



Criminal Justice Involvement and Well-Being in Old Age

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Abstract

This paper uses data from the Criminal Justice Administrative Records Systems linked with survey and administrative data sources from the U.S. Census Bureau to provide the first evidence on the looming retirement crisis stemming from the aging generations of Americans who have been increasingly impacted by criminal justice policies like mass incarceration. First, we measure the share of current retirees with criminal records, and provide projections of how these rates among retiring cohorts will increase through 2050. We find that approximately 10% of men at age 62 have faced a felony criminal charge, and this will grow by 70% over the next two decades, peaking among cohorts retiring around 2040. Second, we characterize the living circumstances of those with criminal histories approaching retirement. In spite of almost a decade of criminal desistance on average, this population exhibits serious economic vulnerability, higher disability rates, and greater detachment from kinship networks, factors that put these individuals at risk in retirement. Current data indicate a growing reliance on safety net programs such as the Supplemental Security Income program, for which eligibility does not depend on work history.

Keywords: Retirement, criminal records, incarceration

JEL codes: H55, I38, J14, K42

1 Introduction

There is a large and growing literature on the causal effects of criminal justice involvement on economic outcomes like employment and earnings (see for example [Pager, 2003](#); [Mueller-Smith, 2015](#); [Dobbie et al., 2018](#); and [Finlay and Mueller-Smith, 2019](#)). These studies generally find that – at least in the United States – having been convicted or incarcerated reduces future employment and earnings. Federal, state, and local criminal justice policies shifted to become tougher on crime late in the 20th century, with the result that birth cohorts born in the 1970s through the early 1990s faced dramatically higher likelihoods of being convicted or incarcerated at some point during their lifetime ([Finlay and Mueller-Smith, 2019](#)). These likelihoods varied across cities and states, but in general these cohorts will go through life with higher rates of criminal justice involvement than did their parents and grandparents. Advances in technology mean that these criminal records are also more easily accessible to anyone who is interested (employers, landlords, government caseworkers, etc.).

This set of facts raises important questions about whether social safety nets constructed based on the life experiences of previous generations are prepared to support the economically-vulnerable members of cohorts currently reaching or approaching old age. Because of changes in criminal justice policy, these cohorts are less likely to have lengthy formal-sector employment histories that would qualify them for Social Security benefits; lower incomes will make it more difficult to save privately for retirement; and reductions in marriage rates will reduce the availability of spousal benefits. Formal rules disqualify people with criminal records from some types of government support; confusion about when criminal records are disqualifying may depress take-up of support even when it is available. In addition to access to government benefits, criminal justice (CJ) contact may affect informal social support networks (and thus the need for a formal safety net): if CJ contact and prison spells reduce marriage rates, this could change long-term household structures. In particular, people with prior CJ contact may be less likely to have partners or adult children to help care for them as they get older.

Data constraints have, until now, prevented investigations of these issues, as surveys like the Current Population Survey (CPS), the American Community Survey (ACS), and the Survey of Income and Program Participation (SIPP) do not ask whether respondents have criminal records. For the retiring population, this is especially challenging given that criminal activity may have occurred many years earlier. In this paper, we link newly-available, individual-level administrative data on criminal histories from the Criminal Justice Administrative Records System (CJARS) with administrative and survey data on employment, income, and social service receipt. In a number of jurisdictions, CJARS data extend back over 40 years, providing the unique opportunity to identify individuals retiring today and in the coming years who had had contact with the criminal justice system earlier in their lives.

We use these data to provide the first descriptive analysis of economic well-being for people with criminal records, with a particular focus on those who are nearing or have reached old age. We consider ACS respondents who were age 50-65 at the time of recent surveys, and who had at least one felony conviction or incarceration spell before age 50. These

cohorts represent the beginning of a wave of CJ-involved individuals nearing retirement age. For context, we compare their characteristics with those of two groups of people without CJ contact: the full set of people without CJ contact who were age 50-65 at the time of the survey, and a low-education non-CJ comparison group, restricted to men with only a high school diploma. Across the board, we see that the CJ-contact group faces severe socioeconomic disadvantages relative to both groups.

2 Background and Related Literature

2.1 Trends in Criminal Justice Contact

The best data available on CJ contact over time is for incarceration. The Prison Policy Initiative compiled data from federal, state, and local prisons and jails over nearly a century. Figure 1 shows the number of people incarcerated per 100,000 residents, from 1925 to 2015. While the number of people incarcerated at any given time does not tell us the number of people with incarceration histories – because the same person can be incarcerated more than once – this data provides a reasonable proxy for the national trends of interest in this paper.

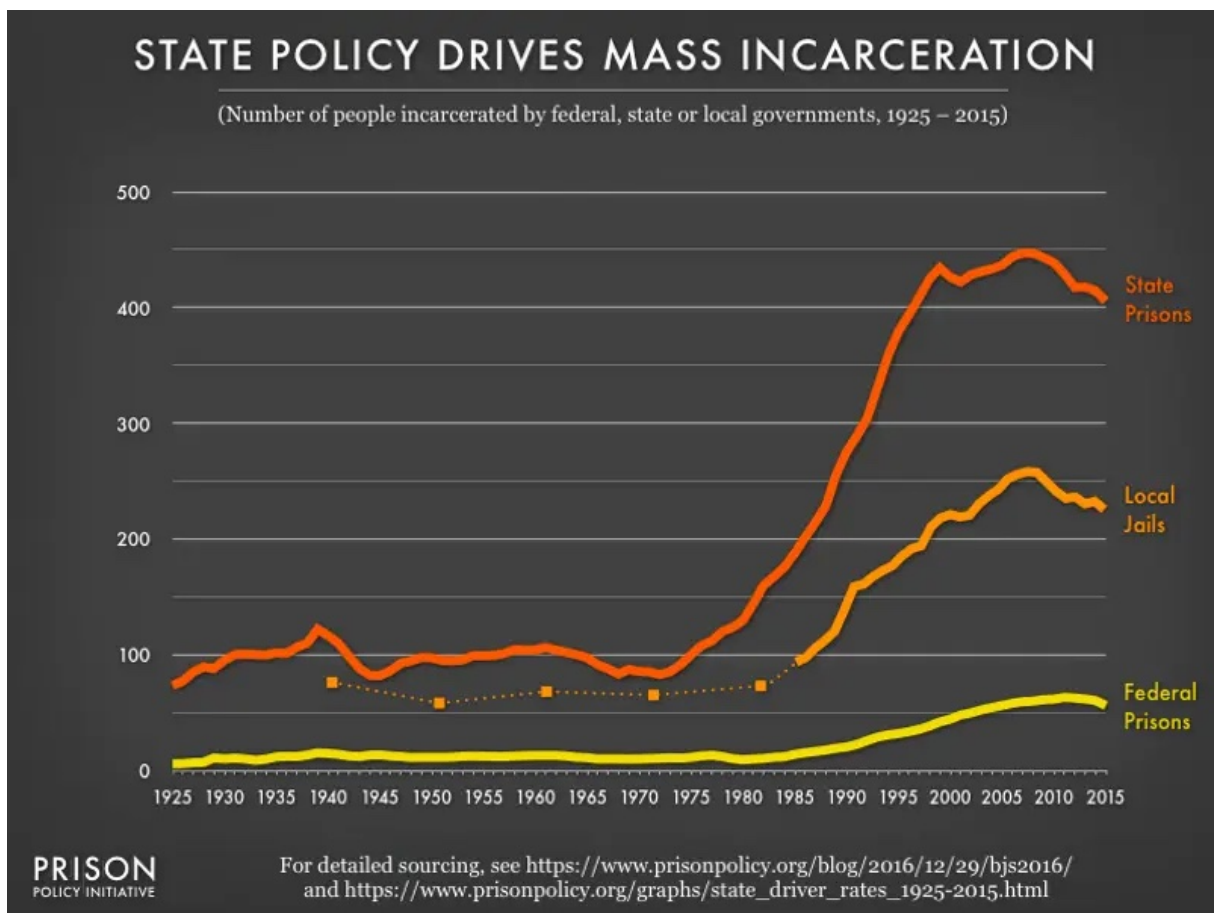
Of particular interest are state incarceration rates, as state prisons house most felony offenders and state policies determine conviction and incarceration rates. Figure 1 shows that incarceration rates were pretty flat, around 100 per 100,000 residents, until the mid-1970s. At that point they began climbing, until reaching a peak of over 400 per 100,000 residents in the mid-1990s. This means that individuals who were young adults in the 1980s, 1990s, and 2000s, faced a higher risk of CJ contact than those who were the same age in the 1970s or earlier. Someone who was born in 1950 would have turned 30 in 1980, just as incarceration rates were beginning to rise. That person would have turned 62 in 2012. A similar individual born in 1960 would have turned 30 in 1990, about midway up the curve in Figure 1. They will turn 62 in 2022. Finally, someone born in 1970 would have turned 30 in 2000, at the peak of the incarceration curve. That person will turn 62 in 2032. In 2021, we are just at the beginning of a wave of cohorts who were young adults during the era of mass incarceration, and who are now approaching old age.

