

Mass Incarceration: The Whole Pie 2024

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Press release

Can it really be true that most people in jail are legally innocent? How much of mass incarceration is a result of the war on drugs, or the profit motives of private prisons? Have popular reforms really triggered a crime wave? These essential questions are harder to answer than you might expect. The various government agencies involved in the criminal legal system collect a lot of data, but very little is designed to help policymakers or the public understand what's going on. The uncertainty that results muddies the waters around our society's use of incarceration, giving lawmakers and lobbyists the opportunity to advance harmful policies that do not make us safe. As criminal legal system reforms become increasingly central to political debate — and are even scapegoated to resurrect old, ineffective “tough on crime” policies — it's more important than ever that we get the facts straight and understand **the big picture**.

Further complicating matters is the fact that the U.S. doesn't have *one* criminal legal system; instead, we have thousands of federal, state, local, and tribal systems. Together, these systems hold **over 1.9 million people** in 1,566 state prisons, 98 federal prisons, 3,116 local jails, 1,323 juvenile correctional facilities, 142 immigration detention facilities, and 80 Indian country jails, as well as in military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories — at a system-wide cost of at least \$182 billion each year. ^① ^②

This report offers some much-needed clarity by **piecing together the data about this country's disparate systems of confinement**. It provides a detailed look at where and why people are locked up in the U.S., and dispels some common myths about mass incarceration to focus attention on overlooked issues that urgently require reform.

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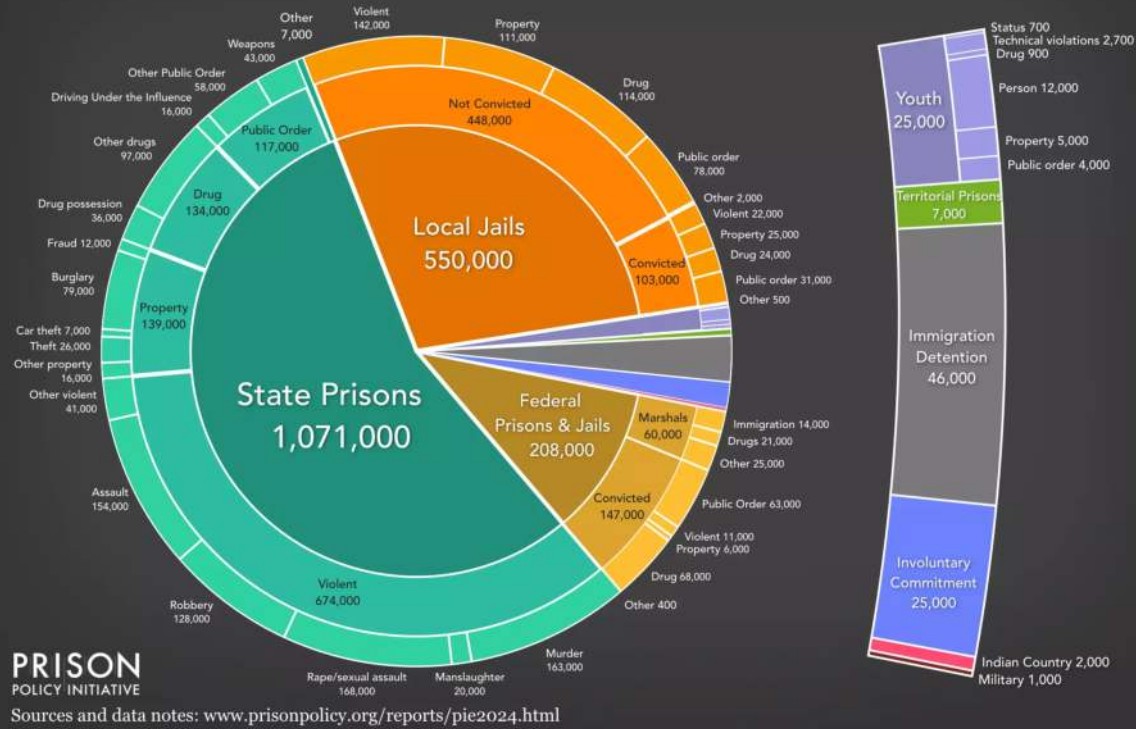
Beyond the Pie:
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How many people are locked up in the United States?

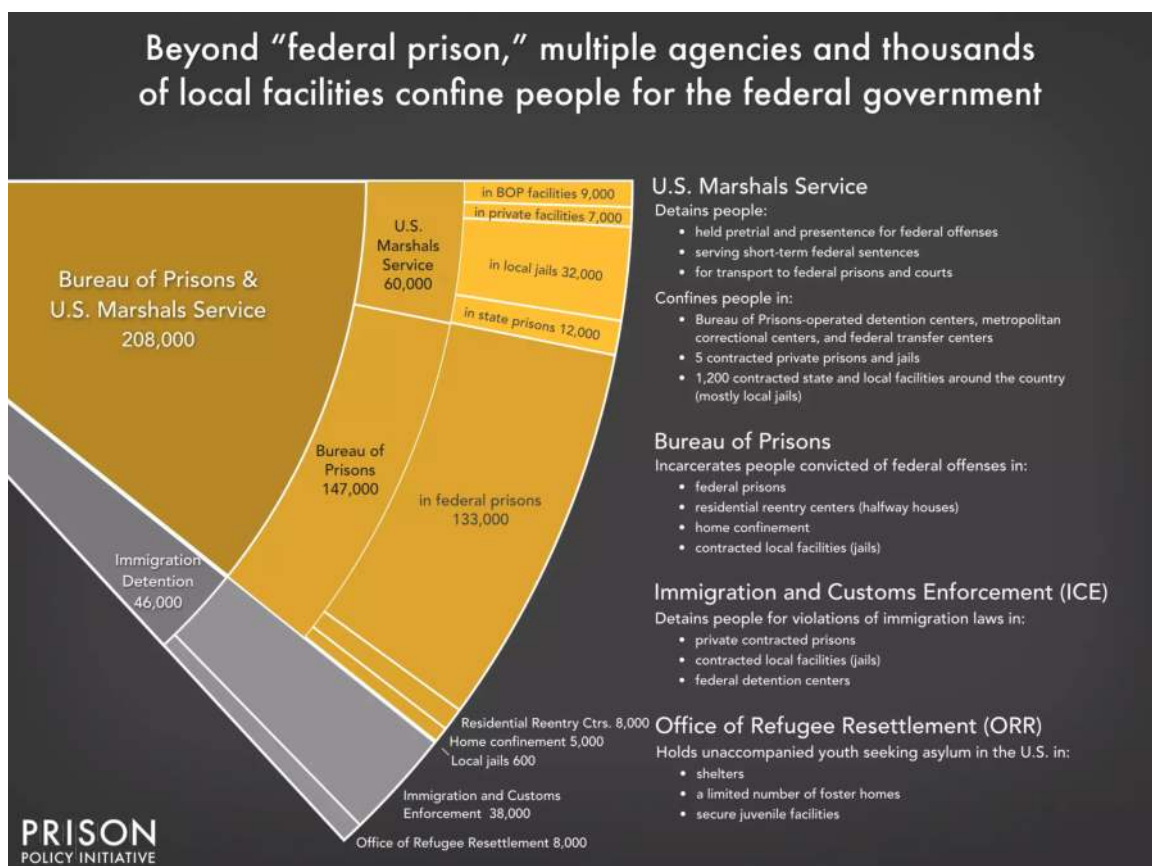
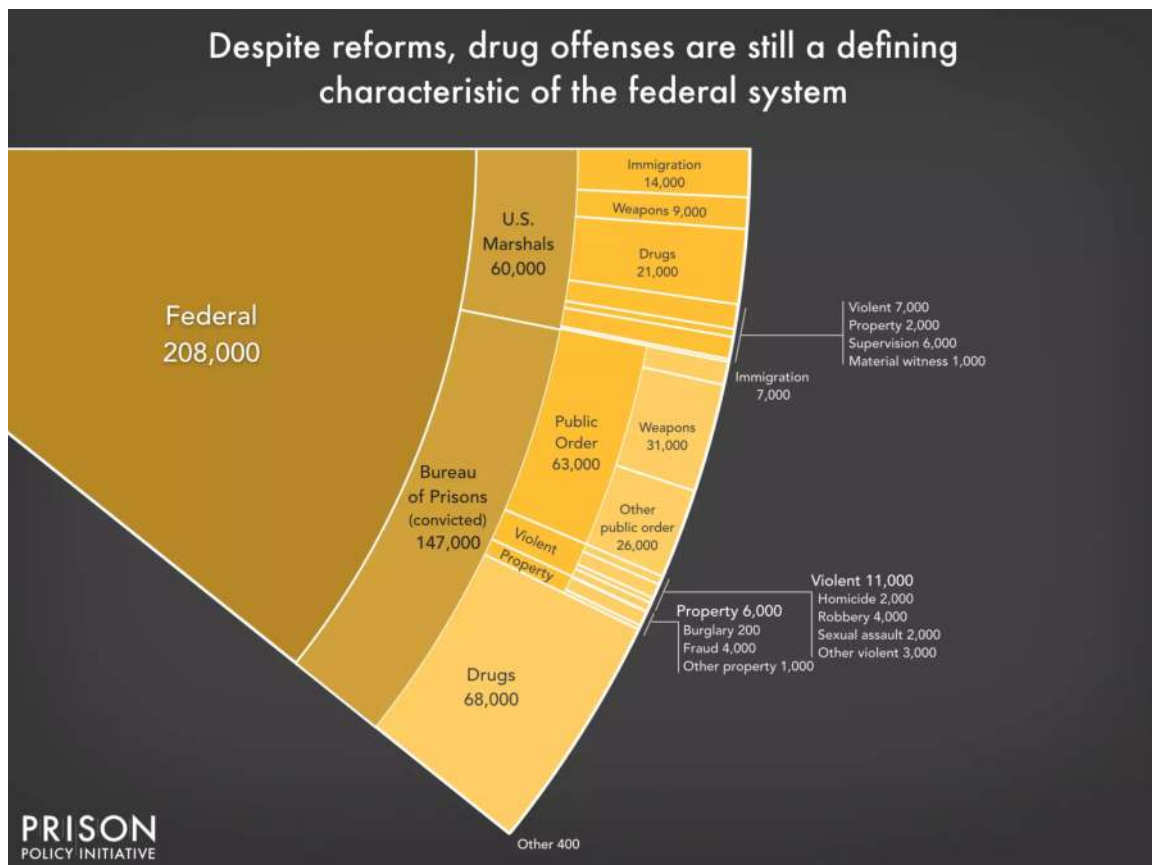
The U.S. locks up more people per capita than any other nation, at the staggering rate of 583 per 100,000 residents. But to end mass incarceration, we must first consider *where* and *why* 1.9 million people are confined nationwide.



1 in 3 people behind bars is in a jail. Most have yet to be tried in court.

Over 80% of those in jail under local authority have not been convicted and are presumed innocent. If you include the 102,000 people held in jails that rent out space to other agencies, 70% of all people in jails are unconvicted. Either way, jail incarceration rates are driven largely by local bail practices.



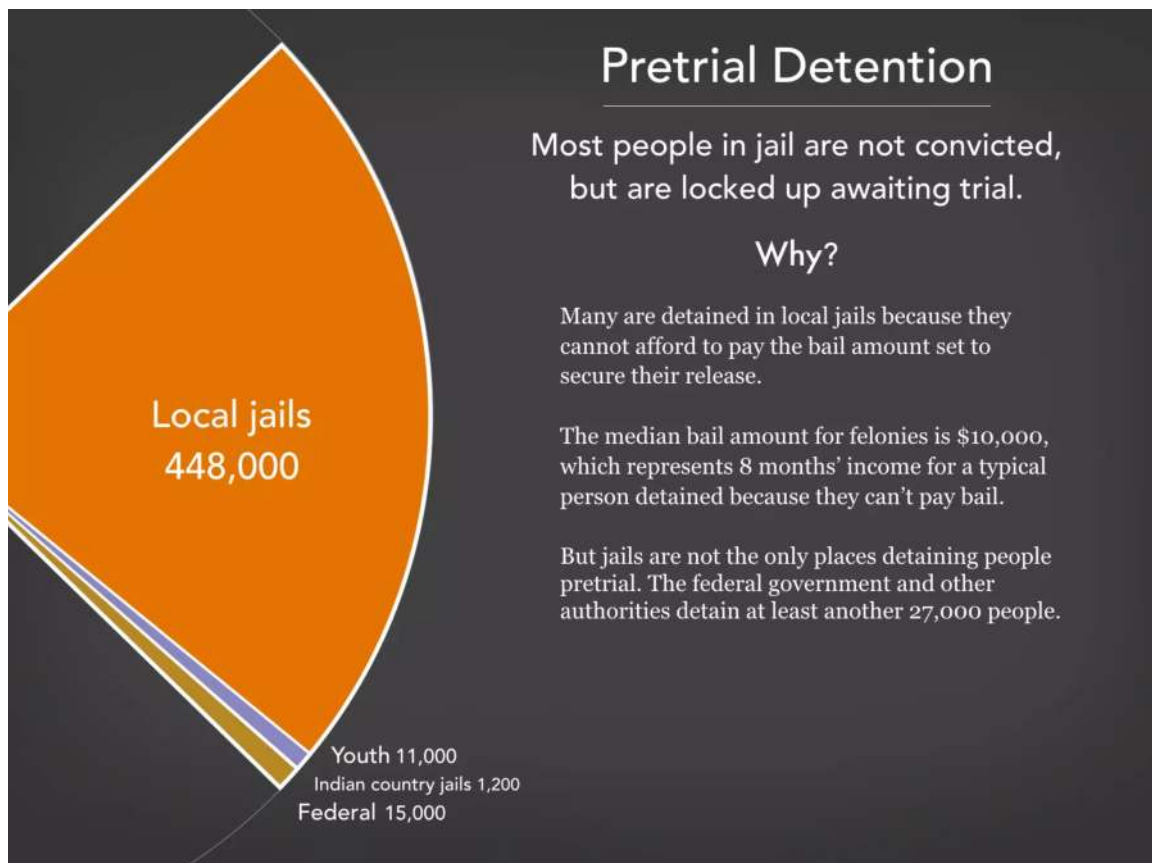


This big-picture view is a lens through which the main drivers of mass incarceration come into focus; ^③ it allows us to identify important, but often ignored, systems of confinement, from immigration detention to involuntary commitment and youth confinement. In particular, local jails often receive short shrift in larger discussions about criminal legal system reform, but they play a critical role as “incarceration’s front door” and have a far greater impact than the daily population suggests.

