

America's Growing Gender Jail Gap

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Amber Rose Howard, a statewide coordinator for Californians United for a Responsible Budget, a group campaigning for alternatives to public spending on incarceration

In the middle of her senior year at Pomona High in eastern Los Angeles County, Amber Rose Howard was arrested and booked into county jail. Howard had been accepted into several colleges when she was admitted to jail on felony charges. “When you’re a black girl coming from a poor community and a poor family and you’re arrested for a serious charge, you’re usually going to prison,” Howard told us in California in March. “What was different for me is that I come from a family and a community that was willing to fight to not allow me to be thrown away.”

With help from her family and community, Howard was able to get out on bail after two weeks and fight the case. Following her release from jail, Howard went back to high school and graduated. Midway through her freshman year of college, she took a plea deal and was given a sentence of one year in jail and five years of probation. Draconian mandatory minimums and sentencing enhancements give prosecutors the power to hang a long sentence of incarceration over most people charged with crimes. That's why around 95 percent of state and federal criminal cases are resolved with a guilty plea, often to a lesser charge with a reduced sentence.

Howard's case was no different. She did some of her time in county jail during the summer between her freshman and sophomore years in college. By arrangement with the court, she completed the rest of her sentence on work release over the next four years, picking up trash along the freeways, and moving boulders back and forth between piles at the county jail.

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Even after completing her sentence, finishing her bachelor's degree at California State University, San Bernardino, and expunging her record, Howard struggled to find a job because of her conviction. She started one job working with at-risk youth in a program connected to a school district, but was fired after a background check revealed her conviction history. "How am I going to be considered a human being," said Howard, "if that one day makes someone change their entire opinion about me?" (Our own organization, the Vera Institute of Justice, does not require people to disclose the specifics of their criminal justice involvement or conviction history, and so, according to our policy and in the interest of justice, we do not disclose further details of Howard's charge here.)

Howard's experience in fact motivated her to get involved in criminal justice advocacy work. In the decade or so since her release from jail, she has become a statewide coordinator for Californians United for a Responsible Budget (CURB), a coalition that works to redirect public spending on incarceration toward providing basic human services, to work toward a world in which the state does not need to rely on jails and prisons in the first place.

In the course of Howard's work to dismantle mass incarceration, a glaring fact has become clear: while today far fewer men are going to jail than before, the number of women getting incarcerated has stayed stubbornly high. And as a proportion of the US prison and jail populations, women are increasing. (To define the distinction: jails are run by cities or counties and are used mostly for pretrial detention; state-operated prisons usually hold people sentenced to more than a year of incarceration.)

Nationwide, the number of people booked into jail each year is dropping—down by more than a fifth, from 13.6 million in 2008 to 10.6 million in 2016. Over that same period, the

number of new admissions to state and federal prisons fell 12 percent. But these declines apply only to men. Since peaking at nearly 11 million in 2008, jail admissions for men declined 26 percent to 8.2 million in 2016. Meanwhile, as many women are locked into jail cells each year as there were in 2008, around 2.5 million per year. In 1983, women made up just under 9 percent of people admitted to jail. By 2000, that share had grown to 15 percent; and in 2016, women comprised 23 percent of all admissions. These numbers, drawn from our analysis of official Bureau of Justice Statistics data, have not been previously reported.

Overall, incarceration rates are declining—just not for women. For them, things actually appear to be worsening across the country. This is particularly true in the smallest communities. According to our analysis, women's jail admissions in rural areas increased 45 percent between 2000 and 2013, while in urban areas they were up 13 percent. By contrast, during the same period, men's jail admissions in rural areas were down 1 percent and in cities they fell 24 percent. This shows that a deepening divide between high and rising rural incarceration rates and declining urban incarceration rates is heavily gendered.

Compared to people in prison usually serving multi-year sentences, people sent to local jails tend to stay only a couple of weeks. These short stays, however, are highly consequential: people held in jail are less able to prepare an effective defense, and more likely to plead guilty. Jail stays also often mean the loss of jobs, housing, and even custody of children. While people with jail sentences usually do not lose the right to vote, unlike many people with felony prison sentences, jail incarceration decreases voter turnout, potentially impacting election results.

Alternatives to incarceration, diversion efforts, bail reform, sentencing reform, and new re-entry programs have failed to reduce the number of women sent to jail each year. For example, according to FBI statistics, between 2008 and 2017 drug arrests for men dropped by 9 percent, while drug arrests for women increased 29 percent. The pressure of increasing numbers of women entering the system, combined with requirements for gender separation in jail facilities, have led many cities and counties to “address” the problem simply by building more jail cells for women.

A variety of new initiatives devised by nonprofits and local governments have aimed to meet women's needs and allow them to resolve criminal cases without extended jail sentences. However, a recent evaluation of one such women's “diversion program,” as they are known, in rural Tennessee found that potential participants saw serving a sentence in jail as preferable to enrolling in the program. In general, where diversion programs exist, fees in the thousands of dollars preclude otherwise eligible people from enrolling.