2.2 Government Benefits of Interest

2.2.1 OASDI

Created in 1935 as part of the New Deal, Old-Age, Survivors, and Disability Insurance (OASDI) originally covered a modest fraction of the workforce and required employers and employees to pay a small dedicated payroll tax. Over the next several decades, successive presidents and Congresses expanded the program's size and scope. Old-Age and Survivors Insurance (OASI) – which is what most people refer to as Social Security – provides benefits for retirees and their survivors and dependents. Disability insurance (DI) provides income for working-aged people who can no longer work, given their skills and physical abilities.

Figure 1: Incarceration per 100,000 residents, over time



Source: Prison Policy Initiative.

The programs cover almost all American workers except for a minority of state and local government employees.

More than 60 million Americans – almost a fifth of the population – receive Social Security benefits in a given year, mostly through OASI. Retirement benefits average about \$16,000 per year, less for surviving dependents and people with disabilities.

A worker's monthly retirement benefit depends on his or her average lifetime wages in the formal labor market, adjusted for national wage growth and other factors. It is a highly progressive formula, but individuals must have worked at least 10 years (40 quarters) in order to qualify. Workers can begin claiming benefits as early as 62; the monthly benefit is adjusted based on the timing of initial claims.

In addition to old-age insurance, Social Security provides other forms of social insurance. Survivor, spousal, and dependent benefits provide life insurance. Qualifying spouses and former spouses of retirees can receive supplemental benefits based on the primary earner's earnings record. Children also may be eligible for dependent benefits if they are under age 18 and unmarried, or in certain other circumstances. When a beneficiary dies, surviving spouses are eligible for payments that are at least 71.5 percent of the retiree's benefits.

Disability Insurance (DI) provides further protection against income loss. DI aims to protect people against the risk of experiencing a long-lasting disability. DI provides benefits to workers who suffer from a medical condition that is expected to last at least one year (or result in death) and that prevents the individual from working at a substantial level. To be eligible, an individual must have worked a sufficient number of years and have an impairment that the Social Security Administration (SSA) determines is severe enough to qualify. The benefit formula is similar to that of OASI.

2.2.2 SSI

The Supplemental Security Income (SSI) program was established in 1972 within the Social Security Act and made its first payments in January 1974. The objective of the program was to provide a last resort, means-tested benefit to low-income elderly, blind, and disabled persons, regardless of their work history. SSI replaced state-level programs that had been performing a similar function for the elderly, as well as federal programs that had provided separate assistance for the blind (Aid to the Blind) and those with disabilities (Aid to the Permanently and Totally Disabled). SSI benefits tend to be on the low end of the range available through OASDI.

Minor legislative changes since 1972 have increased maximum benefit levels, changed how SSI benefits should be calculated alongside other public benefits, and shifted to monthly rather than quarterly benefit reviews. The amount of earned and unearned income excluded from benefit calculations, for instance, has not been updated since 1972 and has thus not kept up with current levels of income. Asset limits have not been updated since 1989.

2.2.3 How CJ Contact Affects Benefit Eligibility

There are several ways in which prior CJ contact might affect one's eligibility for SSA benefits. As discussed above, CJ contact may indirectly affect SSA benefits by reducing time spent working in the formal labor market and earnings from such employment. This would reduce OASDI benefits, which depend on work histories. In addition to this indirect channel, there are also rules related to CJ contact that directly affect OASDI/SSI eligibility.

The process for disability recognition can exclude people with felony convictions from OASDI/SSI. A permanent exclusion applies to disabilities caused or exacerbated in the commission of a felony or while incarcerated for a felony.

To be eligible for OASDI/SSI benefits under current law, in addition to meeting other eligibility requirements, a person cannot be fleeing to avoid (1) prosecution for certain felonies, (2) custody or confinement after conviction for certain felonies, or (3) recapture because of escape from custody. A person would also be ineligible if they were violating a condition of probation or parole imposed under federal or state law. These requirements, sometimes referred to as "fugitive felon" requirements, were established by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. Additionally, incarcerated people generally cannot receive SSI benefits and PRWORA allows for incentive payments to state and local institutions in exchange for information provided to SSA about prisoners that prevents overpayments of benefits.

There are agencies other than SSA subject to enforcing fugitive felon rules. These include the U.S. Department of Veterans Affairs (veteran and veteran-family benefits), the US Department of Agriculture (Supplemental Nutrition Assistance Program benefits), and the Department of Housing and Urban Development (federal housing assistance), among others. SSA's enforcement processes have generally been considered the most comprehensive, due to multi-step procedures and informational agreements with law enforcement that other agencies do not all have.

SSA enforces fugitive felon provisions in two steps. First, a question is included on application forms that asks the applicant if they are fleeing to avoid prosecution, custody, or recapture for certain felonies. In any continuing assessments for eligibility, staff may ask the beneficiary if they fit these criteria. Upon completion of these application forms and/or interviews, individuals are required to sign a statement certifying they understand that any falsification of information on the application form may be a crime.

Second, SSA links its benefit rolls to records (i.e. arrest warrant files) from state and local institutions and the Federal Bureau of Investigation (FBI). Of these sources, the most comprehensive is the FBI's National Crime Information Center (NCIC) database, which SSA gained access to in 2000.

Upon matching a beneficiary to warrant records, SSA confirms the identity of the individual and that the warrant is still active, and then locates the individual with local law enforcement. Before suspending benefits, SSA sends a notice to the beneficiary informing them that warrant information has been found about them. This notice also informs the individual about their rights to file an appeal and explains what constitutes a "good cause

exemption,” should the individual pursue it. Upon notification that they may no longer be eligible for payments, the burden is on the beneficiary to request a review for a good cause exemption, and to provide the evidence that they meet the requirements for one.