Jails vs. prisons: What's the difference?

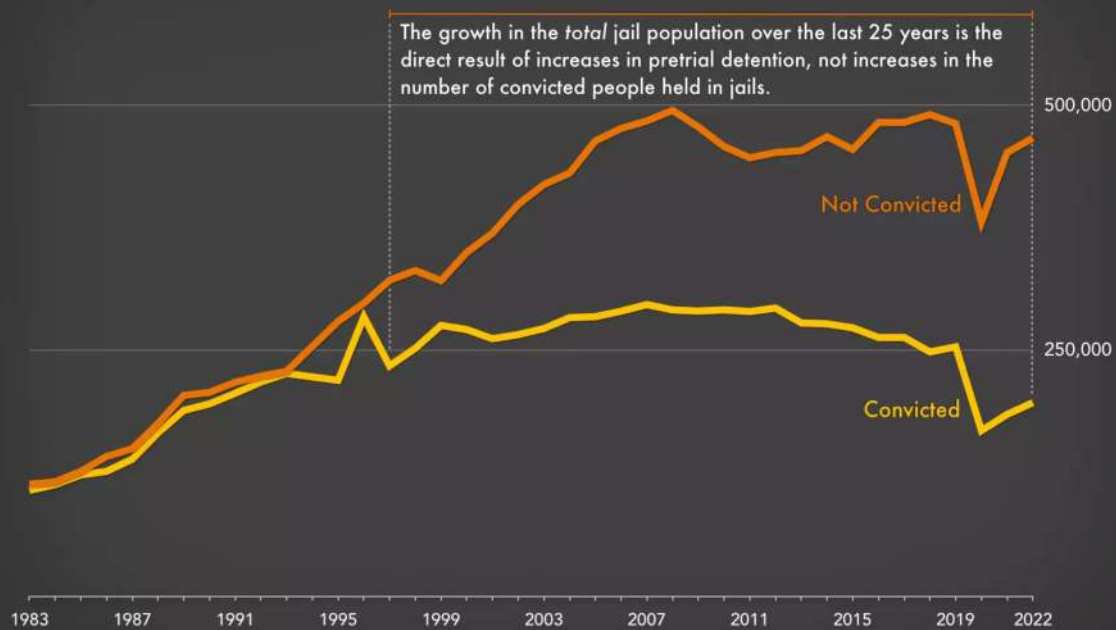
Prisons are facilities under state or federal control where people who have been convicted (usually of felonies) go to serve their sentences. **Jails** are city- or county-run facilities where a majority of people locked up are there awaiting trial (in other words, still legally innocent), many because they can't afford to post bail. To make things a little more complicated, some people do serve their sentences in local jails, either because their sentences are short or because the jail is renting space to the state prison system.

While this pie chart provides a comprehensive snapshot of our correctional system, the graphic does not capture the **enormous churn** in and out of our correctional facilities, nor the far larger universe of people whose lives are affected by the criminal legal system. In 2022, about 469,000 people entered *prison* gates, but people went to *jail* more than 7 million times.^{4 5} Some have just been arrested and will make bail within hours or days, while many others are too poor to make bail and remain in jail until their trial.⁶ Only a small number (about 102,700 on any given day) have been convicted, and are generally serving misdemeanors sentences of under a year. At least 1 in 4 people who go to jail will be arrested again within the same year — often those dealing with poverty, mental illness, and substance use disorders, whose problems only worsen with incarceration.



Pretrial policies drive jail growth

Number of people in local jails on a given day, by conviction status

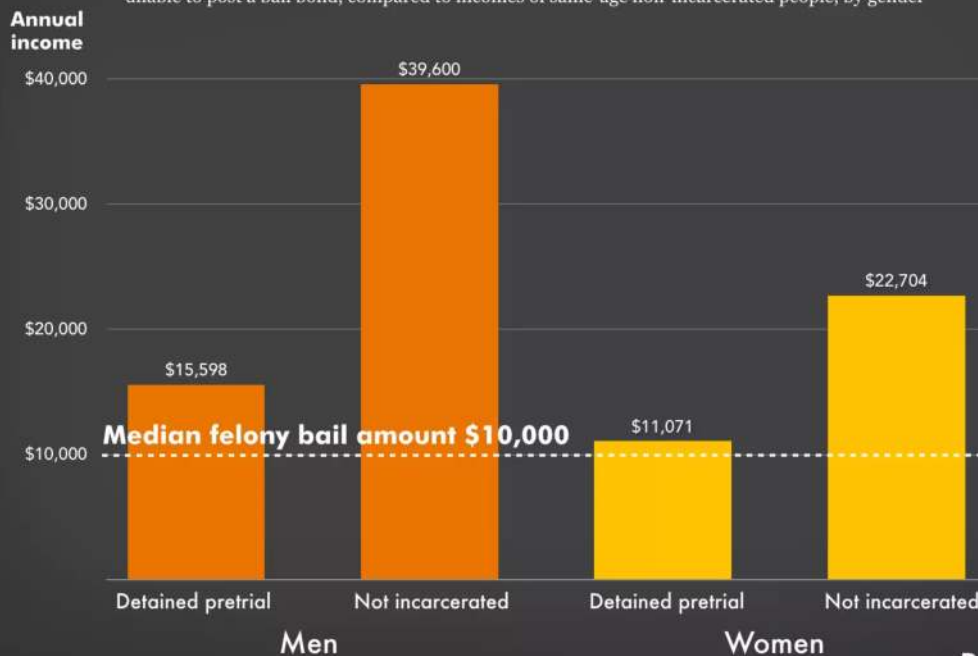


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Compiled from the Bureau of Justice Statistics series *Prison and Jail Inmates at Midyear*, *Correctional Populations in the United States*, and *Jail Inmates*. Missing data for 1994 interpolated from 1993 and 1995 values.

Why are so many people detained in jails before trial? They're not wealthy enough to afford money bail.

Median annual pre-incarceration incomes (in 2015 dollars) for people ages 23-39 in local jails who were unable to post a bail bond, compared to incomes of same-age non-incarcerated people, by gender



For detailed data notes, see *Detaining the Poor* at www.prisonpolicy.org/reports/incomejails.html

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With a sense of the big picture, the next question is: *why* are so many people locked up? How many are incarcerated for drug offenses? Are the profit motives of private companies driving incarceration? Or is it really about public safety and keeping dangerous people off the streets? There are a plethora of modern myths about incarceration. Most have a kernel of truth, but these myths distract us from focusing on the most important drivers of incarceration.

Ten myths about mass incarceration

The overcriminalization of drug use, the use of private prisons, and low-paid or unpaid prison labor are among the most contentious issues in the criminal legal system today because they inspire moral outrage. But they do not answer the question of why most people are incarcerated or how we can dramatically — and safely — reduce our use of confinement. Likewise, emotional responses to sexual and violent offenses often derail important conversations about the social, economic, and moral costs of incarceration and lifelong punishment. False notions of what a “violent crime” conviction means about an individual’s dangerousness continue to be used in an attempt to justify long sentences — even though incarceration does not deter crime and more incarceration is not what victims want. At the same time, misguided beliefs about the “services” provided by jails are used to rationalize the construction of massive new “mental health jails.” Finally, simplistic solutions to reducing incarceration, such as moving people from jails and prisons to community supervision, ignore the fact that “alternatives” to incarceration often lead to incarceration anyway. Focusing on the policy changes that can end mass incarceration, and not just put a dent in it, requires the public to put these issues into

perspective.

Offense categories might not mean what you think

To understand the main drivers of incarceration, the public needs to see how many people are incarcerated for different offense types. But the reported offense data oversimplifies how people interact with the criminal legal system in two important ways: it reports only one offense category per person, and it reflects the outcome of the legal process, obscuring important details of actual events.

First, when a person is in prison for multiple offenses, only the most serious offense is reported.⁷ So, for example, there are people in prison for violent offenses who were also convicted of drug offenses, but they are included only in the “violent” category in the data. This makes it hard to grasp the complexity of criminal events, such as the role drugs may have played in violent or property offenses. We must also consider that almost all convictions are the result of plea bargains, where defendants plead guilty to a lesser offense, possibly in a different category or one that they did not actually commit, in exchange for a more lenient sentence.

Secondly, many of these categories group together people convicted of a wide range of offenses. For violent offenses especially, these labels can distort perceptions of individual “violent offenders” and exaggerate the scale of dangerous, violent crime. Even the seemingly clear-cut offense of “murder” is applied to a variety of situations and individuals: it lumps together the small number of serial killers with people who participated in acts that are unlikely to ever happen again, either due to circumstance or age. “Murder” also includes acts that the average person may not consider to be murder at all. In particular, the felony murder rule says that if someone dies during the commission of a felony, everyone involved can be as guilty of murder as the person who directly caused the death. Many may be surprised that a person who was acting as a lookout during a break-in where someone was accidentally killed can be convicted of murder.⁸

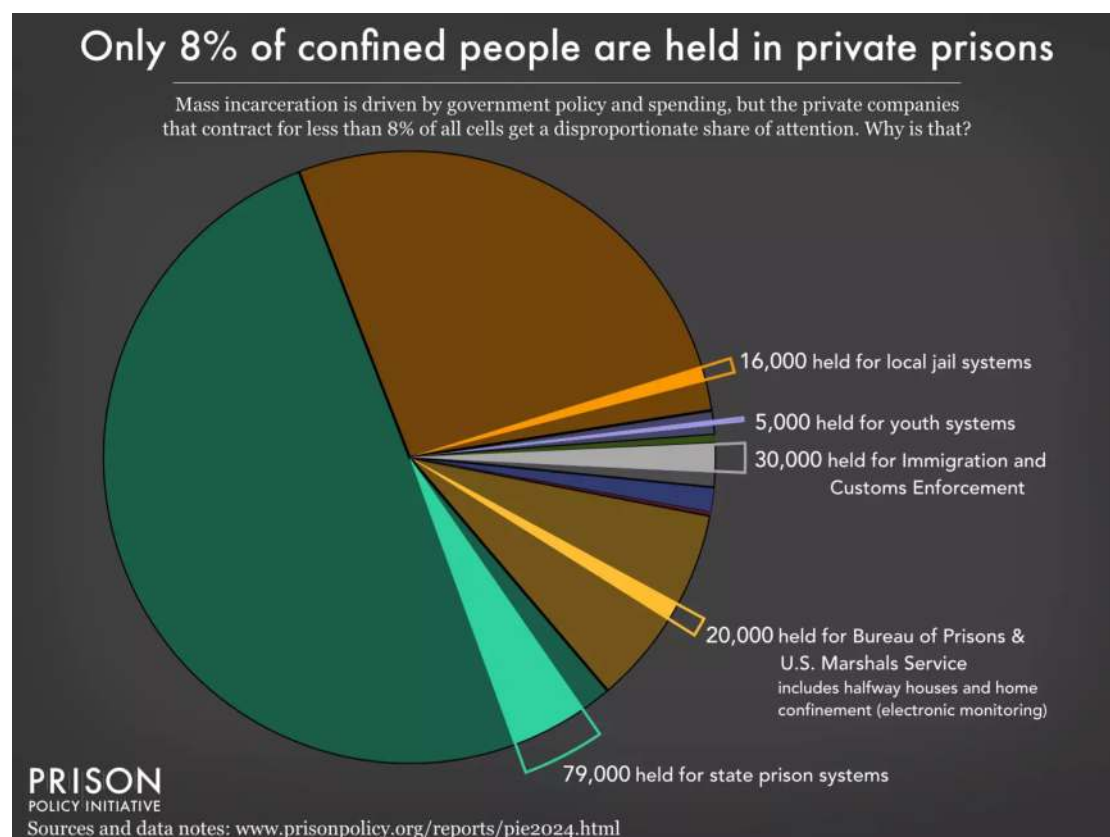
We discuss this problem in more detail in The fourth myth: By definition, “violent crimes” involve physical harm, below.

The first myth: Private prisons are the corrupt heart of mass incarceration

In fact, just 8% of all incarcerated people are held in private prisons; the vast majority are in publicly-owned prisons and jails.⁹ Some states have more people in private prisons than others, of course, and the industry *has* lobbied to maintain high levels of incarceration, but private prisons are essentially a parasite on the massive publicly-

owned system — not the root of it.

