and sentenced (27%) as their Census proportion of 3%. The drug offenses exception present in 2019 was not apparent in 2000, indeed, the proportion of Black women in CFC data (13%) was over four times larger than their proportion in the Census (3%).

This disproportionality was also evident for Native American women, particularly in violent and public order offenses, whereas their representation in the fraud offense category (2%) was approximately proportional to that in Census data (1.6%). A lower proportion of Asian American women were convicted and sentenced than their representation in the general population across all categories except violent offenses, where proportions were approximately equivalent. In the drug offense category, white women were present at roughly similar rates to their representation in Census data, but in all other categories, they were convicted and sentenced at slightly lower rates than would be expected based on their proportion of the general population.

Discussion

This study began filling the gap in what is known about Washington State's incarcerated women using available data. Overall, women made up a lower proportion of people convicted of felonies and sentenced than men; this proportion increased from 19% in FY 2000 to 21% in 2019. Women were more likely to be convicted of Fraud, Property, and Drug offenses and sentenced than Violent, Public Order, or Sex offenses, but men made up the majority of people convicted and sentenced in all offense categories.

Focusing on women, we found statistically significant differences indicating racial disproportionality among women convicted and sentenced in Washington in all of the six regions we examined, and nearly all of the offense categories, across all three time points. Black and Native American women bore the brunt of this disproportionality. Racial disproportionality in conviction and sentencing did improve somewhat between 2000 and 2019. However, the consequences of earlier years' high disproportionality are currently being felt by women who may still be in prison right now, and by their communities.

It is important to note that because the data this study used was collected at the time of sentencing, we are not able to identify the point(s) in the legal process (e.g., arrest, charging, conviction, sentencing) at which these disproportionalities occurred. For example, Black women could have been arrested, charged with crimes, or convicted of them more often than white women in equivalent situations and produced similar results. Judges make sentencing decisions constrained by the crime charged, the crime of conviction, the standard sentence range for each crime, and the grounds for exceptional sentences above and below the range that the legislature and the courts have recognized. Thus, what this report summarizes is less "disproportionality in sentencing" and more "disproportionality at the time of sentencing."

The study's other major limitation is that the existing data we analyzed may mis-categorize some people in terms of race/ethnicity. The mis-categorized group represents a minority of all cases analyzed, but cannot be quantified further. This use of existing data to examine questions of disproportionality at the time of sentencing provides a picture that is not perfectly in focus. Nonetheless, this picture does show the overall shape of the conviction and sentencing disproportionality problem in Washington.

Ultimately, looking at which women are in prison requires looking at who is convicted and sentenced, as we did here, and also at other factors that affect how long people remain in prison. CFC data do not provide information about events during incarceration that may affect length of prison stay.

For Washington State to begin creating policy that addresses the needs of incarcerated women, we must understand who is in women's prisons and why we are incarcerating them. This study takes the first steps on that journey. This pilot research also indicates some next steps, detailed in our recommendations below.

Recommendations

The study team has some recommendations and suggestions regarding both improvements in data collection and additional analyses and research.

Data recommendations

- We recommend that the CFC begin using the race/ethnicity categories from the J&S forms, in a manner that allows for the use of multiple racial categories to specify the details of multiracial-identifying individuals' identities, and with race and Hispanic/Latinx ethnicity separated into two variables in their datasets.
- We suggest that all counties collaborate in efforts to standardize data collection on J&S forms across the state, including using best practices for data collection such as ensuring individuals are able to self-identify their race and ethnicity.
- We recommend that the courts and CFC explore the possibility of collecting data markers for socio-economic status (SES), such as the highest level of education of the individual's primary parent (an easy-to-collect piece of information that serves as a proxy for individuals' SES in adult life), or whether the person qualified for a public defender.
- We recommend that the courts and CFC explore data markers for genders that do not fit within the male or female binary so individuals are able to self-identify their gender.
- We recommend that the Department of Corrections support research aimed at understanding the intersection of gender and race. This could be done by streamlining researchers' access to data on incarcerated individuals that is broken out by both gender and race, or by doing analyses like this in their own publications.