Enforcement of this rule has changed over time. Prior to 2009, SSA denied or suspended benefits to any individual confirmed to have an outstanding felony arrest warrant. Such warrants could be triggered by something as minor as outstanding court debt, and many people have outstanding warrants for their arrest without knowing it. In 2009, however, SSA’s policies were challenged in the class action lawsuit *Martinez v. Astrue*. In the case, plaintiffs argued that SSA’s implementation did not do enough to confirm whether a person was actually “fleeing” as described by law, and that SSA was wrongfully suspending benefits for individuals who, for instance, may simply not be aware of an outstanding warrant. In the settlement that resulted from the case, SSA agreed to (1) enforce fugitive felon restrictions only on individuals with outstanding warrants related to escape or flight, and (2) retroactively pay benefits to individuals who had their benefits wrongfully suspended based upon the new procedure.

Enforcement for individuals with warrants due to violation of probation or parole were not included in the *Martinez* lawsuit or settlement, but were separately challenged in the *Clark v. Astrue* class action lawsuit three years later. The court ruled in this case that SSA could no longer deny benefits solely based on the existence of a warrant for violation of probation or parole. Since the ruling, SSA has the responsibility of proving that an individual is actually in violation of the alleged warrant before being able to suspend benefits. SSA does so by confirming that law enforcement is actively pursuing the individual.

3 Data

This project takes advantage of a new, unique administrative dataset, the Criminal Justice Administrative Records System (CJARS), which gathers and maintains administrative criminal history records from local and state governments around the United States (Finlay and Mueller-Smith, 2021). CJARS is a partnership between the University of Michigan and the U.S. Census Bureau, and is the first multi-state database of its kind. The dataset links individuals’ adult criminal history records across states and over time. These individuals can also be linked with socio-economic data held by the federal government. This enables research on fundamental questions that have so far been impossible to answer, such as how many people have criminal records, where they live, and what their lives look like outside the justice system.

This analysis relies on a vintage of CJARS data that primarily comes from Arizona, Colorado, Florida, Maryland, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, North Dakota, Oregon, Pennsylvania, Texas, and Washington.¹ This is a geographically diverse set of states with a representative set of CJ policies, as these states have similar imprisonment, violent crime, and property crime rates as non-CJARS states (Finlay et al., 2021).

¹As CJARS continues to be in active development, future vintages will incorporate additional states.

Historical criminal justice records in CJARS date back as far as the late 1970's in some jurisdictions. In line with the timing of federal investments in modernizing criminal justice information technology, many jurisdictions came online in the 1980's and early 1990's. CJARS well replicates aggregate caseload information compared to various Bureau of Justice Statistics data series, lending credibility to the quality of the underlying micro-data (Papp and Mueller-Smith, 2021). We use these data both to define our main analysis sample (people with CJ contact before age 50) and as an outcome measure (future CJ contact).

The primary dataset we link CJARS to is the ACS. The ACS is the largest household survey in the United States, sampling approximately 3.5 million addresses every year. Because of the ACS's extremely large sample size, we can obtain a sizable sample of the CJ population for our analyses. The ACS provides local area information on various demographic and economic characteristics, such as income, health insurance coverage, disability status, marital status, and educational attainment. Importantly for our work, the ACS asks about both OASDI and SSI income. The survey was officially launched for the entire country starting in 2005. In 2006, the ACS began data collection for all types of group quarters, including institutions such as prisons and nursing homes. In 2008, the survey began collecting data on health insurance.

We link the ACS and CJARS data together at the individual level using the Census Bureau's Person Identification Validation System (PVS), as described by Wagner and Layne (2014). This procedure matches both survey data and administrative data to a master reference file. Individuals who are matched are given an identifier called a Protected Identification Key (PIK), which acts as an anonymized Social Security Number that can be used to link administrative datasets and surveys. For the 2010 ACS, about 93 percent of individuals were assigned a PIK (Bond et al., 2013). In the CJARS data, about 80 percent of individuals were assigned a PIK; the PIK rate is higher for individuals with multiple criminal justice records (Finlay and Mueller-Smith, 2021).² Bond et al. (2013) argue that the inability to assign a reliable PIK in survey data is nonrandom. They use 2009 ACS data to document that young children, minorities, immigrants, recent movers, low-income individuals, and non-employed individuals are less likely to receive a PIK. These results suggest that individuals with a CJ history may be less likely to be assigned a PIK in the ACS. Therefore, non-linkage bias may affect our results, which we are unable to adjust for given the lack of criminal justice data in the ACS.

We also use various administrative datasets from the SSA in our analysis. To obtain date of birth, date of death, and sex for everyone in the CJARS data, we use the SSA's Numident file. We also use administrative data on social security benefits. Our OASDI data comes from the Master Beneficiary Record (MBR) and our SSI data comes from Supplemental Security Record (SSR).

For all our analyses, ideally we would use the administrative data on SSA benefit receipt, given known issues with individuals confusing OASDI and SSI in survey responses (Giefer et al., 2015). However, due to the nature of the data-sharing agreement between the U.S.

²Note that individuals who do not have legal status in the United States will not have a PIK and cannot be linked. As a result, it is not surprising that CJARS has lower match rates than other federal data series.

Census Bureau and the SSA, we only have access to the MBR back to 2015 and the SSR back to 2010. Therefore, we lack access to the administrative data before the *Martinez v. Astrue* 2009 settlement. Because of this, we rely on the ACS survey data for information on earlier benefit receipt. Nevertheless, we still use the MBR and SSR data to provide current descriptive statistics on benefit receipt of the CJ population and how this varies by type of CJ involvement, as the administrative data provides a much larger sample size than does the ACS sample.

Finally, for our projections of the percent of adults who will have a CJ history by age 62, we use the Census Best Race and Hispanic Origin File to examine how these projections vary by race. This dataset harmonizes race and Hispanic origin information from decennial censuses, the ACS, data from other federal agencies, and data from third-party vendors to create a single measure of race and Hispanic origin for everyone in the country who had data in one of the aforementioned datasets.

3.1 Analysis Sample

Our main analysis sample consists of people who (1) responded to the ACS in years 2005-2019, (2) were age 50-65 at the time of the survey, (3) were living in a CJARS state, and (4) were born between 1940 and 1965.

For some analyses, we consider a non-CJ comparison group for context. This group is restricted to be men with only a high school diploma. (This is because the population with CJ contact is disproportionately male and low-education.) In future analyses (not shown in this paper), we intend to present estimates for an alternative comparison group that consists of the entire non-CJ population born between 1940 and 1965 but reweighted to match the joint age, race, Hispanic Origin, sex, and education distribution of the CJ group.

Unless otherwise specified, we define our “CJ contact” sample as those who have at least one felony conviction or incarceration spell on their record before age 50.³

4 Forecasting Population Trends

We begin our analyses by measuring the share of individuals reaching age 62 in current and future years who will have various CJ histories (charges, convictions, incarceration spells). For cohorts that have not yet reached age 62, we forecast their age 62 rates based on (1) the cohort’s measurable CJ interactions over the observable age profile and (2) using older cohorts to fit a model predicting how the prevalence will change over the age profile due to deaths and first-time offenses. While this exercise technically does involve forecasting prevalence rates for cohorts that will be reaching age 62 over the next 30 years, because the

³Incarceration information in CJARS is constructed primarily from data collected from departments of corrections but also includes data from other types of agencies like departments of public safety. Therefore, individuals with an incarceration spell in CJARS may have been housed in state prisons, local jails, or other institutional facilities.

vast majority of first-time CJ contact happens early on in someone's life (largely between ages 18 to 30, which is fully observable in current data holdings), any forecasting error should have a small impact on our estimates.