Nevertheless, a range of private industries and even some public agencies continue to profit from mass incarceration. Many city and county jails rent space to other agencies, including state prison systems,¹⁰ the U.S. Marshals Service, and Immigration and Customs Enforcement (ICE). Private companies are frequently granted contracts to operate prison food and health services (often so bad they result in major lawsuits), and prison and jail telecom and commissary functions have spawned multi-billion dollar private industries. By privatizing services like phone calls, medical care, and commissary, prisons and jails are offloading the costs of incarceration onto incarcerated people and their families, trimming their budgets at an unconscionable social cost.



Private prisons and jails hold just 8% of all incarcerated people, making them a relatively small part of a mostly publicly-run correctional system.

The second myth: Prisons are “factories behind fences” that exist to provide companies with a huge slave labor force

Simply put, private companies using prison labor are not what stands in the way of ending mass incarceration, nor are they the source of most prison jobs. Only about 6,000 people in prison — less than 1% — are employed by private companies through the federal PIECP program, which requires them to pay at least minimum wage before deductions. (A larger portion work for state-owned “correctional industries,” which pay much less, but this still only represents about 6% of people incarcerated in state prisons.)¹¹

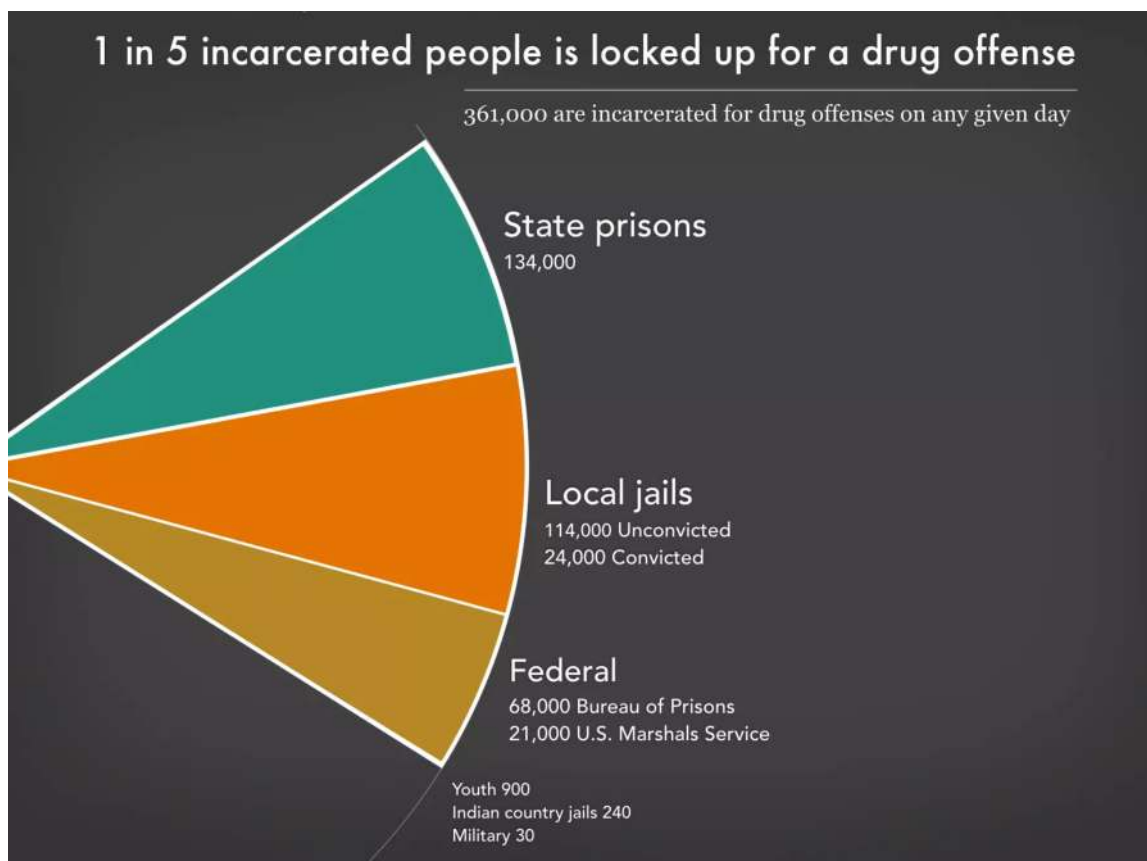
But prisons do rely on the labor of incarcerated people for food service, laundry, and other operations, and they pay incarcerated workers unconscionably low wages: our

2017 study found that on average, incarcerated people earn between 86 cents and \$3.45 *per day* for the most common prison jobs.¹² In at least five states, those jobs pay nothing at all. Moreover, work in prison is compulsory, with little regulation or oversight, and incarcerated workers have few rights and protections. If they refuse to work, incarcerated people face disciplinary action. For those who do work, the paltry wages they receive often go right back to the prison, which charges them for basic necessities like medical visits and hygiene items. Forcing people to work for low or no pay and no benefits, while charging them for necessities, allows prisons to shift the costs of incarceration to incarcerated people — hiding the true cost of running prisons from most Americans.

The third myth: Releasing “nonviolent drug offenders” would end mass incarceration

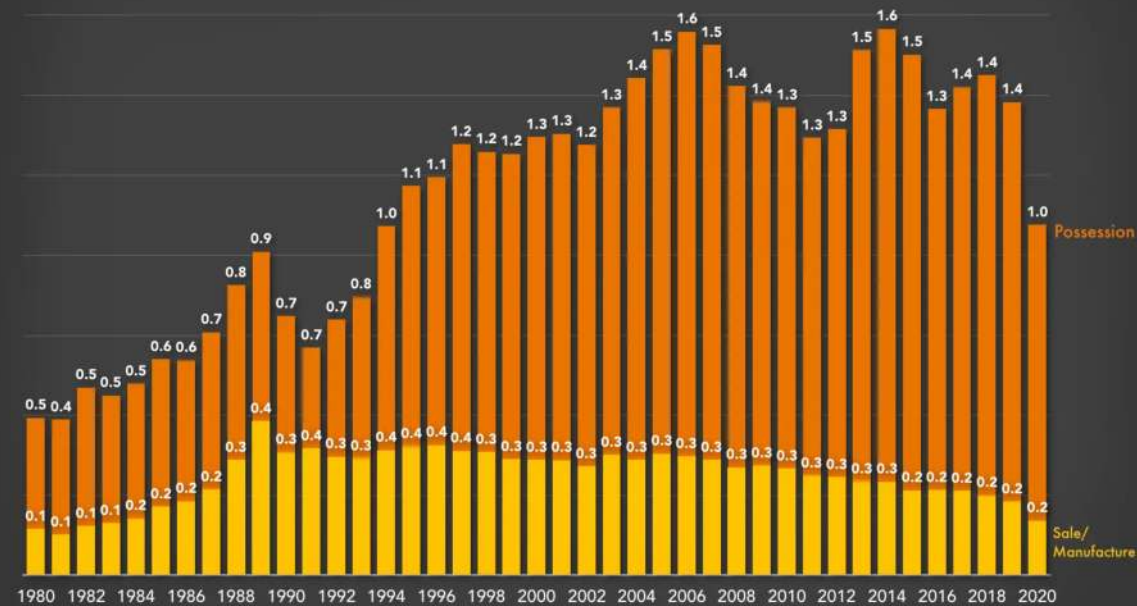
It’s true that police, prosecutors, and judges continue to punish people harshly for nothing more than drug possession. Drug offenses still account for the incarceration of over 360,000 people, and drug convictions remain a defining feature of the federal prison system. And until the pandemic hit (and the official crime data became less reliable), police were still making over 1 million drug possession arrests each year,¹³ many of which lead to prison sentences. Drug arrests continue to give residents of over-policed communities criminal records, hurting their employment prospects and increasing the likelihood of longer sentences for any future offenses.

Nevertheless, 4 out of 5 people in prison or jail are locked up for something other than a drug offense — either a more serious offense or an even *less* serious one. To end mass incarceration, we will have to change how our society and our criminal legal system respond to crimes more serious than drug possession. We must also stop incarcerating people for behaviors that are even more benign.



Police make over a million drug possession arrests each year

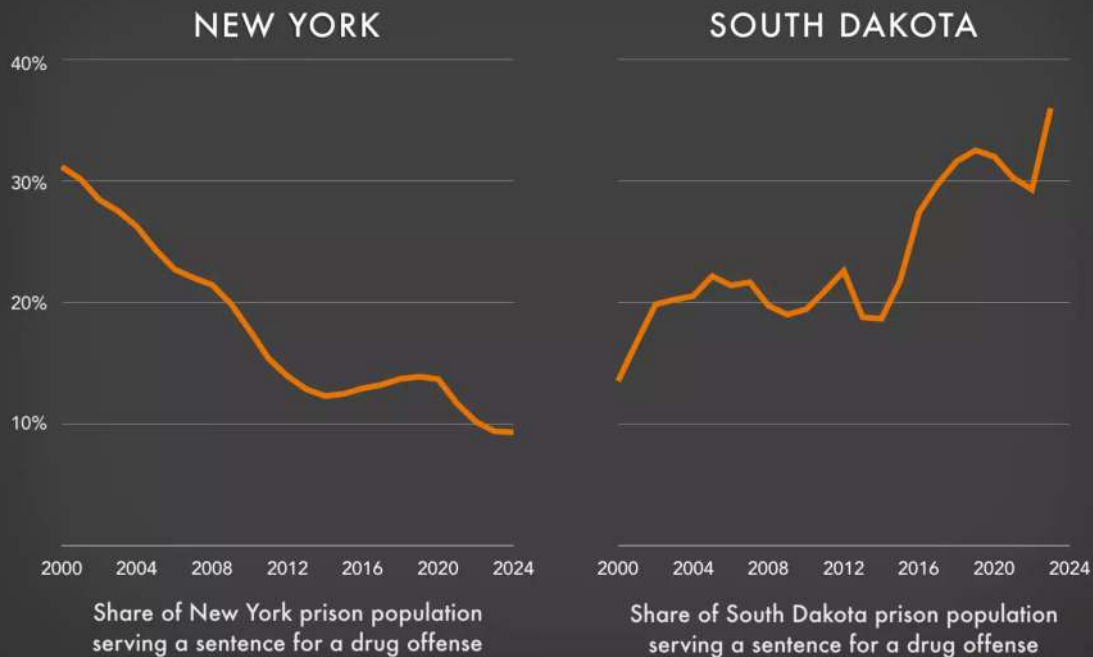
That's 6 times as many arrests for drug possession as for drug sales.
Arrests in millions, 1980 – 2020



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Compiled by the Prison Policy Initiative from Federal Bureau of Investigation *Crime in the United States* series

Some states have largely ended the War on Drugs. Other states, not so much.



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Compiled by the Prison Policy Initiative from available state prison records.

The fourth myth: By definition, “violent crime” involves physical harm

The distinction between “violent” and “nonviolent” crime means less than you might think; in fact, these terms are so widely misused that they are generally unhelpful in a policy context. In the public discourse about crime, people typically use “violent” and “nonviolent” as substitutes for *serious* versus *nonserious* criminal acts. That alone is a

fallacy, but worse, these terms are also used as coded (often racialized) language to label individuals as inherently *dangerous* versus *non-dangerous*.

In reality, state and federal laws apply the term “violent” to a surprisingly wide range of criminal acts — including many that don’t involve any physical harm. In some states, purse-snatching, manufacturing methamphetamines, and stealing drugs are considered violent crimes. Burglary is generally considered a property crime, but an array of state and federal laws classify burglary as a violent crime in certain situations, such as when it occurs at night, in a residence, or with a weapon present. So even if the building was unoccupied, someone convicted of burglary could be punished for a violent crime and end up with a long prison sentence and a “violent” record.

The common misunderstanding of what “violent crime” really refers to — a legal distinction that often has little to do with actual or intended harm — is one of the main barriers to meaningful criminal legal system reform. Reactionary responses to the *idea* of violent crime often lead policymakers to categorically exclude from reforms people convicted of *legally* “violent” crimes. But almost half (47%) of people in prison and jail are there for offenses classified as “violent,” so these carveouts end up gutting the impact of otherwise well-crafted policies. As we and many others have explained before, cutting incarceration rates to anything near international norms will be impossible without changing how we respond to violent crime. To start, we have to be clearer about what that loaded term really means.

The fifth myth: People in prison for violent or sexual crimes are too dangerous to be released

Of course, many people convicted of violent offenses have caused serious harm to others. But how does the criminal legal system determine the risk that they pose to their communities? Again, the answer is too often “we judge them by their offense type,” rather than “we evaluate their individual circumstances.” This reflects the particularly harmful myth that people who commit violent or sexual crimes are incapable of rehabilitation and thus warrant many decades or even a lifetime of punishment.

As lawmakers and the public increasingly agree that past policies have led to unnecessary incarceration, it’s time to consider policy changes that go beyond the low-hanging fruit of “non-non-nons” — people convicted of non-violent, non-serious, non-sexual offenses. Again, if we are serious about ending mass incarceration, we will have to change our responses to more serious and violent crime.

Recidivism: A slippery statistic

As long as we are considering recidivism rates as a measure of public safety risk, we should also consider how recidivism is defined and measured. While this may sound esoteric, this is an issue that affects an important policy question: at what point — and with what measure — do we consider someone's reentry a success or failure?