Additional analyses and suggested research directions

- We suggest identifying alternative data sources that could allow for disproportionality analyses, similar to those we did here, for Hispanic/Latinx people.
- We recommend additional research, including qualitative research using facts and circumstances if appropriate, to further examine:
    - the disproportionality for Black women with violent crimes.
    - causes of disproportionality in drug conviction and sentencing.
    - the nature and antecedents of the relatively high levels of fraud felony convictions among women.
- More research is needed specifically on Indigenous women, given the racial disproportionality and the almost complete lack of national research. This research should be led by Indigenous researchers.
- We suggest additional research using Department of Corrections data on factors that affect the length of time women spend in prison, for example:

- the extent that infractions increase length of stay in prison as well as at work release/community corrections.
- the extent that risk classification increases length of stay in prison.

- We recommend additional research on court-related factors related to length of time served, for example:
  - concurrent versus consecutive sentences.
  - the use of enhancements and their effects on length of sentences.
- We also suggest research to begin identifying the sources of the disparities found in this report. This work could examine:
  - Sentencing: by determining where within the standard range, or outside the standard range, judges are sentencing criminal defendants of different races/ethnicities/genders; and upon what factors the judges are basing those decisions.
  - Charging and plea offers: by determining how county prosecutors charge or offer pleas to defendants of different races/ethnicities/genders for similar conduct. We acknowledge the challenges involved in determining the facts for such research, but it would make a major contribution to understanding and addressing the disproportionalities identified here.

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Appendix

Offense Categorization

To produce substantively meaningful and statistically comparable offense categories, members of the research team (Dr. William Vesneski, JD and Elizabeth Hendren, JD) created six categories based on offenses in the data. These categories were based on those used by Prison Policy Initiative for their "Whole Pie" reports on incarceration in the US. Offenses in each category are listed alphabetically.

Violent

ASSAULT 1 (POST 7/1/90)
ASSAULT 2 (POST 7/1/88)
ASSAULT 3 (POST 7/1/88)
ASSAULT OF A CHILD 2
ASSAULT OF A CHILD 3
CRIMINAL MISTREATMENT 2
CRIMINAL MISTREATMENT 2 (POST 06/07/06)
CUSTODIAL ASSAULT (POST 7/89)
CYBERSTALKING
DRIVE-BY-SHOOTING (POST 6/30/97)
HIT AND RUN - DEATH (POST 7/21/01)
HIT AND RUN - INJURY (POST 6/7/00)
KIDNAPPING 1
KIDNAPPING 2
MANSLAUGHTER 1 (POST 7/26/97)
MANSLAUGHTER 2 (POST 7/26/97)
MURDER 1 (7/1/90-7/24/99)
MURDER 1 (POST 7/24/99)
MURDER 2 (POST 7/24/99)
STALKING (POST 6/30/00)
VEHICULAR ASSAULT DISREGARD SAFETY (POST 7/21/01)
VEHICULAR ASSAULT DISREGARD SAFETY (POST 7/21/01)
VEHICULAR ASSAULT UNDER INFL/RECKLESS (POST 7/21/01)
VEHICULAR HOMICIDE - DISREGARD SAFETY OF OTHERS (POST 6/5/96)
VEHICULAR HOMICIDE - DRUNK (LEV 11. POST 06/07/2012)
VEHICULAR HOMICIDE - RECKLESS MANNER (POST 6/5/96)
VIOLATION OF FOREIGN PROTECTION ORDER

Drug

DEL MATERIAL IN LIEU OF CONTROLLED SUBSTANCE (POST 7/89) - 1ST OFF
DEL POS W/I METH - 1ST OFFENSE (POST 6/30/98)
DEL POS W/I METH - 2ND OFFENSE (POST 6/30/98)
DEL POS W/I METH - SCHOOL ZONE (POST 6/30/98)

