

SUMMARY

Felony Sentencing in NYC: Mandatory Minimums, Mass Incarceration, and Race

Mandatory minimum sentencing laws took shape amid the “tough-on-crime” push of the late 1970s, contributing to the rapid consolidation of our current mass incarceration era. How would eliminating these laws—in whole or in part—affect the stark racial disparities in who is in prison in New York State?

A Brief History of Minimums

Mandatory minimums impose a set floor of prison time, typically based on the charge and a person’s criminal history. The effort at what proponents tout as “truth-in-sentencing” removes discretion from a judge as to whether prison is appropriate, allowing **no accounting for the circumstances of the offense or of the individual charged**.

Minimums are most associated in New York with 1973’s notorious **Rockefeller Drug Laws**, which dictated harsh prison sentences for felony drug charges. New York, along with many other states, has since curtailed its use of minimums. However, today, while most drug felonies in New York are excluded, minimums still apply for most people convicted of any other felony charge—whether violent or non-violent—if *they have a prior felony conviction within the past ten years*. Even absent such a criminal history, minimums continue to apply to most convictions where the current charge is a violent felony.

The Ongoing Impacts

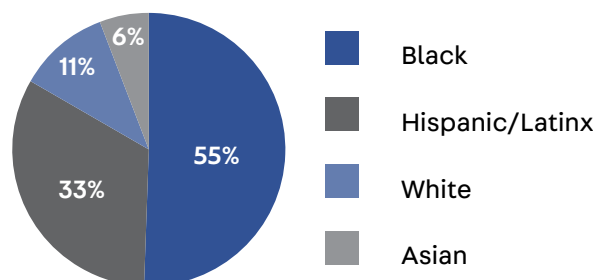
To analyze the effects of minimum sentences, we traced the path of felony cases in New York City in 2019, the last year prior to the unique dynamics associated with the pandemic. We focused on prosecuted felony arrests, omitting cases declined by the prosecutor.

Of the more than 65,000 such arrests in 2019, we found **a third of people arrested were potentially subject to a mandatory minimum**. That doesn’t mean everyone ultimately *received* a minimum prison sentence, but the wide eligibility confers outsized power on prosecutors; in plea negotiations, prosecutors can wield the threat of a higher charge with guaranteed, generally lengthy, prison time against someone hesitant to accept a plea.

A Continuum of Disparities

Arrests, and with them exposure to charges eligible for a mandatory minimum, are the formal entry-point to the criminal legal system. Our analysis found **Black people accounted for 51% of people arrested on a felony in**

BLACK NEW YORKERS OVERREPRESENTED AMONG THOSE CHARGED WITH FELONIES



New York City in 2019, more than double their representation in the general population; for white people, the figure was 11%. For arrests with exposure to a mandatory minimum, the disparity was even more striking: Black and Hispanic/Latinx New Yorkers combined to make up 91% of such arrests; for white people, the proportion was only 7%.

Looking at the subgroup of those *convicted* of a felony, Black people were also more likely to suffer imprisonment and **almost six of ten convictions carrying a mandatory minimum sentence went to a Black person**.

Indeed, while race was a significant predictor of whether someone convicted of a felony received a prison sentence—58% of Black versus 43% of white people—an even stronger predictor was a prior felony conviction. Here the overlap—or, for people of color, double-bind—is considerable. Systemic issues such as **underinvestment paired with over-policing of Black and Brown communities** increase the likelihood that members of these communities will acquire the kind of criminal history that can trigger, not only a sentence of incarceration, but also exposure to a mandatory minimum (whether actualized or used against them to leverage a less favorable plea).

Of Reforms and Race

Given the role of minimum sentences in both driving up incarceration and intensifying racial disparities, **the most impactful reform would be eliminating them entirely**. A [bill](#) to do that in New York State is currently pending. However, to better inform advocates and policymakers, we also use our 2019 analysis to project the impact of a range of *partial* elimination scenarios, with a particular eye on racial equity.

Many reforms to reduce incarceration have the effect of *increasing* racial disparities—the total population decreases, but among those still incarcerated, racial inequities are exacerbated. Much the same could happen if policymakers opt for the partial, rather than full, elimination of minimums.

We considered three partial elimination scenarios: if the current charge is a nonviolent felony; if there is no prior *violent* felony conviction; and if there is no prior felony conviction of any kind. The final scenario has the smallest overall impact (see the [full report](#) for a complete accounting) but is the only one to begin to redress disparities in the impact of mandatory minimums. The first two scenarios have a larger effect—cutting exposure to minimums in one instance almost by half—but both would *deepen* existing disparities in sentencing among different racial/ethnic groups.

In the absence of eliminating minimums and the prospect of automatic incarceration entirely, it is clear efforts at reform pose important tradeoffs for policymakers.

Coda: Conviction Rates

In a [companion publication](#), we found that only 12% of misdemeanor cases in New York City in 2019 and 2020 ultimately led to a misdemeanor conviction. Despite the more serious charges, we found a similar dynamic with felony arrests. **Nearly two-thirds of all felony arrests in 2019 did not end in a conviction** (felony or misdemeanor). Indeed, only 15% of prosecuted arrests ended in a felony conviction and a mere 7% were convicted of the top charge at the time of arrest. Another 40% were dismissed (or adjourned in contemplation of dismissal, which almost always leads to a dismissal), 25% were convicted of a violation (not a crime), and 20% of a misdemeanor.

For More Information

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For the full report:
courtinnovation.org/publications/minimums-race

See also:
[Advancing Racial Equity: Shrinking Misdemeanor Prosecution in New York](#)