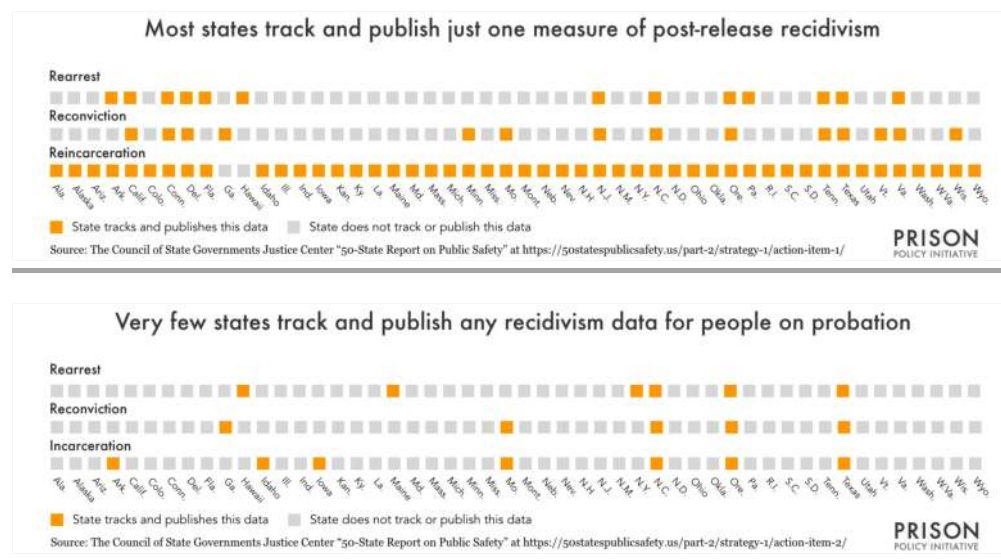
The term “recidivism” suggests a relapse in behavior, a return to criminal offending. But what is a valid sign of criminal offending: self-reported behavior, arrest, conviction, or incarceration? Defining recidivism as rearrest casts the widest net and results in the highest rates, but arrest does not suggest conviction, nor actual guilt. More useful measures than rearrest include conviction for a new crime, re-incarceration, or a new sentence of imprisonment; the latter may be most relevant, since it measures offenses serious enough to warrant a prison sentence. Importantly, people convicted of violent offenses have the lowest recidivism rates by each of these measures. However, the recidivism rate for violent offenses is a whopping 48 percentage points higher when rearrest, rather than imprisonment, is used to define recidivism.

The cutoff point at which recidivism is measured also matters: If someone is arrested for the first time 5, 10, or 20 years after they leave prison, that's very different from someone arrested within months of release. The most recent government study of recidivism reported that 82% of people incarcerated in state prison were arrested at some point in the 10 years following their release. However, the vast majority of people in this group were arrested within the first three years, and more than half within the first year. The longer the time period, the higher the reported recidivism rate — but the lower the actual threat to public safety.

A related question is whether the particular post-release offense matters. For example, 69% of people imprisoned for a violent offense are rearrested within five years of release, but only 44% are rearrested for another *violent* offense; they are much more likely to be rearrested for a public order offense. If someone convicted of robbery is arrested years later for a liquor law violation, it makes no sense to view this very different, much less serious, offense the same way we would another arrest for robbery. Moreover, public order offenses often include “technical” violations, so in many states, recidivism statistics are inflated by these non-criminal infractions.

A final note about recidivism: While policymakers frequently cite reducing recidivism as a priority, few states collect the data that would allow them to monitor and improve their own performance in real time. For example, the Council of State Governments asked correctional systems what kind of recidivism data they collect and publish for people leaving prison and people

starting probation. What they found is that states typically track just one measure of post-release recidivism, and few states track recidivism while on probation at all:



If state-level advocates and political leaders want to know if their state is even trying to reduce recidivism, we suggest one easy litmus test: Do they collect and publish basic data about the number and causes of people's interactions with the justice system while on probation, or after release from prison?

Recidivism data do not support the belief that people who commit violent crimes ought to be locked away for decades for the sake of public safety. People convicted of violent and sexual offenses are actually among the least likely to be rearrested, and those convicted of rape or sexual assault have rearrest rates 20% lower than all other offense categories combined. One reason for the lower rates of recidivism among people convicted of violent offenses: age is one of the main predictors of violence. The risk for violence peaks in adolescence or early adulthood and then declines with age, yet we incarcerate people long after their risk has declined.⁽¹⁴⁾



The sixth myth: Reforming the criminal legal system leads to more crime

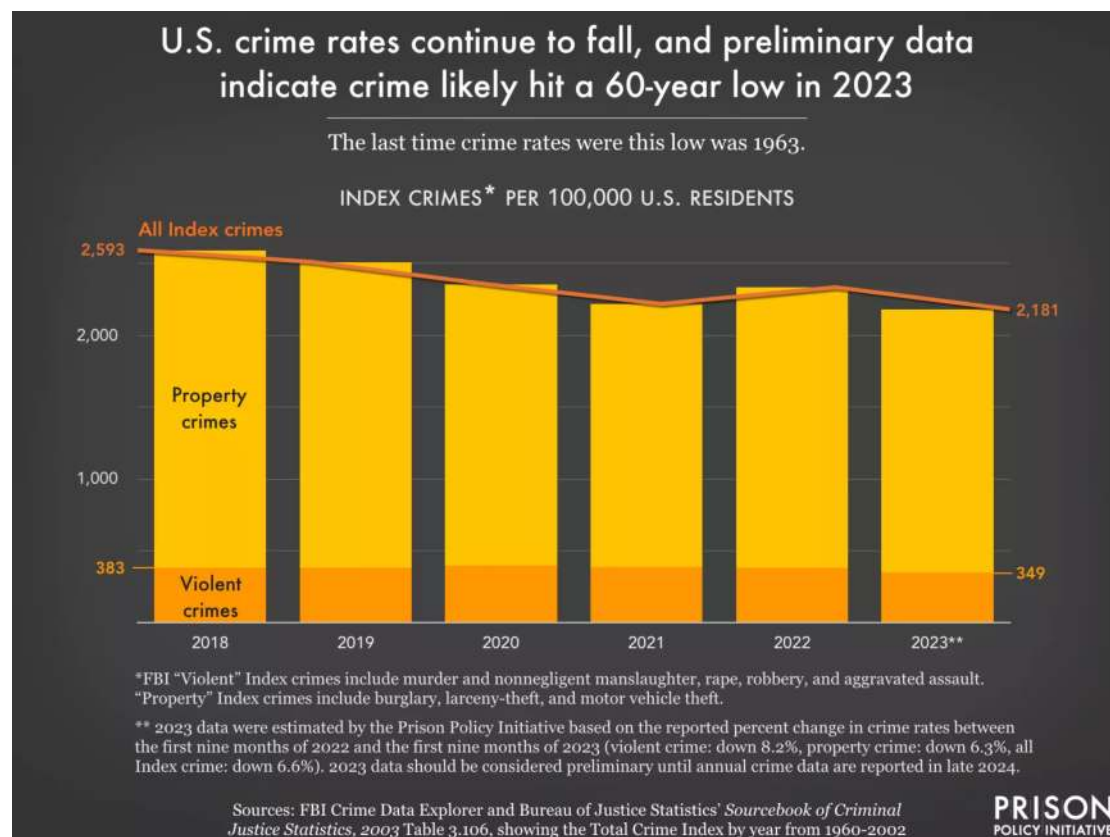
The specter of “rising crime” has re-emerged as a central issue among elected officials, political candidates, and in media commentary. Their explanations and exaggerations of recent crime trends don’t add up, but these lies have serious consequences. After ticking up slightly in 2020, the violent crime rate appears to have fallen dramatically in 2023. In general, violent crime has remained remarkably steady over the last 15 years; property crime has trended steeply downward and remains near historic lows (with the exception of auto theft). Overall, the crime rate appears to be the lowest it’s been since 1963.¹⁵

Jail and prison populations have continued to rebound toward their pre-pandemic levels — not because of rising crime, but because pandemic-related delays in the system have subsided.¹⁶ Politics present another important explanation: many in law enforcement and on the right (and some Democrats, too) have rushed to blame recent reforms for minor shifts in crime trends in an effort to resurrect the same “tough on crime” policies that failed in the 1980s and 90s. The combination of restored court capacity and the return to 90s-era crime policies crime policies — not COVID-era releases,¹⁷ bail reform, changes to police budgets, “progressive” prosecutors, or other popular reforms — best explain why more people are behind bars this year than last. In reality, a number of studies have shown:

- No evidence that progressive prosecutors were to blame for the increase in homicides during the pandemic or in the five years before it.¹⁸
- Murder rates were an average of 40% higher in “red” states compared to “blue” states in 2020; more broadly, murder rates over the years 2000-2020 were 23% higher on average in “red” states.

- Releasing people pretrial doesn't harm public safety. Moreover, the increases in certain types of crime were seen in cities across the country, most of which have *not* enacted bail reforms.
- Far from being “defunded,” police budgets have increased in the vast majority of cities and counties. And again, cities that increased funding, enacted no bail reforms, and did not elect “progressive” prosecutors also saw increases in homicides in 2020 and 2021.

While crime rates remain near historic lows, what has actually changed most is the public's perception of crime, which is driven less by first-hand experience than by the false claims of reform opponents. These false claims are deliberately stoked to undo the hard-won, evidence supported, common sense reforms that have only begun to put a dent in mass incarceration.



The seventh myth: Harsh punishments deter crime, making us safer

Many people mistakenly believe that long sentences, paired with austere and even brutal prison conditions, will have a deterrent effect on crime. But research has consistently found that harsher sentences do not serve as effective “examples” that would prevent new people from committing serious crimes. In 2016, the National Institute of Justice summarized the research on deterrence, finding that prison sentences, and especially long sentences, do little to deter future crime.⁽¹⁹⁾ Another study concluded that, compared to punishments that don’t involve prison or jail time, incarceration has either no effect or — worse — even a “mildly criminogenic impact” on future lawbreaking. In other words, incarceration is counterproductive: While a prison sentence can incapacitate people in the short term, it actually increases the risk that someone will commit a crime after their release.

People face extremely poor living conditions in practically every jail and prison, which negatively impacts their odds of success upon release, their families, and public health at large. Routine failure to provide for the medical needs of incarcerated people is harmful (even deadly) for those inside, and strains family resources and healthcare infrastructure after they're released — and nearly everyone *will* eventually be released. Poor nutrition compounds health problems, as does contaminated water, pests, and exposure to extreme heat and cold. The physical and psychological effects of incarceration, including the PTSD-like Post-Incarceration Syndrome, make it harder to maintain employment and housing, trapping people in cycles of incarceration. Put simply, when people are released from prison, their health and wellbeing are intertwined with that of the community, so the harms visited upon them inside impact everyone.

The eighth myth: Crime victims support long prison sentences

Policymakers, judges, and prosecutors often invoke the name of victims to justify long sentences for violent offenses. But contrary to the popular narrative, most victims of violence want violence prevention, not incarceration. Again, harsh sentences don't deter violent crime, and many victims understand that incarceration can make people *more* of a public safety risk. National survey data show that most victims support violence prevention, social investment, and alternatives to incarceration that address the root causes of crime, not more investment in carceral systems that cause more harm.⁽²⁰⁾ This suggests that they care more about the health and safety of their communities than they do about retribution.



Victims and survivors of crime prefer investments in crime prevention rather than long prison sentences.

Moreover, people convicted of crimes are often victims themselves, complicating the

moral argument for harsh punishments as “justice.” While conversations about justice tend to treat *perpetrators* and *victims* of crime as two entirely separate groups, people who engage in criminal acts are often victims of violence and trauma, too — a fact behind the adage that “hurt people hurt people.”⁽²¹⁾ As victims of crime know, breaking this cycle of harm will require greater investments in communities, not the carceral system.

The ninth myth: Some people need to go to jail to get treatment and services

It’s absolutely true that people ensnared in the criminal legal system have a lot of unmet needs. But jails and prisons are no place to recover from a mental health crisis or substance use disorder — they are designed for punishment, not care. Local jails, especially, are filled with people who need medical care and social services, but jails have repeatedly failed to provide these services. For example, while two-thirds of people in local jails have substance use disorders, only a tiny fraction of all jails provide medication-assisted treatment (MAT)

for opioid use disorder — the gold standard for care. That means that rather than providing drug treatment, jails more often interrupt drug treatment by cutting patients off from their medications. Between 2000 and 2018, the number of people who died of intoxication while in jail increased by almost 400%; typically, these individuals died within just one day of admission.⁽²²⁾

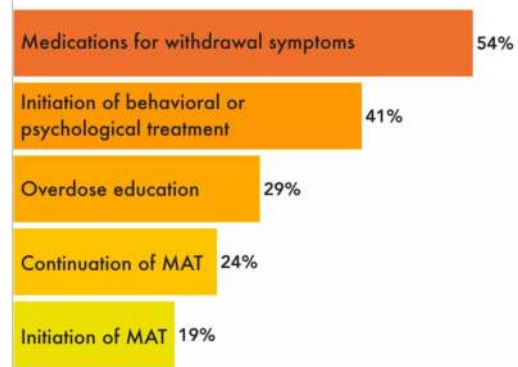
Similarly, jails often put people with mental health problems in solitary confinement, provide limited access to counseling, and leave them unmonitored due to constant staffing shortages. The result: suicide is the leading cause of death in local jails, with death rates far exceeding those found in the general U.S. population. Given this track record, the trend of proposing new “mental health jails” to respond to decades of disinvestment in community-based services is particularly alarming. Jails are not safe detox facilities, nor are they capable of providing the therapeutic environment people require for long-term recovery and healing. Even when other options for providing mental health and substance use treatment are scarce, decisionmakers should not rely on correctional settings to do so.