First, for each cohort, we calculate the percent of individuals who have their first CJ interaction at a given age, using every age from 18 to their age as of 2019. For example, for men born in 1970, we calculate from age 18 (1988) to age 49 (2019) the percent who are convicted of a felony for the first time at that given age.

Historical CJARS data coverage, which varies by jurisdiction, is crucial in this exercise. To deal with this, we restrict birth cohorts to only individuals born in counties for which CJARS can measure CJ contact at least between ages 21 to 30 years old. We identify the county of birth using the SSA Numident file, which tracks the place of birth for all individuals born in the United States, which we use as a proxy for the county they are residing in while they are in their 20s. For example, let's consider statistics for felony convictions, focusing on men born in 1970. For this date of birth year, we only use men who were born in certain counties in the United States. These counties have felony data coverage at least between 1991 (when this cohort was 21) and 2000 (which this cohort was 30). Because of this, the geographic basis of these statistics will change modestly across birth cohorts.

Next, for birth cohorts that have not yet reached age 62, we forecast the share of the cohort who will have had one or more CJ events as of age 62. To do this, we estimate a model predicting this outcome on lagged values and age coefficients. Letting $P_{a,c}$ denote the percent of individuals in cohort c with a first-time CJ event at age a , the linear model we estimate is

$$P_{a,c} = \alpha_0 + \alpha_1 P_{a-1,c} + \alpha_2 P_{a-2,c} + \alpha_3 P_{a-3,c} + \alpha_4 Age_a + \alpha_5 Age_a^2 + \epsilon_{a,c} \quad (1)$$

Therefore, we are using the most recent percentages to predict the value for the current one. To account for the fact that criminal activity happens mostly during younger ages, we also include an age and age squared term. Given this model, we can predict first-time criminal events at every age up to 62. From this, we can then add up all the percentages for each cohort to get the total percentage that have, for example, a felony by age 62.

Intuitively, we are making the assumption that the shape of the age-crime profile is stable across birth cohorts, but differences in policies across generations generate level differences between the birth cohorts.

The statistics described above, however, may overstate the percent of people at 62 with a CJ history if such people are more likely to die earlier than people without a CJ history. To account for this effect, we estimate a similar model as described above in Equation 1, but using death as the outcome variable. We use the same sample, so we make the same county of birth restrictions. We estimate the percent of people who die by a given year separate for CJ vs non-CJ individuals. Because CJ history can vary over time, we fix a person's CJ status as of what it is at age 50 to differentiate these groups. Let j denote a person's CJ status. To predict the age of death after 2019, we use the same form of a model with 3 lags

and an age and age squared coefficient. Letting $D_{a,c,j}$ denote the percent of individuals in cohort c and CJ status j who die at age a , our model is

$$D_{a,c,j} = \beta_{0,j} + \beta_1 P_{a-1,c,j} + \beta_2 P_{a-2,c,j} + \beta_3 P_{a-3,c,j} + \beta_{4,j} Age_a + \beta_{5,j} Age_a^2 + \epsilon_{a,c,j} \quad (2)$$

In the near final step, we want to turn these percentages into population counts. Using the Numident, we calculate the number of individuals in each birth cohort nationwide (B_c). This is based on everyone born in the United States, so it is not dependent on CJARS coverage. From this count, the number $N_{c,62,1}$ of individuals with a CJ history who are alive at 62 is then

$$N_{c,62,1} = B_c * \left(\sum_{a=18}^{62} P_{a,c} \right) * \left(1 - \sum_{a=18}^{62} D_{a,c,1} \right) \quad (3a)$$

For the number without a CJ history alive at 62, the formula is

$$N_{c,62,0} = B_c * \left(1 - \sum_{a=18}^{62} P_{a,c} \right) * \left(1 - \sum_{a=18}^{62} D_{a,c,0} \right) \quad (3b)$$

And from this, the death-adjusted percent of people with a CJ history is

$$N_{c,62,1} / (N_{c,62,1} + N_{c,62,0}) \quad (4)$$

Since the age-crime profile and death rates may vary by type of CJ contact, we calculate these statistics separately by criminal-justice event, which are (1) charged with a misdemeanor or felony, (2) charged with a felony, (3) convicted of a felony, and (4) incarcerated in prison.⁴ We also generate estimates separately for men and women, using sex from the Numident. Furthermore, we split the results out by race and ethnicity, using the Census Best Race and Hispanic Origin File. We show the results by White non-Hispanic, Black, and Hispanic (any race).

5 Results

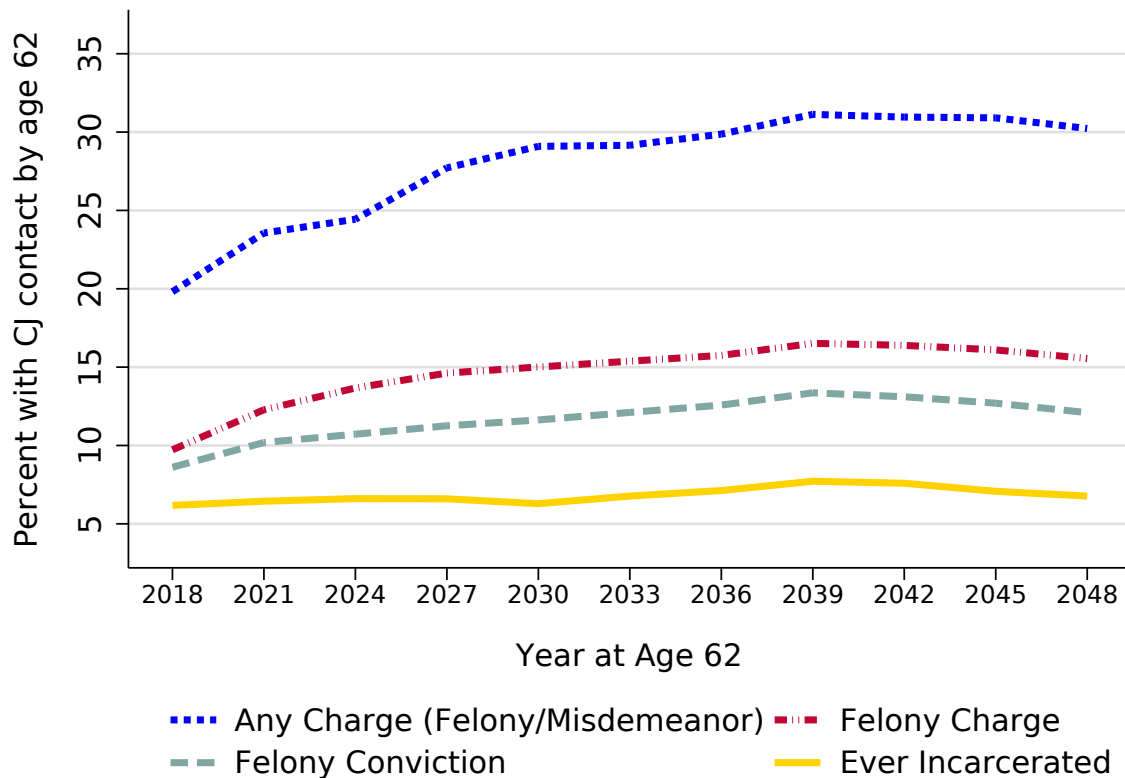
5.1 Share of population with criminal justice contact

Figure 2 forecasts the share of 62-year-old men with different histories of CJ contact, by year. For instance, the blue line shows the share with any felony or misdemeanor charge on their record. Just under 20% of men aged 62 in 2018 fell in this category, and we expect that number to reach 31.1% by 2039. The red line shows men with a felony charge. Their share will rise from 9.7% in 2018 to 16.5% by 2039. The green line shows men with a felony conviction. Their share will rise from 8.6% in 2018 to 13.4% by 2039. Finally, the yellow line

⁴Note that misdemeanor and felony charges include both convictions and non-convictions.

shows men with at least one incarceration spell. We expect that number to go from 6.2% in 2018 to 7.7% by 2040.