Almost two out of every three women in jail have not been convicted of a crime, and are awaiting resolution of their cases. In many parts of the country, women remain in jail

primarily because they are unable to afford bail. For example, in Texas, the number of women jailed pretrial has increased by nearly 50 percent since 2011, in large part due to an inability to post bond. A study by the Prison Policy Initiative found that the median income for women who cannot make bond is almost 30 percent lower than that of men who cannot make bond. Bail exacerbates inequality by turning the gender pay gap into a gender jail gap.

Often, people are sent to jail for not paying fines or fees even when the original violations were not eligible for jail time. In those cases, incarceration directly stems from poverty, and combined with housing insecurity, creates a cycle that deepens poverty. Landlords evicting families from the shrinking supply of affordable rental housing likely contributes to increased numbers of women being sent to jail. And losing stable housing is also a common consequence of being locked up. The sociologist Matthew Desmond's research shows that evictions disproportionately affect women, and he concludes: "Eviction is a cause, not just a condition, of poverty." There are about a million evictions per year, according to the Princeton University Eviction Lab.

Women's incarceration has a particularly acute effect on families and communities—even short stays can have a significant impact, particularly on women who are already at risk of losing jobs, housing, and parental rights. Incarcerated women are more likely than incarcerated men to be poor, single parents, primary caregivers, and to be victims of violence, abuse, and trauma. Looking at a cross-section of the jailed population on any single day, nearly eight in ten women in jail are mothers, and a majority of them are single parents. The research demonstrates overwhelmingly that parental incarceration is an adverse childhood experience, increasing the risk of violence and victimization, as well as chronic health conditions.

Some jails have been accommodating the increasing number of women by buying more portable beds and putting them on the floor, double-bunking small cells, and even by turning storage closets into cells. Other places have been trying to build their way out of the problem. Portage County, Ohio, southeast of Cleveland, is adding more than a hundred additional jail beds for women as part of a \$21 million jail expansion project. In Billings, Montana, a \$14.9 million project completed in 2018 includes a new, 148-bed women's jail. Jail overcrowding in Lauderdale County, Alabama, has also prompted the County Commission to spend about \$1.5 million to convert a storage building into a temporary women's jail with an additional fifty beds. Small numbers of cells here and there add up.



Jack Norton

The Century Regional Detention Facility is the largest jail for women in the nation, Los Angeles County, California

Not all areas of the country are building new women's jails, but it takes concerted action to stop the trend. Los Angeles—home to the largest women's jail in the US, holding some 2,200 women—is one locus of such action. A sea-change in public opinion, bolstered by activism, led to the cancelation of plans to build a new women's jail, when the LA County Board of Supervisors voted in February to abandon a \$215 million proposal to repurpose an ICE detention facility into a jail for women. Instead, the site could now become affordable housing. The board also decided not to replace the Men's Central Jail in downtown LA with a traditional jail, but instead to build a custodial facility oriented toward mental health treatment.

“This was a significant gain for us,” said Lily Fahsi-Haskell, campaign director at Critical Resistance, a grassroots movement organization working to abolish incarceration, “and now LA County is in a better position to reduce its women's jail population.” Activists from various groups like Critical Resistance and CURB have been organizing against these jail plans for more than a decade, in response to the California prison reform program called “realignment,” which shifted responsibility for incarcerating some people to local jails and invested \$2.5 billion to build jails holding 15,600 people across the state.

“Without organizations holding a clear abolitionist vision over the years, we wouldn’t have gotten to the place we’re in now,” added Fahsi-Haskell, “where the movement can negotiate the real terms of reforms that meet people’s needs in the community instead of building new jails.”

But the debate has not yet been won. In the words of Supervisor Sheila Kuehl, the LA County Board still harbors the goal of “creating a women’s jail that is the centerpiece of a gender-responsive corrections system.” The board has not yet defined what a “gender-responsive” corrections system might mean, but in other cases it has meant jail and prison expansion for women supposedly in need of rehabilitation through corrective time in a cell. In other words, the board is asking people to believe that a nod toward higher-quality health care, more female guards, and better visiting rooms will solve all the problems that jails and prisons are supposed to tackle, as well as address the issues that incarceration itself creates.

“It’s ridiculous to think that ‘gender-responsive’ facilities are somehow better, or to think that women are going to be in a setting where they can somehow grow or be cared for and nurtured,” said CURB’s Amber Rose Howard. “My experience [of] being in jail is that it is completely abusive. Clearly, incarceration is not the answer.”

Another approach would be to address economic, social, and health problems in ways that don’t involve jail at all, and lessen the part played by law enforcement. A more immediate solution would be to stop using incarceration as a way to respond to drug use. The increasing number of women arrested on drug charges could be resolved instead with community health-care initiatives.

Sustaining that change will require investment in a social safety net, affordable housing, education, and childcare. But which is a better way for counties and cities to spend their citizens’ tax dollars—building new jails or keeping people, and women especially, out of existing ones?

An earlier version of this essay misstated the LA County Board of Supervisors’ decision on replacing the Men’s Central Jail; it is not to replace the jail with a mental health hospital, but to build a new custodial facility with an emphasis on psychiatric care. The article has been updated accordingly.


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