The tenth myth: Expanding community supervision is the best way to reduce incarceration

Community supervision, which includes probation, parole, and pretrial supervision, is often seen as a “lenient” punishment or as an ideal “alternative” to incarceration. But while remaining in the community is generally preferable to being locked up, the conditions⁽²³⁾ imposed on those under supervision are often so restrictive that they set

In jails, the most effective treatment options are the least accessible for people with opioid use disorder

Percent of jails that offered each type of treatment for opioid use disorder, 2019

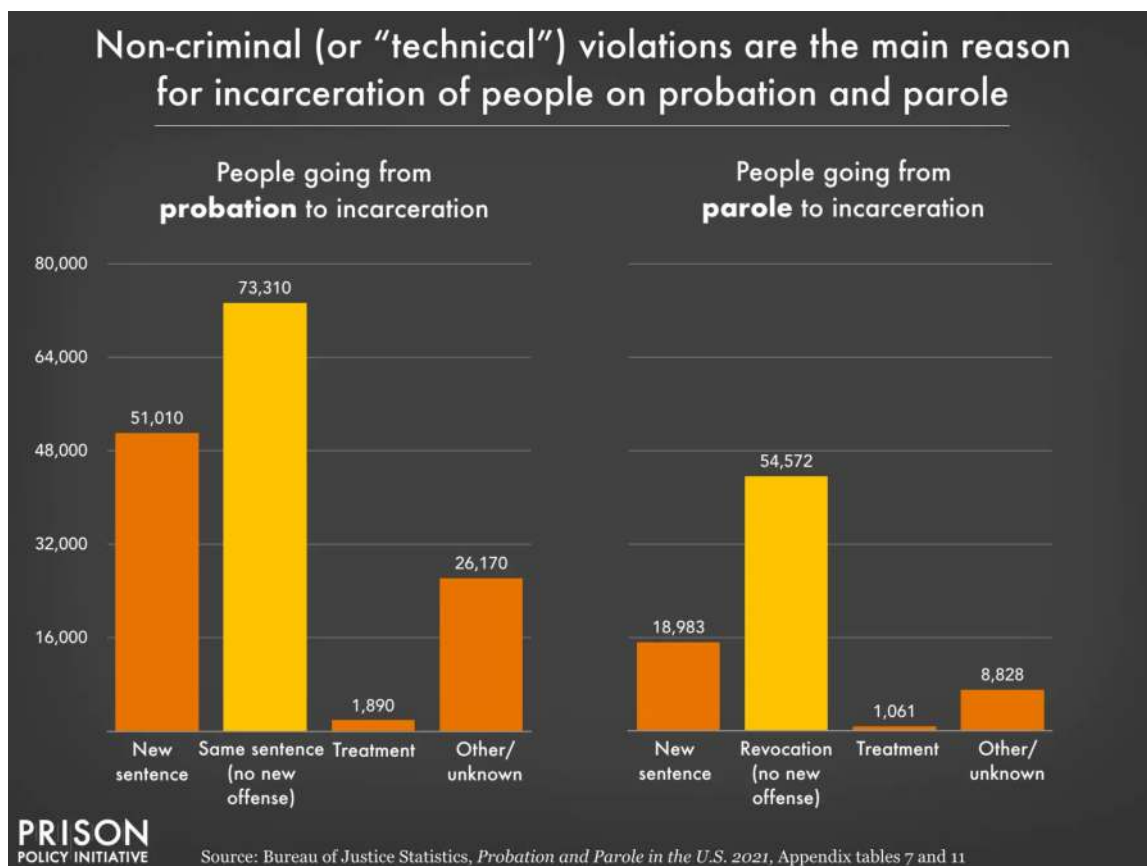


Source: Bureau of Justice Statistics, *Opioid Use Disorder Screening and Treatment in Local Jails, 2019*, Table 5.

people up to fail.⁽²⁴⁾ The long supervision terms, numerous and burdensome requirements, and constant surveillance result in frequent “failures,” often for minor infractions like breaking curfew or failing to pay unaffordable supervision fees.

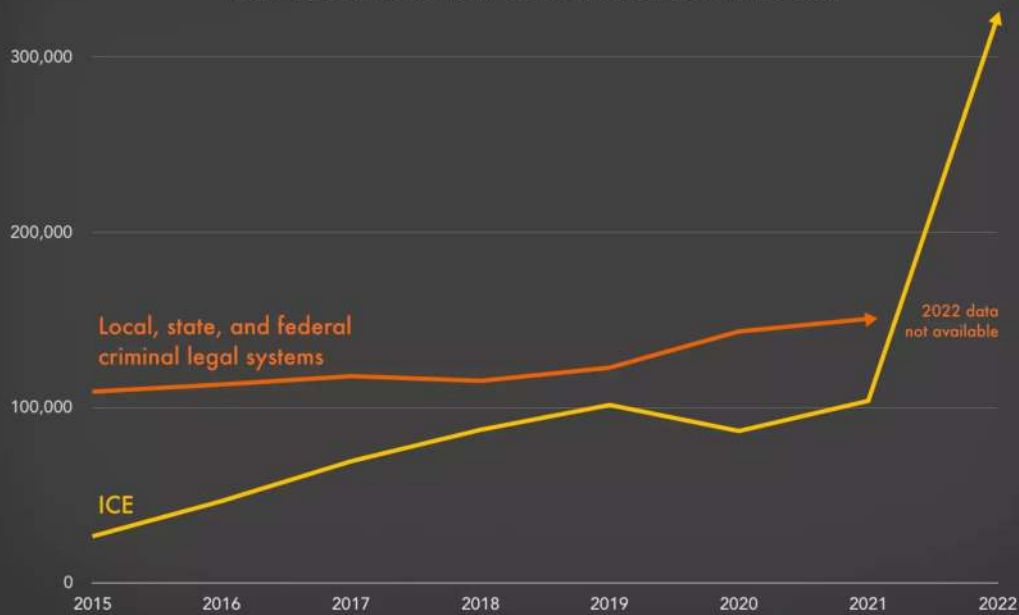
At last count, at least 128,000 people were incarcerated for such non-criminal “technical violations” of probation or parole.⁽²⁵⁾ These supervision violations accounted for 27% of all admissions to state and federal prisons. In fact, the Bureau of Justice Statistics found that almost a quarter (24%) of people in state prisons were on probation at the time of their arrest, underscoring how this “alternative to incarceration” often simply *delays* incarceration.

Newer methods of community supervision don’t simply delay incarceration; they replicate the experience so closely through the use of technology that they amount to “e-carceration” or “electronic prisons.”⁽²⁶⁾ The use of electronic monitoring, in particular — whether via ankle shackle, phone app, or other technology — has exploded in recent years, especially in the contexts of pretrial supervision and immigration enforcement.⁽²⁷⁾ Proponents argue the technology improves court compliance and public safety, but a recent study found the practice accomplishes neither of these goals. The technology is unreliable, frequently leading to security breaches and false alarms, and it has created yet another path to incarceration via technical violations.⁽²⁸⁾ Like probation before it, electronic monitoring is touted as an “alternative” to incarceration, but in reality it is expanding the scope of correctional control, not reducing the number of people behind bars.



The growth of electronic monitoring for the criminal legal and immigration systems, 2015-2022

Average daily population on any form of electronic monitoring, including voice reporting, GPS ankle monitors, and smartphone and smartwatch apps

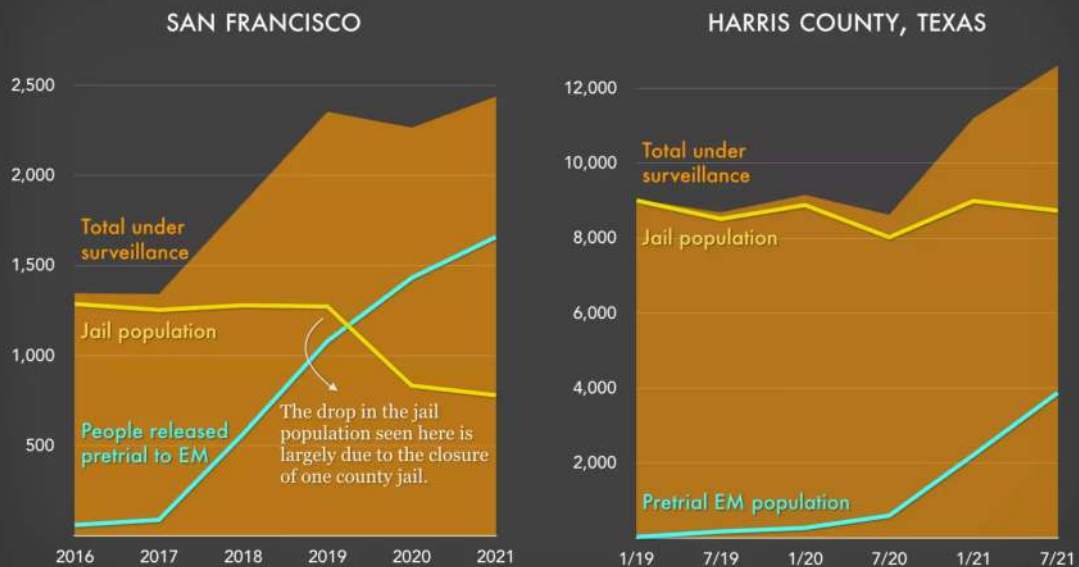


Sources: Vera Institute of Justice, *People on Electronic Monitoring* (2024), Table 1 & Immigration and Customs Enforcement, *FY 2022 Detention Statistics*

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Electronic monitoring doesn't reduce jail populations

While proponents tout electronic monitoring (EM) as an "alternative" to jail or prison, the increased use of EM has not been accompanied by an equal reduction in jail populations. Instead, it has increased the total number of people surveilled.



Sources: California Board of State and Community Corrections Jail Population Trends (March 27, 2023), Table 41; California Policy Lab's *Pretrial Electronic Monitoring in San Francisco* (2022); Harris County's Jail Population History webpage; and "Harris County electronic monitor population skyrockets to nearly 4,000," as reported by Mario Diaz in *Click2Houston* (2021).

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The high costs of low-level offenses

Most people in the U.S. criminal legal system are not accused of serious crimes; more often, they are charged with misdemeanors or non-criminal violations. Yet even low-

level offenses, like technical violations of probation and parole, can lead to incarceration and other serious consequences. Rather than investing in community-driven safety initiatives, cities and counties are still pouring vast amounts of public resources into the processing and punishment of these minor offenses.

Probation & parole violations and “holds” lead to unnecessary incarceration

Often overlooked in discussions about mass incarceration are the various “holds” that keep people behind bars for administrative reasons. A common example is when people on probation or parole are jailed for violating their supervision, either for a new crime or a non-criminal (or “technical”) violation. If a parole or probation officer suspects that someone has violated supervision conditions, they can file a “detainer” (or “hold”), rendering that person ineligible for release on bail. For people struggling to rebuild their lives after conviction or incarceration, returning to jail for a minor infraction can be profoundly destabilizing. The most recent data show that nationally, almost 1 in 5 (19%) people in jail are there for a violation of probation or parole, though in some places these violations or detainers account for over one-third of the jail population. This problem is not limited to local jails, either; in 2019, the Council of State Governments found that nearly 1 in 4 people in state prisons are incarcerated as a result of supervision violations.

A particularly disturbing type of “hold” is becoming increasingly common: people held in jails while awaiting transfer to psychiatric facilities. One recent study reports that “thousands of [people] with serious mental illness languish in jail for months, or even years, waiting for a state hospital bed to open.”²⁹ Typically, these vulnerable adults are in need of evaluation or restoration of their competency to stand trial. But being held in jails puts them at heightened risk of victimization, self-harm, and even additional criminal charges for behaviors that are actually symptoms of their illness. The result of disinvestment in mental health infrastructure and the criminalization of mental illness, these “holds” are not only unnecessary, but unconscionable.

Misdemeanors: Minor offenses with major consequences

The “massive misdemeanor system” in the U.S. is another important but overlooked contributor to overcriminalization and mass incarceration. For behaviors as benign as jaywalking or sitting on a sidewalk, an estimated 13 million misdemeanor charges sweep droves of Americans into the criminal legal system each year (and that’s excluding civil violations and speeding). These low-level offenses, along with other non-felony offenses, typically account for about 25% of the daily jail population nationally, and much more in some states and counties. The rampant criminalization of homelessness and aggressive enforcement of these laws — almost all misdemeanors — also contributes to harmful and costly cycles of homelessness and incarceration.

Misdemeanor charges may sound trivial, but they carry serious financial, personal, and social costs, especially for defendants but also for broader society, which finances the processing of these court cases and all of the unnecessary incarceration that comes with them. And then there are the moral costs: People charged with misdemeanors are often not appointed counsel and are pressured to plead guilty and accept a probation

sentence to avoid jail time. This means that innocent people routinely plead guilty and are then burdened with the many collateral consequences that come with a criminal record, as well as the heightened risk of future incarceration for probation violations. A misdemeanor system that pressures innocent defendants to plead guilty seriously undermines American principles of justice.