Figure 2: Share of 62-year-old men with CJ contact, by year



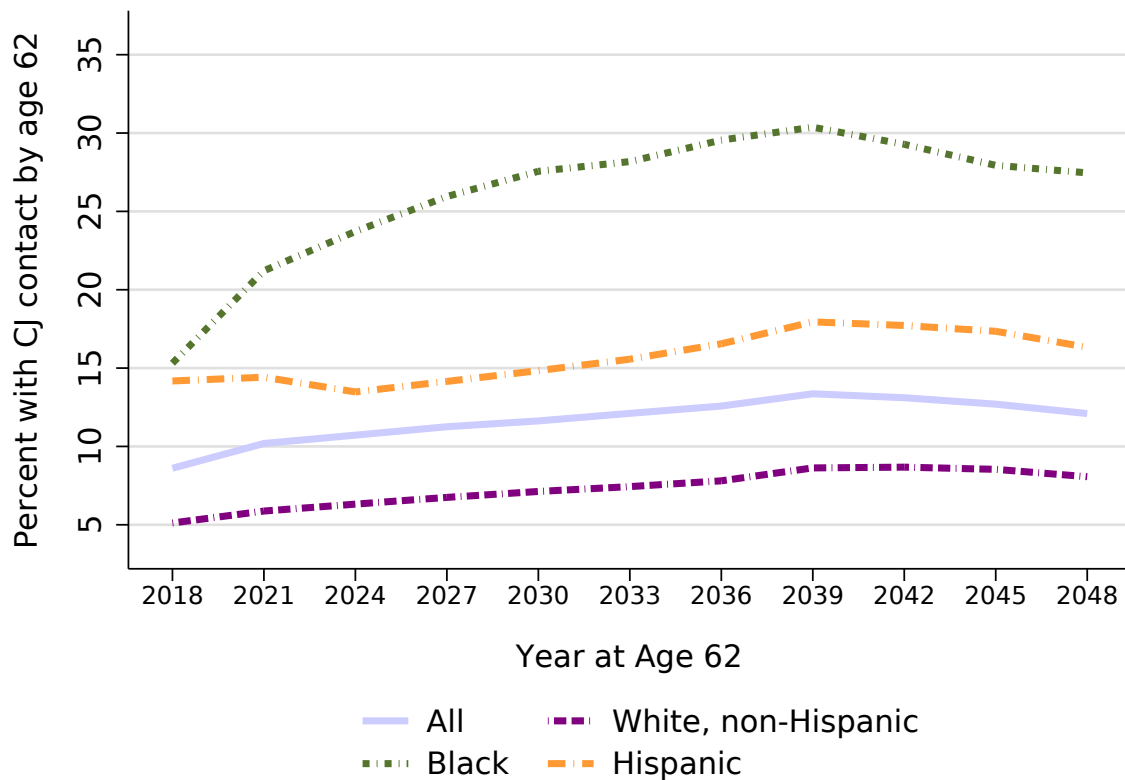
Source: Authors' calculations are based on the Criminal Justice Administrative Records Systems (CJARS), SSA Numident, and Census Best Race and Hispanic Origin File.

These numbers vary quite a bit across race/ethnicity groups. Figure 3 shows the share of 62-year-old men with a felony conviction, separately for white non-Hispanic, Black, and Hispanic groups. Figure 4 shows the equivalent figure for those with an incarceration spell on their record. In both cases, we see the highest rates for Black men.

For instance, in 2018, 15.3% of Black men aged 62 had a felony conviction; by 2039 we expect that 30.4% will. For white men, the share with a felony conviction will go from 5.1% in 2018 to 8.6% in 2039. For Hispanic men, it will go from 14.2% in 2018 to 18.0% in 2039.

The incarceration numbers tell a similar story. In 2018, 16.5% of Black men at age 62 had an incarceration spell on their record; by 2039 we expect that number to reach 21.8%. For white men, these numbers will go from 3.5% to 4.2%, and for Hispanic men they will go from 6.8% to 11.2%.

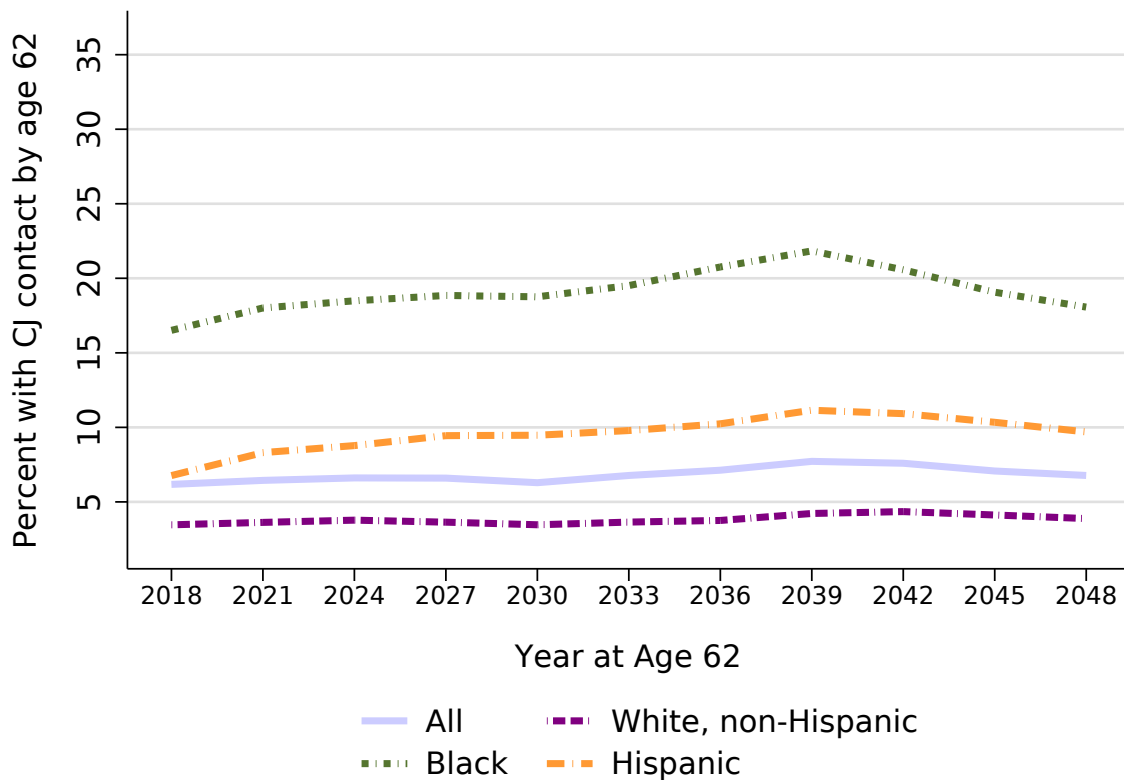
Figure 3: Share of 62-year-old men with a felony conviction, by race/ethnicity



Source: Authors’ calculations are based on the Criminal Justice Administrative Records Systems (CJARS), SSA Numident, and Census Best Race and Hispanic Origin File.