ENDANGERMENT WITH A CONTROLLED SUBSTANCE
FORGED PRESCRIP - VUCSA - 1ST OFFENSE
MAINTAIN PLACE FOR DRUGS - 1ST OFFENSE (POST 7/24/99)
MFG DEL POS W/I HER (POST 6/30/02) (L7)
MFG DEL POS W/I HER COC - SCHOOL ZONE (POST 6/30/02) (L7)
MFG DEL POS W/I HER COC - SUBSEQ (POST 6/30/02) (L7)
MFG DEL POS W/I IMITATION CONTROLLED SUBSTANCE (POST 7/89)
MFG DEL POS W/I MARIJUANA - 1ST OFFENSE
MFG DEL POS W/I MARIJUANA - CORRECTIONAL FACILITY
MFG DEL POS W/I SCH I/II NARC OR FLUNT SUBSEQ
MFG DEL POS W/I SCH I/II NARC OR FLUNT-1ST OFF
POSS OF CONTROL SUBSTANCE - BY PRISONERS
POSS OF CONTROL SUBSTANCE - OTHER, EXCEPT PCP, IN COR FAC
POSS OF CONTROL SUBSTANCE - OTHER, EXCEPT PCP/FLUNIT
POSS OF CONTROL SUBSTANCE - SCHEDULE I/II IN COR FAC
POSS OF CONTROL SUBSTANCE - SCHEDULE I/II OR FLUNIT
USE BUILDING FOR DRUGS (POST 7/24/99)

Property

ARSON 1
ARSON 2
BURGLARY 1
BURGLARY 2 (NONDWELLING - POST 7/90)
MALICIOUS INJURY TO RAILROAD PROPERTY (POST 7/24/99)
ORGANIZED RETAIL THEFT 1
ORGANIZED RETAIL THEFT 2
POSSESSION OF STOLEN MAIL
POSSESSION OF STOLEN PROPERTY 1
POSSESSION OF STOLEN PROPERTY 2
POSSESSION OF STOLEN VEHICLE
RECEIVING OR GRANTING UNLAWFUL COMPENSATION
RECKLESS BURNING 1
RESIDENTIAL BURGLARY (POST 7/90)
RETAIL THEFT WITH EXTENUATING CIRCUMSTANCES 1
RETAIL THEFT WITH EXTENUATING CIRCUMSTANCES 2
RETAIL THEFT WITH EXTENUATING CIRCUMSTANCES 3
ROBBERY 1
ROBBERY 2
TAKING MOTOR VEHICLE WITHOUT PERMISSION 2 (POST 6/12/02)
THEFT 1
THEFT 2
THEFT FROM A VULNERABLE ADULT 1
THEFT FROM A VULNERABLE ADULT 2
THEFT OF A FIREARM (POST 7/22/95)
THEFT OF MOTOR VEHICLE
THEFT OF RENTAL OR LEASED PROPERTY ($250-$1,500)

THEFT OF RENTAL OR LEASED PROPERTY (<$1,500)
THEFT W/ INTENT RESELL 1
THEFT W/ INTENT RESELL 2
TRAFFICKING IN STOLEN PROPERTY 1
TRAFFICKING IN STOLEN PROPERTY 2
VEHICLE PROWL 1
VEHICLE PROWL 2 (3RD OR SUBS - POST 2013)