“Low-level fugitives” live in fear of incarceration for missed court dates and unpaid fines

Defendants can end up in jail even if their offense is not punishable with jail time. Why? Because if a defendant fails to appear in court or to pay fines and fees, the judge can issue a “bench warrant” for their arrest, directing law enforcement to jail them in order to bring them to court. While there is currently no national estimate of the number of active bench warrants, their use is widespread and, in some places, incredibly common. In Monroe County, N.Y., for example, over 3,000 people have an active bench warrant at any time, more than 3 times the number of people in the county jails.

But bench warrants are often unnecessary. Most people who miss court are not trying to avoid the law; more often, they forget, are confused by the court process, or have a schedule conflict. Once a bench warrant is issued, however, defendants frequently end up living as “low-level fugitives,” quitting their jobs, becoming transient, and/or avoiding public life (even hospitals) to avoid having to go to jail.

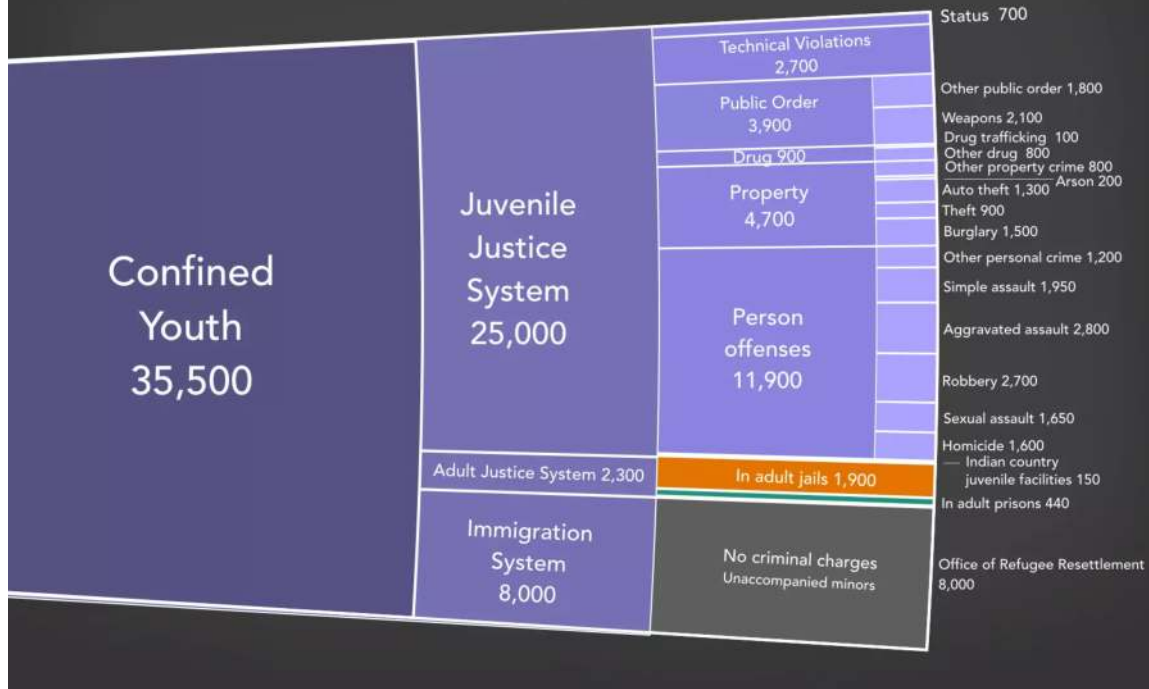
Lessons from the smaller “slices”: Youth, immigration, and involuntary commitment

Looking more closely at incarceration by offense type also exposes some disturbing facts about the 35,500 youth in confinement in the United States: too many are there for a “most serious offense” that is **not even a crime**. For example, there are 2,700 youth behind bars for non-criminal violations of their probation rather than for a new offense. An additional 700 youth are locked up for “status” offenses, which are “behaviors that are not law violations for adults such as running away, truancy, and incorrigibility.”⁽³⁰⁾ About 1 in 11 youth held for a criminal or delinquent offense is locked in an adult jail or prison, and most of the others are held in juvenile facilities that look and operate a lot like prisons and jails.

We also know that for many children, legal system involvement overlaps with other kinds of “systems” involvement, such as the foster care system: almost half of youth in foster care have an encounter with the criminal legal system by age 17. The criminalization of youth is apparent in the adult prison population: more than one-third (38%) of people in state prisons were first arrested before they turned 16. The early criminalization of youth is apparent in the adult prison population: more than one-third (38%) of people in state prisons were first arrested before they turned 16.

Most confined youth are held for non-person offenses, and 1 in 3 is held for an act that is not a “crime” at all

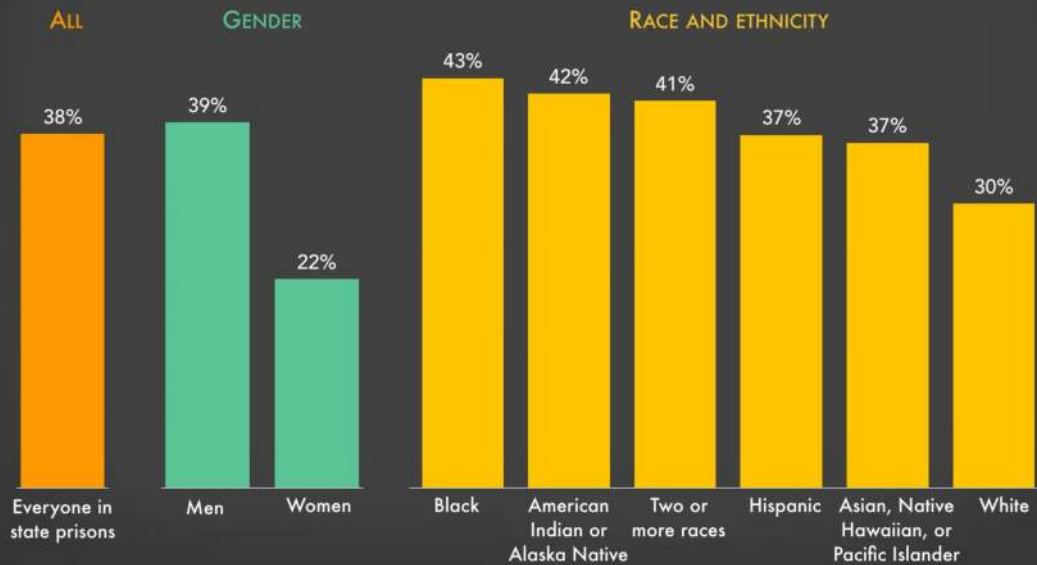
3,500 youth are locked up for offenses that aren’t even crimes, and another 8,000 are refugees held awaiting placement with family or friends.



More than 1 in 3 people in state prison were first arrested before their 16th birthday

Percent first arrested at age 15 or younger, by self-reported gender, race, and ethnicity

FIRST ARREST AT AGE 15 OR YOUNGER



Source: Bureau of Justice Statistics' *Survey of Prison Inmates*, 2016 data analyzed by the Prison Policy Initiative

PRISON
POLICY INITIATIVE

Almost 65,000 people are confined for immigration reasons



ICE's use of detention is climbing back to pre-pandemic levels, but the agency is expanding other forms of control even faster.

ICE has rapidly expanded its electronic monitoring "Alternatives to Detention" program, which is now much larger than ICE's confined population ever was. ICE now regularly surveils and detains over 200,000 people on any given day — over four times as many as it did in 2015.

Meanwhile, ORR holds thousands of children seeking asylum

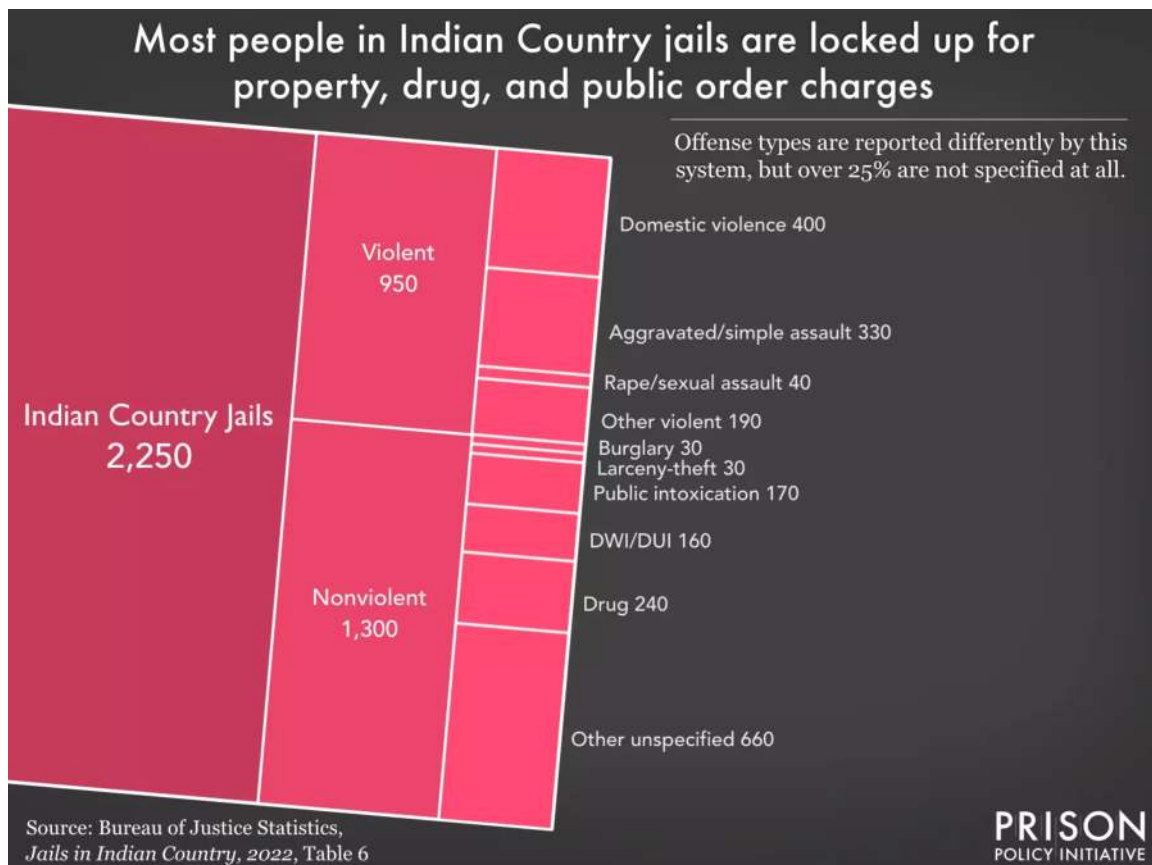
After entering the country alone, these children are apprehended by immigration enforcement and turned over to the Office of Refugee Resettlement's custody to await placement.

PRISON
POLICY INITIATIVE

Psychiatric facilities confine 25,000 people every day for criminal legal system involvement

An under-discussed part of the criminal legal system: involuntary commitment and detention in state psychiatric hospitals and civil commitment centers

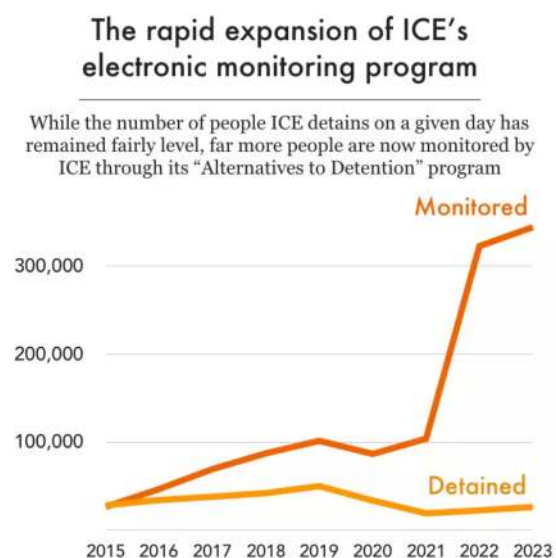




Turning to the people who are locked up criminally and civilly for **immigration-related reasons**, we find that over 6,000 people are in federal prisons for criminal convictions of immigration offenses, and 12,400 more are held pretrial or presentence by the U.S. Marshals Service. The vast majority of people incarcerated for criminal immigration offenses are accused of illegal entry or illegal reentry — in other words, for no more serious offense than crossing the border without permission.⁽³¹⁾

Another 38,000 people are civilly detained by U.S. Immigration and Customs Enforcement (ICE) not for any crime, but simply because they are facing deportation.⁽³²⁾ People detained by ICE are physically confined in federally-run or privately-run immigration detention facilities, or in local jails under contract with ICE. While this number

is below what it was pre-pandemic, it's actually climbed back up from a record low of 13,500 people in ICE detention in early 2021.⁽³³⁾ In fact, ICE is very rapidly expanding its overall surveillance and control over the non-criminal migrant population by growing its electronic monitoring-based “alternatives to detention”