Note: The “All” category includes individuals of any race/ethnicity, including those who are missing data in the Census Best Race and Hispanic Origin File. The “Black” category represents Black individuals of Hispanic or non-Hispanic origin.

Figure 4: Share of 62-year-old men with an incarceration spell, by race/ethnicity



Source: Authors’ calculations are based on the Criminal Justice Administrative Records Systems (CJARS), SSA Numident, and Census Best Race and Hispanic Origin File.

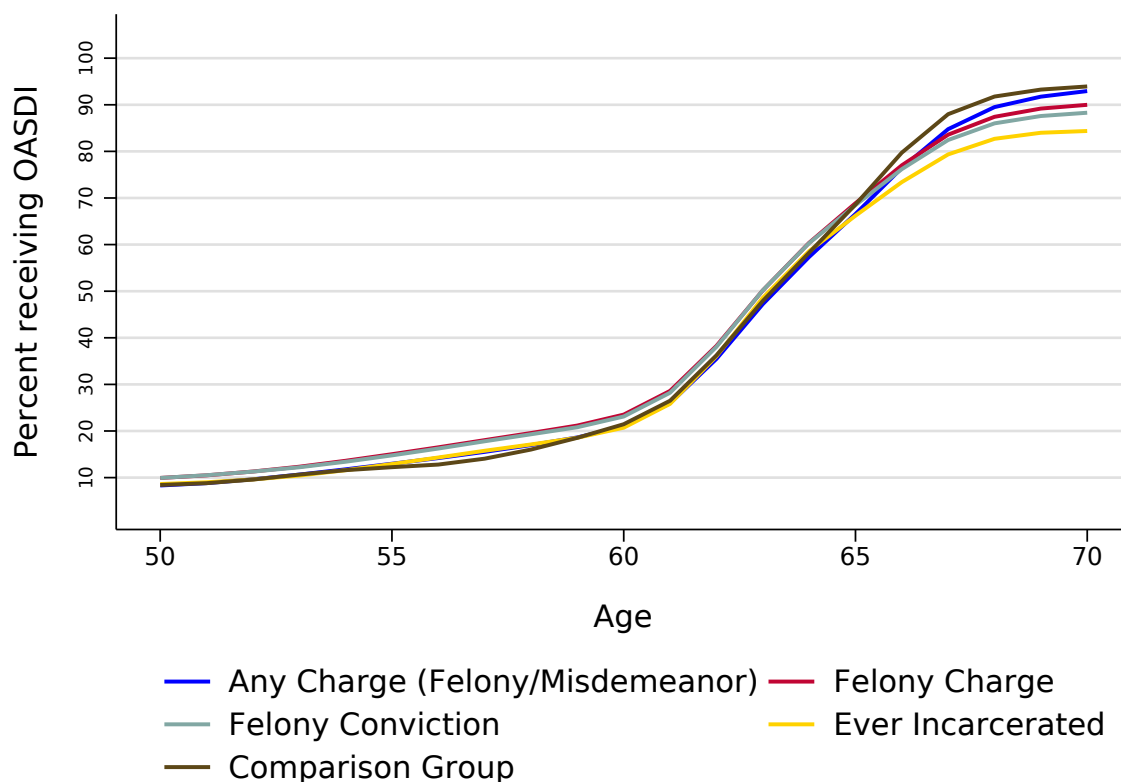
Note: The “All” category includes individuals of any race/ethnicity, including those who are missing data in the Census Best Race and Hispanic Origin File. The “Black” category represents Black individuals of Hispanic or non-Hispanic origin.

These numbers reflect large increases relative to the 2018 baseline and suggest major shifts in the composition and life experiences of the older population.

5.2 SSA Benefits in Old Age

Figure 5 shows a snapshot of who received OASDI benefits in 2019, by age. We show four groups with CJ contact: those with any charge (felony or misdemeanor), those with a felony charge, those with a felony conviction, and those with an incarceration spell. For context, we also show a comparison group: men with just a high school diploma (note that most people with CJ contact are men and have low levels of education).

Figure 5: Share receiving OASDI in 2019, by age and CJ status



Source: Authors' calculations are based on the Criminal Justice Administrative Records Systems (CJARS), SSA Numident, and SSA's Master Beneficiary Record (MBR). The 2000 Census long-form is used to create the comparison group of males with only a high school diploma and no record of criminal justice contact before the age of 50.

We see that in the younger ages on the graph – ages 50-60 – those with at least one felony charge or conviction are slightly more likely to receive OASDI, presumably because they are

more likely to have disabilities. Rates of OASDI receipt increase rapidly between 62 and 67, as individuals retire. In older ages, 67 to 70, we see these rates level off. By age 70, we see that 94% of those in our non-CJ comparison group receive OASDI. Those with a felony or misdemeanor charge on their record receive OASDI benefits at similar rates (93%). But then we see rates decline as the degree of past CJ contact increases. At age 70, 90% of those with a felony charge on their record received OASDI, 88% of those with a felony conviction on their record received OASDI, and 84% of those with an incarceration spell on their record received OASDI benefits. These numbers provide suggestive evidence that reduced labor market participation affects eligibility for OASDI benefits in old age.

If people with histories of felony conviction or incarceration are less likely to receive OASDI, does some other program pick up the slack? Yes – SSI appears to be playing this role.

Figure 6 shows the share of people receiving SSI in 2019, by age, across the same CJ categories. We see that those with greater levels of past CJ contact are more likely to receive SSI in 2019. This is true across the age distribution (ages 50-70). At older ages (68-70), we see that about 4% of our non-CJ comparison group receive SSI. By comparison, 7% of those with any felony or misdemeanor charge on their record receive SSI, 12% of those with a felony charge receive SSI, 13-14% of those with a felony conviction receive SSI, and 17-18% of those with a past incarceration spell receive SSI.

These numbers suggest that (1) the CJ-involved population is relatively disadvantaged, even when compared with a low-education comparison group, and (2) SSI appears to be serving as the safety net of last resort for this group when they do not qualify for traditional OASDI benefits based on formal labor market experience. A remaining question is whether SSI is adequately supporting this group, given that monthly benefit levels are at the low end of what people might receive from OASDI.