Fraud

CRIMINAL IMPERSONATION 1
DEFRAUDING A PUBLIC UTILITY 1
DEFRAUDING A PUBLIC UTILITY 2
DEFRAUDING INNKEEPER, OVER $75
FALSE VERIFICATION FOR WELFARE
FOOD STAMPS - TRAFFICKING
FORGERY
IDENTITY THEFT 1 (POST 7/21/01)
IDENTITY THEFT 2 (POST 7/21/01)
ILLEGAL TRANSFER OF MOTOR VEHICLE CERTIFICATE
INSURANCE FRAUD - FALSE CLAIMS
MAIL THEFT
MEDICAID FRAUD
MONEY LAUNDERING
MORTGAGE FRAUD
OBTAIN SIGNATURE BY DECEPTION
PERJURY 1
PERJURY 2
POSSESS READ CAPTURE INFO ON OTHER'S ID
THEFT 1 - WELFARE FRAUD
THEFT 2 - WELFARE FRAUD
UNLAWFUL FACTORING CREDIT/PAY CARD TRANSACTION-1ST
UNLAWFUL ISSUANCE OF CHECKS OR DRAFTS
UNLAWFUL POSSESSION OF A PERSONAL IDENTIFICATION DEVICE
UNLAWFUL POSSESSION OF FICTITIOUS IDENTIFICATION
UNLAWFUL POSSESSION OF PAYMENT INSTRUMENTS
UNLAWFUL PRODUCTION OF PAYMENT INSTRUMENTS

Sex

CHILD MOLEST 1 <18 (POST 8/31/01)
CHILD MOLEST 1 >17 (POST 8/31/01) (.712)
CHILD MOLEST 2 (POST 7/90)
CHILD MOLEST 3 (POST 7/90)
COMMER SEX ABUSE A MINOR - PROMOTE (POST 06/10/2010)
COMMUNICATION WITH A MINOR (POST 7/86)
FAILURE TO REGISTER AS SEX OFFENDER - POST 7/24/99

FAILURE TO REGISTER AS SEX OFFENDER 2+ (POST 06/07/06)
FAILURE TO REGISTER AS SEX OFFENDER 3+ (POST 06/10/2010)
INDECENT EXPOSURE (PRE 7/25/99)
LURING OF MINOR OR DEVELOPMENTAL DISABILITY PERSON
POSS OF DEPICTION OF MINOR 1ST DEGREE (POST 06/07/06)
PROMOTING PROSTITUTION 2
RAPE OF A CHILD 2 >17 (POST 8/31/01) (.712)
RAPE OF A CHILD 3 (POST 7/90)

Public Order

ATTEMPTING TO ELUDE PURSUING POLICE VEHICLE
BAIL JUMP WITH CLASS A (POST 7/89)
BAIL JUMP WITH CLASS B OR C (POST 7/89)
CRIMINAL MISCHIEF (previously RIOT)
CUSTODIAL INTERFERENCE 1
DELIVERY OF FIREARM BY DEALER TO INELIGIBLE PERSON
DELIVERY OF FIREARM TO INELIGIBLE PERSON
DISARMING A LAW ENFORCEMENT OR CORRECTIONAL OFFICER
DRIVING UNDER THE INFLUENCE (FELONY) (06/09/2016-07/22/2017)
DRIVING UNDER THE INFLUENCE (FELONY) (POST 07/23/2017)
ESCAPE 1
ESCAPE 2
ESCAPE 3
ESCAPE FROM COMMUNITY CUSTODY (POST 6/11/92)
FAILURE TO REGISTER AS KIDNAPPER - POST 7/24/99
HARASSMENT
INTIMIDATING A WITNESS
INTRODUCING CONTRABAND 2
LEADING ORGANIZED CRIME
MALICIOUS HARASSMENT
MALICIOUS MISCHIEF 1
MALICIOUS MISCHIEF 2
MALICIOUS PROSECUTION
POSS OF A STOLEN FIREARM
RENDERING CRIMINAL ASSISTANCE 1 (POST 07/01/2010)
TAMPERING WITH A WITNESS
TELEPHONE HARASSMENT (POST 7/24/99)
UNLAWFUL POSSESSION OF FIREARM 1
UNLAWFUL POSSESSION OF FIREARM 2
UNLAWFUL WRECKING VEHICLES WITHOUT LICENSE SUBS