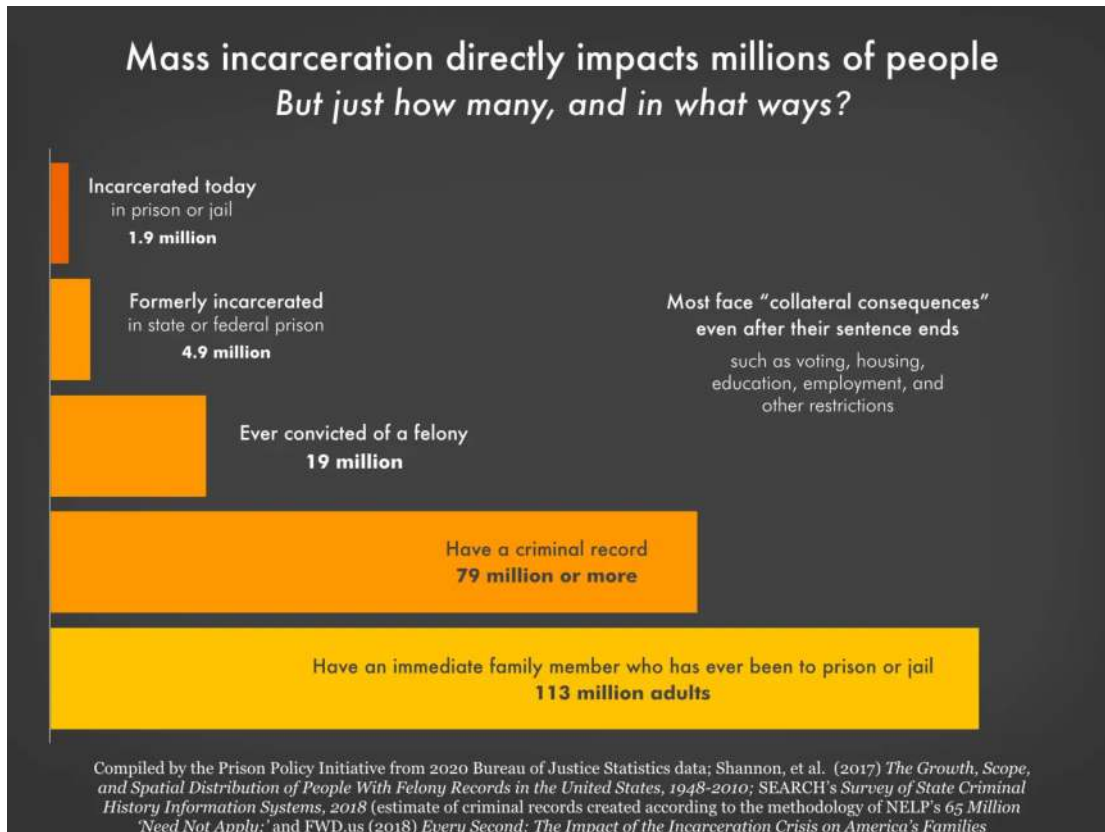
program.⁽³⁴⁾

An additional 8,000 **unaccompanied children** are held in the custody of the Office of Refugee Resettlement (ORR), awaiting placement with parents, family members, or friends. Their number has more than doubled since January of 2020. While these children are not held for any criminal or delinquent offense, most are held in shelters or even juvenile placement facilities under detention-like conditions.⁽³⁵⁾

Adding to the universe of people who are confined because of criminal legal system involvement, 25,000 people are **involuntarily committed** in state psychiatric hospitals and civil commitment centers.^{(36) (37)} Many of these people are not even convicted, and some are held indefinitely. These “forensic patients” include people being evaluated or treated for incompetency to stand trial, as well as those found not guilty by reason of insanity or guilty but mentally ill, who may remain hospitalized for decades or for life.⁽³⁸⁾ Roughly 6,000 are people convicted of sex-related crimes who are involuntarily committed or detained after their prison sentences are complete. While the facilities they are held in aren’t typically run by departments of correction, they are in reality much like prisons. Meanwhile, at least 38 states allow involuntary commitment for substance use disorder treatment, and in many cases, people are sent to actual prisons and jails, which are inappropriate places for treatment.⁽³⁹⁾

Beyond the “Whole Pie”: Community supervision, poverty, age, and race and gender disparities

Once we have wrapped our minds around the “whole pie” of mass incarceration, we should zoom out and note that people who are incarcerated are only a fraction of those impacted by the criminal legal system. There are another 800,000 people on parole and a staggering 2.9 million people on probation. Many millions more have completed their sentences but are still living with a criminal record, a stigmatizing label that comes with collateral consequences such as barriers to employment and housing.

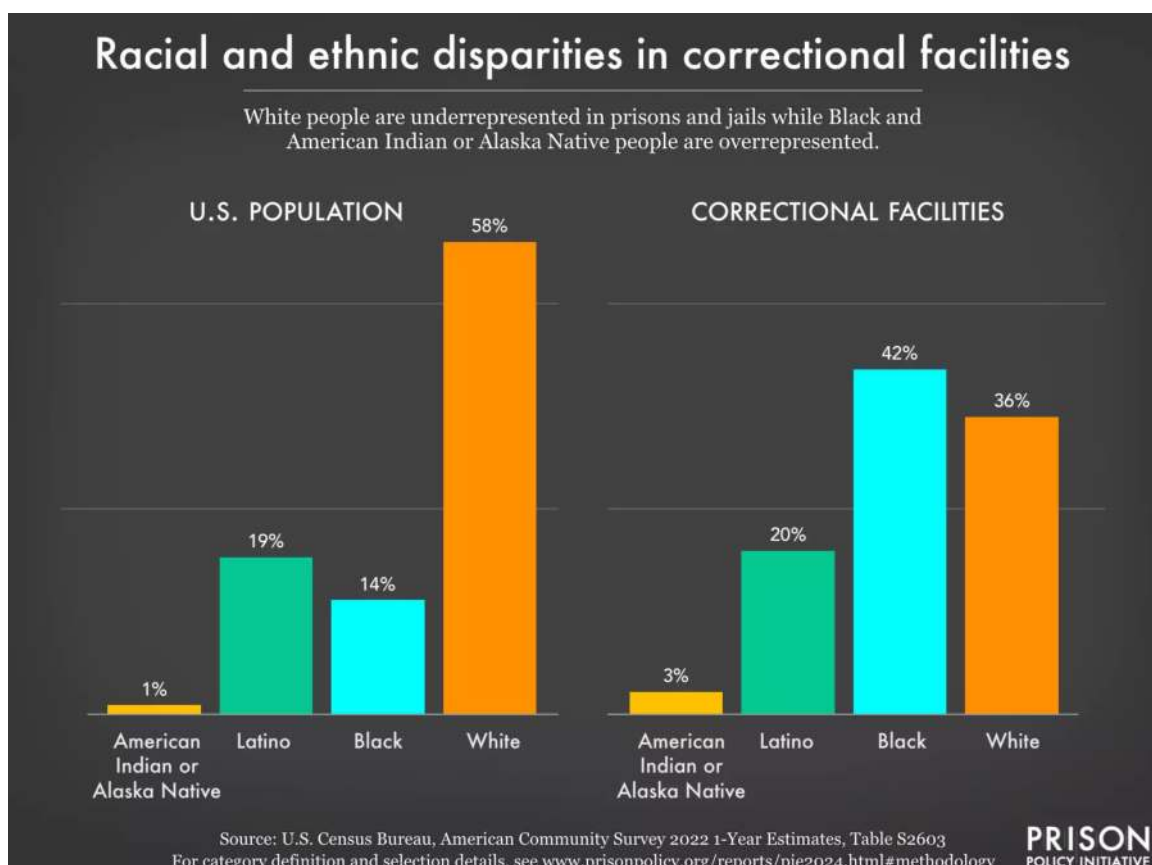
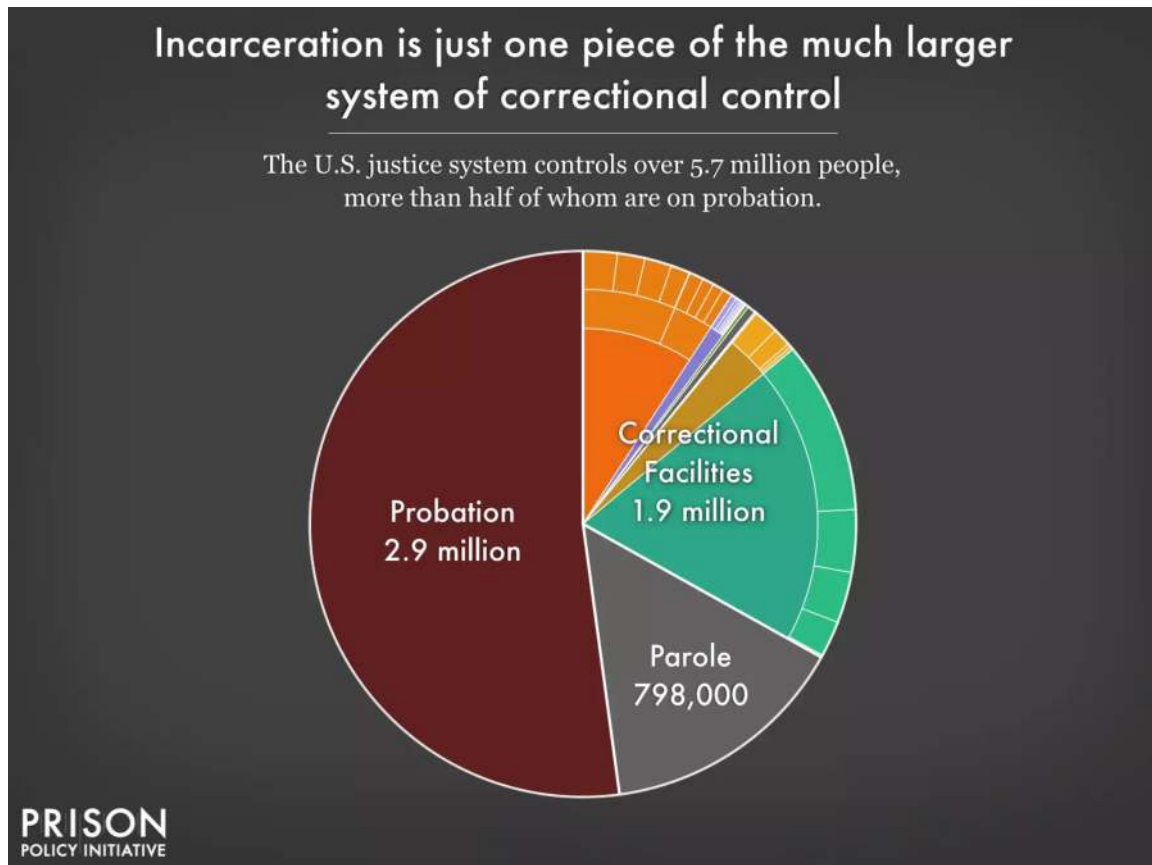


Far more people are impacted by mass incarceration than the 1.9 million currently confined. An estimated 19 million people are burdened with the collateral consequences of a felony conviction (this includes those currently and formerly incarcerated), and an estimated 79 million have a criminal record of some kind; even this is likely an underestimate, leaving out many people who have been arrested for misdemeanors. Finally, [FWD.us](#) reports that 113 million adults (45%) have had an immediate family member incarcerated for at least one night.

Beyond identifying how many people are impacted by the criminal legal system, we should also focus on **who is most impacted and who is left behind** by policy change. Poverty, for example, plays a central role in mass incarceration. People in prison and jail are disproportionately poor compared to the overall U.S. population.⁽⁴⁰⁾ The criminal legal system punishes poverty, beginning with the high price of money bail: The median felony bail bond amount (\$10,000) is the equivalent of 8 months' income for the typical detained defendant. As a result, people with low incomes are more likely to face the harms of pretrial detention. Poverty is not only a predictor of incarceration; it is also frequently the outcome, as a criminal record and time spent in prison destroys wealth, creates debt, initiates or perpetuates cycles of homelessness, and decimates job opportunities.⁽⁴¹⁾

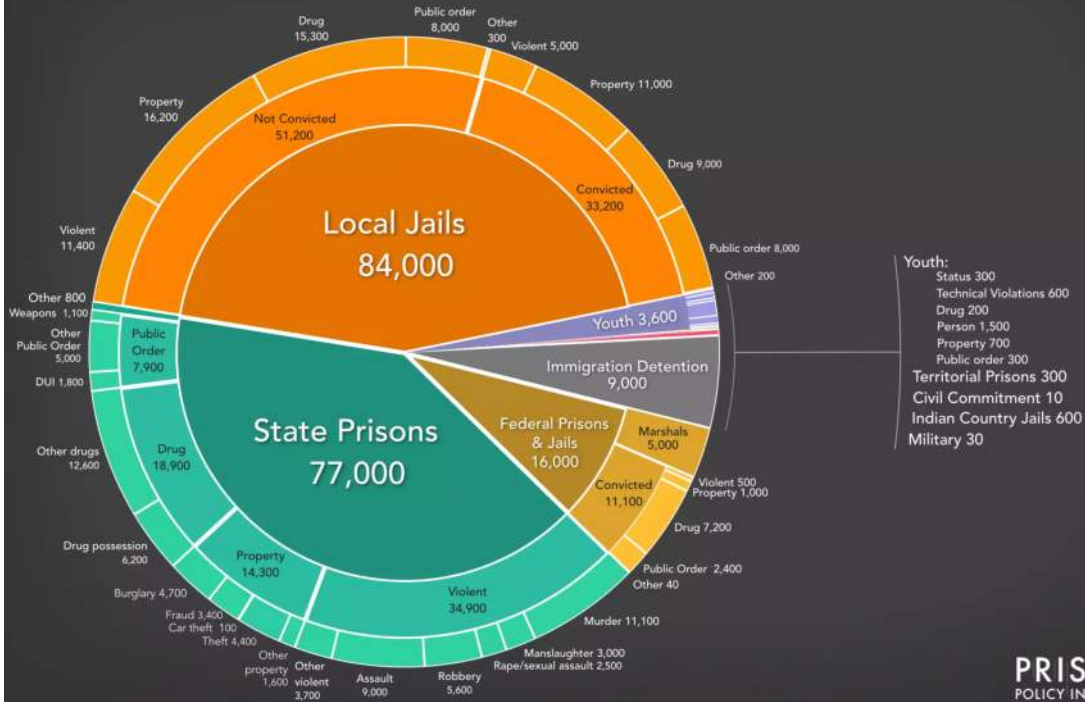
It's no surprise that people of color — who face much greater rates of poverty — are dramatically overrepresented in the nation's prisons and jails. These racial disparities are particularly stark for Black Americans, who make up 35% of the prison and jail populations but only 14% of all U.S residents.⁽⁴²⁾ The same is true for women, whose incarceration rates have for decades risen faster than men's, and who are often behind bars because of financial obstacles such as an inability to pay bail. As policymakers continue to push for reforms that reduce incarceration, they should avoid changes that will widen disparities, as has happened with juvenile confinement and with women in state prisons.