5.3 Descriptive Characteristics

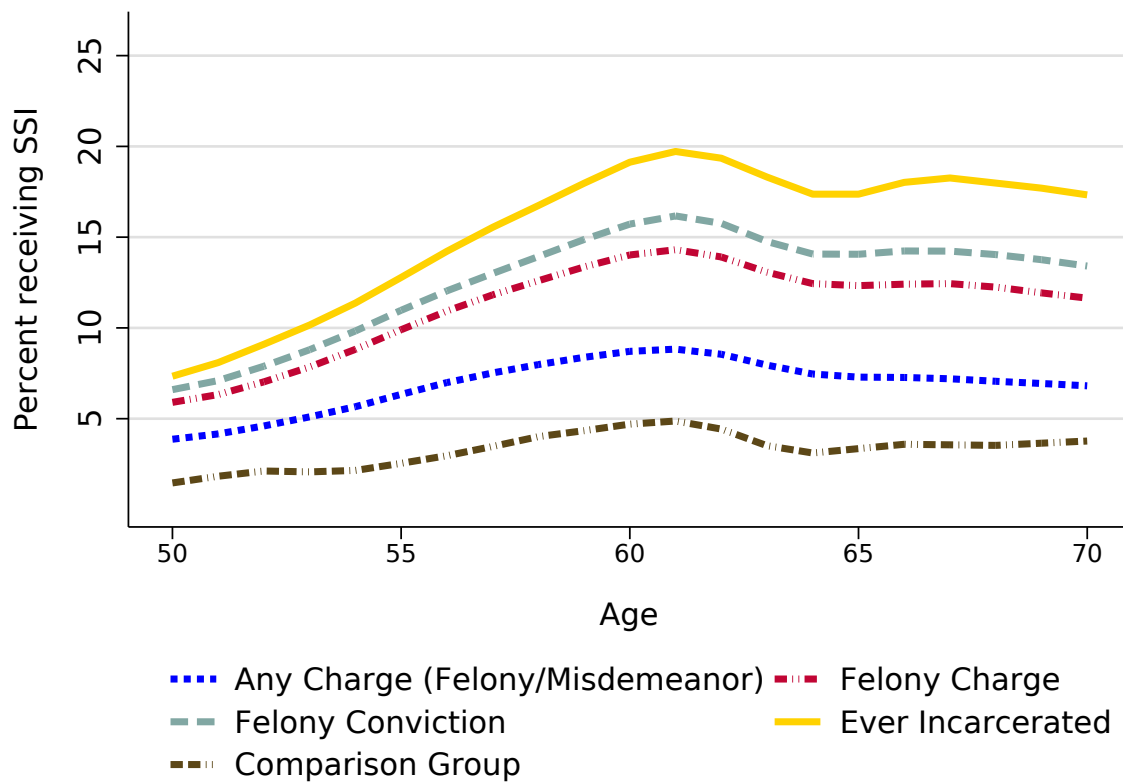
Next, we describe the characteristics of those in our main analysis samples: those aged 50-65 in recent years of the ACS. In this section, the “CJ contact” sample consists of individuals who have at least one felony conviction or incarceration spell on their record before age 50.

5.3.1 Demographic Characteristics

Table 1 provides demographic information for those with CJ contact and those without. Column 1 provides the mean of each characteristic for those with previous (before age 50) CJ contact. Column 3 shows means for the full non-CJ population, and column 5 shows means for our non-CJ comparison group (men with only a high school diploma). All estimates are weighted using ACS person-level survey weights.

Our analysis sample is restricted to include people ages 50-65, but we see that people in our CJ group are about 1.5 years younger than those in the non-CJ groups, on average. About 79% of the CJ group is male. 52.6% of the CJ group is white (non-Hispanic); 32.3% is Black (non-Hispanic), 0.5% is Asian (non-Hispanic), 1.9% is other race (non-Hispanic); and

Figure 6: Share receiving SSI in 2019, by age and CJ status



Source: Authors' calculations are based on the Criminal Justice Administrative Records Systems (CJARS), SSA Numident, and SSA's Supplemental Security Record (SSR). The 2000 Census long-form is used to create the comparison group of males with only a high school diploma and no record of criminal justice contact before the age of 50.

Table 1: Demographic characteristics: Retiring population living in CJARS states

	CJ, age 50-65		Non-CJ, age 50-65			
	All		All	Men, HS diploma		
	Mean	SE	Mean	SE	Mean	SE
Age	55.81	0.011	57.48	0.002	57.31	0.005
Born in 1940s	6.65	0.06	20.03	0.02	18.56	0.05
Born in 1950s	56.45	0.13	58.80	0.02	59.52	0.06
Born in 1960s	36.91	0.12	21.17	0.02	21.92	0.05
Male	79.01	0.1	46.46	0.02	1	
White, non-Hispanic	52.56	0.13	74.76	0.02	76.26	0.05
Black, non-Hispanic	32.29	0.12	9.69	0.01	10.48	0.04
Asian, non-Hispanic	0.54	0.02	3.50	0.01	1.95	0.02
Other race, non-Hispanic	1.88	0.03	1.00	0.00	1.02	0.01
Hispanic, any race	12.73	0.09	11.05	0.01	10.28	0.04
Currently married	33.18	0.12	66.65	0.02	66.04	0.06
Ever married	76.30	0.11	90.36	0.01	87.92	0.04
Household size	2.35	0.004	2.52	0.001	2.56	0.002
Nonrelative in household	20.05	0.12	8.43	0.01	10.54	0.04
Less than HS diploma	23.90	0.11	9.80	0.01	0	
HS diploma	39.90	0.13	27.76	0.02	1	
Some college	28.32	0.12	30.91	0.02	0	
Bachelor's degree or more	7.88	0.07	31.53	0.02	0	
Has disability	35.61	0.12	16.47	0.02	19.95	0.05

Notes: Sample consists of ACS respondents linked to the Criminal Justice Administrative Records Systems (CJARS) and the SSA Numident. It includes respondents born between 1940 and 1965, aged 50 to 65 at the time of interview. CJ contact is defined as having a felony conviction or at least one incarceration spell before age 50. The non-CJ groups consist of individuals living in a CJARS state at the time of the interview. ACS Survey Years: 2005-2019. Estimates are weighted using person-level weights.

12.7% are Hispanic. This group is much more diverse than the non-CJ groups, including our comparison group.

Only 33% of those with prior CJ contact were married at the time of their survey response, and 76% had ever been married. By contrast, 66% of those in our non-CJ comparison group were currently married, and 88% had ever been married. This descriptive evidence is consistent with evidence that CJ involvement disrupts romantic partnerships and family formation (see for example O’Keefe, 2020; Liu, 2021). This could have important consequences in old age if it affects the availability or strength of support networks.

Related, 20% of those in the CJ group live in a household with at least one nonrelative; by comparison, only 11% of the non-CJ comparison group has a nonrelative in their household.

Consistent with previous evidence, people in our CJ group have less education than those without CJ involvement. 24% have less than a HS diploma; 40% have a HS diploma; 28% have some college; and only 8% have a Bachelor’s degree or more. In contrast, 32% of those in the full non-CJ sample have a Bachelor’s degree or more. We restrict our non-CJ comparison group to include only those with just a HS diploma, which approximates this low education sample.

Finally, we see that 36% of people in our CJ sample had a disability at the time they responded to the ACS. By contrast, only 16% of the full non-CJ sample and 20% of our non-CJ comparison sample had a disability.

5.3.2 Economic Characteristics

Table 2 presents economic characteristics for those with CJ contact and those without. We can immediately see that those with prior CJ contact are worse off: 36% live in a household below the poverty line, compared with 8% of the non-CJ population overall and 9% of our low-education non-CJ comparison group. Similarly, 32% of those in our CJ population own their home, while 74% of the non-CJ population and 69% of the low-education non-CJ comparison group do.

