

Paying for the Past: The Case Against Prior Record Sentence Enhancements

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Disproportionate Impacts on Minority Offenders

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Sentencing enhancements based on the offender's prior conviction record are a major contributor to racial disproportionalities in prison populations, since racial minorities tend to have more extensive criminal records. After briefly reviewing the larger problem of disproportionate minority confinement in the United States, and the serious negative consequences of such disparities, this chapter examines data from several states on the ways in which racial differences in prior conviction records and other factors cause disproportionate minority confinement. The chapter focuses on black-to-white disparities, since blacks are the largest nonwhite group in most states and there is more detailed criminal justice data on them than for most other nonwhite groups. But the available data on Hispanics and Native Americans reveals disparities that are sometimes as great as for blacks. The chapter concludes with proposals for revising criminal history enhancement rules that have the largest and least defensible disparate impacts on nonwhite offenders.

Keywords: sentencing, sentencing guidelines, punishment, criminal history, prior record enhancements, racial disparity, disproportionate minority confinement

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