These worse outcomes may be a function of lower labor force attachment. Only 43% of our CJ group (ages 50-65) were working at the time of the ACS survey. This is substantially lower than the 67% of the full non-CJ population and 69% of the non-CJ comparison group that were working. So, even though this population is approaching retirement and we might expect those who can afford it to retire early, we see that lower labor force attachment of the CJ group swamps any early-retirement effect for these cohorts. 7.6% of those with CJ contact are unemployed (that is, looking for work), compared with just 3.4% of the full non-CJ group and 4.3% of the low-education non-CJ comparison group.

These lower employment rates translate into lower incomes. The CJ-contact group has an average household income of \$56,280, and an average person-level income of \$25,330. Those in the full non-CJ group have an average household income of \$108,300, and an average person-level income of \$55,910. And those in our low-education, non-CJ comparison group have an average household income of \$82,390 and an average person-level income of \$47,490.

Table 2: Economic characteristics: Retiring population living in CJARS states

	CJ, age 50-65		Non-CJ, age 50-65			
	All		All		Men, HS diploma	
	Mean	SE	Mean	SE	Mean	SE
Poverty	36.42	0.12	8.31	0.01	9.04	0.03
Own their home	31.55	0.12	74.45	0.02	69.39	0.05
Working	42.53	0.13	67.09	0.02	68.55	0.05
Unemployed	7.59	0.07	3.44	0.01	4.32	0.02
Not in labor force	49.88	0.13	29.47	0.02	27.12	0.05
HH Income	56,280	210	108,300	100	82,390	90
Person-level Income	25,330	110	55,910	40	47,490	60
Any retirement income	30.06	0.12	24.08	0.02	26.37	0.05
Any SSI income	12.32	0.08	3.15	0.01	3.63	0.02
Any OASDI income	15.45	0.09	13.45	0.01	15.5	0.04
Any other retirement income	6.62	0.06	12.65	0.01	13.55	0.04
Receives SNAP	32.19	0.12	8.68	0.01	9.8	0.03
Receives other public assistance	3.78	0.05	1.09	0	1.14	0.01
Any health insurance	71.87	0.12	89.34	0.01	86.6	0.04
Private health insurance	36.54	0.13	78.22	0.02	72.42	0.06
Medicare	14.88	0.1	9.25	0.01	11.2	0.04
Medicaid	30.45	0.12	9.05	0.01	10.6	0.04

Notes: Sample consists of ACS respondents linked to the Criminal Justice Administrative Records Systems (CJARS) and the SSA Numident. It includes respondents born between 1940 and 1965, aged 50 to 65 at the time of interview. CJ contact is defined as having a felony conviction or at least one incarceration spell before age 50. The non-CJ groups consist of individuals living in a CJARS state at the time of the interview. ACS Survey Years: 2005-2019. Estimates are weighted using person-level weights. Dollar amounts in 2019 dollars. Health insurance variables are only on 2008+ ACS. Household income is missing if living in group quarters.

With lower incomes and higher poverty rates, those in our CJ group are more likely to receive supplemental income from SSI, OASDI, or private pensions and retirement savings we're labeling "retirement income" – for which they could be eligible at lower ages due to disability or as survivors' benefits. Overall, 30% of those in our CJ group receive any retirement income, compared with 24% in the full non-CJ population and 26% in our non-CJ comparison group. Much of this difference comes from SSI: 12.3% of those in our CJ group reported receiving SSI at the time of the ACS survey, while only 3.2% of those in the full non-CJ population and 3.6% of those in our non-CJ comparison group reported receiving SSI. 15.5% of those in the CJ group reported receiving OASDI, slightly higher than the 13.5% of the full non-CJ population but similar to the 15.5% of the non-CJ comparison group that reported receiving OASDI. 6.6% of the CJ group report receiving other retirement benefits, which the ACS intends as a question about private savings or pensions. By comparison, 12.7% of the full non-CJ group and 13.6% of the non-CJ comparison group report received other retirement benefits.

The CJ group also receives higher rates of other public assistance, which their low incomes would qualify them for. 32.2% report receiving SNAP, and 3.8% report receiving other public assistance. By comparison, only 8.7% of the full non-CJ population and 9.8% of the non-CJ comparison group report receiving SNAP, while 1.1% of the full non-CJ population and 1.1% of the non-CJ comparison group report receiving other public assistance.

Finally, we consider whether individuals report having health insurance. Our CJ group is much less likely to have any health insurance: 72% vs. 87-89% for the non-CJ groups. Only 37% of the CJ group has private health insurance, while 78% of the full non-CJ population and 72% of the non-CJ comparison group have private health insurance. This is likely a function of the CJ group's lower labor force attachment. Public health insurance makes up some of this gap: 14.9% of the CJ group have Medicare and 30.5% have Medicaid. By comparison, 9.3% of the full non-CJ group have Medicare and 9.1% have Medicaid; 11.2% of the non-CJ comparison group have Medicare and 10.6% have Medicaid.

5.3.3 Criminal Justice Characteristics

Table 3 presents information on current CJ involvement for those with CJ contact (prior felony convictions or time spent incarcerated before age 50).

On average, this group had 3.8 convictions on their record before age 50; 2.25 of these were felony convictions. Of the people who had spent any time incarcerated, the amount of time served was substantial: 9 years, on average.

Consistent with what we know about people aging out of crime at younger ages, nearly 79% of people in our CJ group had no CJ contact after age 50. On average, it had been 8.6 years since their last (pre-age-50) criminal charge at the time of their ACS survey response. If we restrict attention to those who had no additional CJ contact after age 50, this average time since the last criminal charge rises to 9.7 years. In other words, for most people in our CJ sample, their CJ contact was far in the past.

Table 3: Criminal justice characteristics: Retiring population living in CJARS states

	CJ, age 50-65	
	Mean	SE
Convictions before age 50	3.84	0.01
Felony convictions before age 50	2.25	0.01
Years in prison before age 50	8.99	0.03
No CJ contact after age 50	78.63	0.11
Yrs since last criminal charge before 50	8.64	0.02
Yrs since last crim. charge (pre-50), if no CJ contact after age 50	9.66	0.02

Notes: Sample consists of ACS respondents linked to the Criminal Justice Administrative Records Systems (CJARS) and the SSA Numident. It includes respondents born between 1940 and 1965, aged 50 to 65 at the time of interview. CJ contact is defined as having a felony conviction or at least one incarceration spell before age 50. ACS Survey Years: 2005-2019. Estimates are weighted using person-level weights.

6 Discussion

This paper uses newly-available data from CJARS, linked with administrative and survey data from the ACS and SSA, to provide an early look at the well-being of people with CJ contact as they approach old age. We show that we are on the cusp of a major transformation in retirement as a larger and nontrivial share of individuals reaching age 62 will have criminal histories. We find that individuals with prior CJ contact who are currently transitioning into retirement (the beginning of a wave of people who came of age during mass incarceration) face substantial socioeconomic disadvantages, even when compared with individuals with similarly-low education attainment. The CJ population's lower labor force attachment – which is at least partly a consequence of their CJ contact – may affect their eligibility for and take up of OASDI benefits. SSI benefits appear to be serving their intended purpose as a safety net of last resort for this population, but this program may face substantial strain in the years ahead if it is forced to support a much larger share of the population than in the past.

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