Finally, while states have made progress in reducing youth confinement — due to developments in adolescent brain research, mounting evidence that confinement leads to worse outcomes, and dogged advocacy to protect youth — the elder population in prison has only grown. Many are stuck serving excessively long sentences, despite the evidence that their incarceration is both extremely costly and unnecessary to ensure public safety.



How many women are locked up in the United States?

The United States is one of the top incarcerators of women in the world. Changing that will require knowing where the 191,000 incarcerated women fall within our decentralized and overlapping systems of mass incarceration.

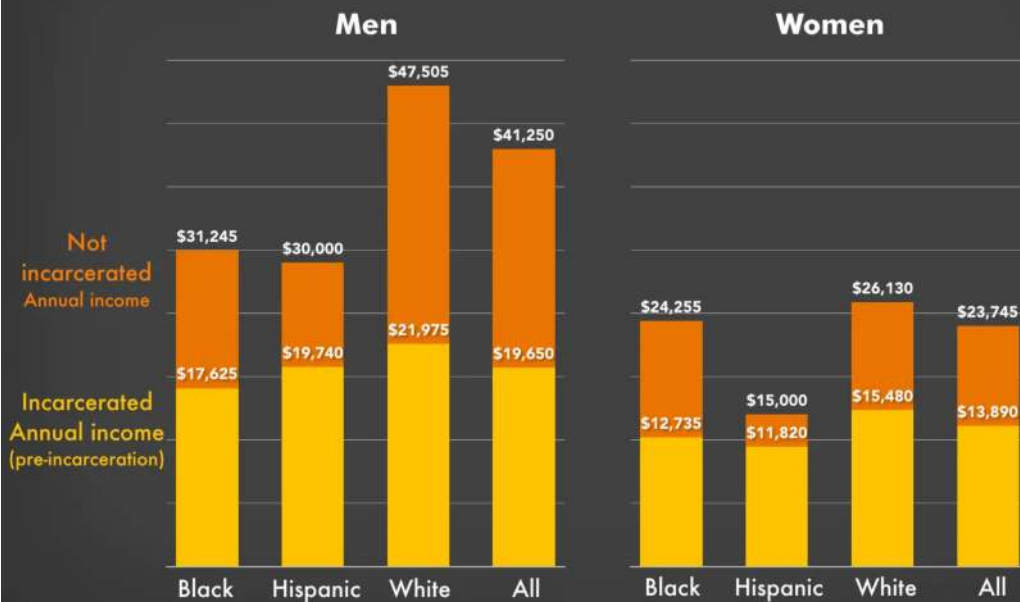


Sources & data notes: www.prisonpolicy.org/reports/pie2024women.html

PRISON
POLICY INITIATIVE

Most people in prison are poor, and the poorest are women and people of color

Median annual pre-incarceration incomes for people in state prisons ages 27-42, compared to incomes of same-age non-incarcerated people, by race/ethnicity and gender (in 2014 dollars)

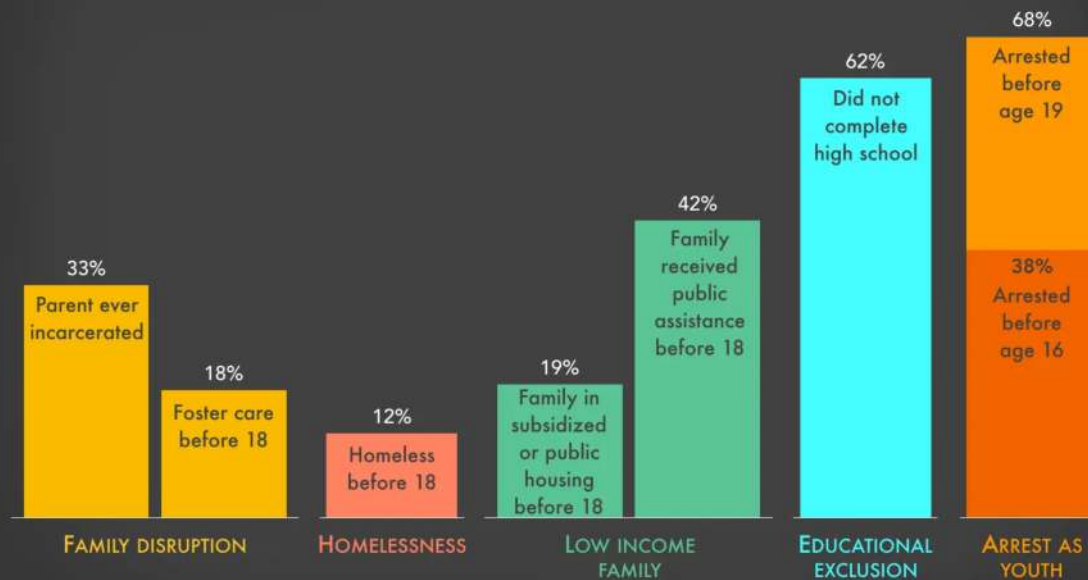


Compiled by the Prison Policy Initiative. For detailed data notes, see www.prisonpolicy.org/reports/income.html

PRISON
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Many people in state prisons grew up facing serious family, housing, economic, and educational challenges

Instead of receiving support, most were criminalized as kids.



Source: Bureau of Justice Statistics' *Survey of Prison Inmates*, 2016 data analyzed by the Prison Policy Initiative

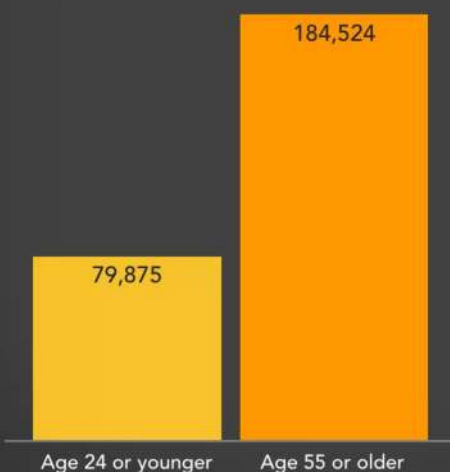
PRISON
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The youngest and oldest people in prison

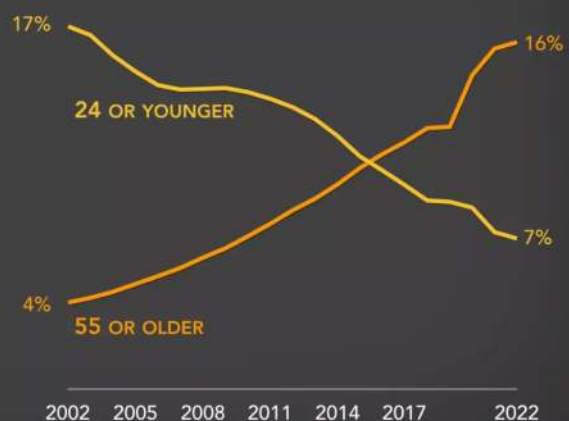
Over a quarter million people in state and federal prisons are either so young that they are not yet fully developmentally mature or old enough to pose little risk to public safety if released.

And while the share of young people in state prisons has fallen over the past 20 years, the costly "graying" of prisons continues — the result of excessively long sentences.

PEOPLE IN STATE AND FEDERAL PRISONS, 2022



SHARE OF PEOPLE IN PRISON
24 OR YOUNGER & 55 OR OLDER, BY YEAR



Sources: Bureau of Justice Statistics, *Mortality in Correctional Institutions*, 2001-2019 Appendix Table 1 & *Prisoners* series, Tables 10 and 15

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Equipped with the full picture of how many people are locked up in the United States, where, and why, we all have a better foundation for moving the conversation about criminal legal system reform forward. For example, the data make it clear that ending the war on drugs will not alone end mass incarceration, though the federal government and some states have taken an important step by reducing the number of people incarcerated for drug offenses. Looking at the “whole pie” of mass incarceration

opens up conversations about where it makes sense to focus our energies at the local, state, and national levels. For example:

- How can we effectively invest in communities to make it less likely that someone comes into contact with the criminal legal system in the first place? And what measures can help aid successful reentry and end the vicious cycle of re-incarceration that so many individuals and families experience?
- Can we persuade government officials and prosecutors to revisit the reflexive, simplistic policymaking that has served to increase incarceration for “violent” offenses? How can we eliminate policy “carveouts” that exclude broad categories of people from reforms and end up gutting the impact of reforms?
- What will it take to embolden policymakers and the public to do what it takes to shrink the second largest slice of the pie — the thousands of local jails? And what will it take to redirect public spending to smarter investments like community-based drug treatment and job training?
- While the federal prison system is a small slice of the total pie, how can improved federal policies and financial incentives be used to advance state and county-level reforms? And for their part, how can elected sheriffs, district attorneys, and judges — who all control larger shares of the correctional pie — slow the flow of people into the criminal legal system?
- Given that the companies with the greatest impact on incarcerated people are not private prison operators, but service providers that contract with public facilities, how can governments end contracts that squeeze money from those behind bars and their families?
- What reforms can we implement to both reduce the number of people incarcerated in the U.S. and the well-known racial and ethnic disparities in the criminal legal system?
- What lessons can we learn from the pandemic? Are federal, state, and local governments prepared to respond to future pandemics, epidemics, natural disasters, and other emergencies, including with plans to decarcerate? And how can states and the federal government better utilize compassionate release and clemency powers moving forward?

The United States has the dubious distinction of having the highest incarceration rate of virtually any democratic nation on earth. Looking at the big picture of the 1.9 million people locked up in the United States on any given day, we can see that **something needs to change**. Both policymakers and the public have the responsibility to carefully consider each individual slice of the carceral “pie” and ask whether legitimate social goals are served by putting each group behind bars, and whether any benefit really outweighs the social and fiscal costs.

Even narrow policy changes, such as ending incarceration for “technical” violations, can meaningfully reduce our society’s use of incarceration. At the same time, we should be wary of proposed reforms that seem promising but will have only minimal effect, because they simply transfer people from one slice of the correctional “pie” to another or needlessly exclude broad swaths of people. Keeping the big picture in mind is critical if we hope to develop strategies that actually shrink the “whole pie.”

Data sources & methodology

This section covers a lot of ground, from why we attempt to piece together the data ourselves in the first place to where we source the data and how we adjust it to make the various pieces fit together. Read on to learn:

- Why we — and not the government — compile the data ↴
- Which data sources we relied on for state and federal prisons and local jail populations ↴
- Which data sources we used for the smaller slices of the “pie”: youth, immigration, involuntary commitments, U.S. territories, Indian Country jails, and the military ↴
- How we calculated the broader “pie” of correctional control, including probation and parole systems ↴
- How we determined the number of private facilities ↴
- How we adjusted the data to make sure people were only counted once ↴
- What data we used to make our racial disparities graph — and why ↴

People new to criminal legal issues might reasonably expect that a big picture analysis like this would be produced not by advocates, but by the criminal legal system itself. The unfortunate reality is that there isn’t one centralized system to do such an analysis. Instead, even thinking just about adult corrections, we have a federal system, 50 state systems, 3,000+ county systems, 25,000+ municipal systems, and so on. Each of these systems collects data for its own purposes that may or may not be compatible with data from other systems and that might duplicate or omit people counted by other systems

This isn’t to discount the work of the Bureau of Justice Statistics, which, despite limited resources, undertakes the Herculean task of organizing and standardizing the data on correctional facilities. And it’s not to say that the FBI doesn’t work hard to aggregate and standardize police arrest and crime report data. But the fact is that the local, state, and federal agencies that carry out the work of the criminal legal system — and are the sources of BJS and FBI data — weren’t set up to answer many of the simple-sounding questions about the “system.”

Similarly, there are systems of confinement that might not consider themselves part of the criminal legal system, but should be included in a holistic view of incarceration. Juvenile justice, immigration detention, civil commitment of people with sex-related convictions, and involuntary commitment to psychiatric hospitals for criminal legal system involvement are examples of this broader universe of confinement that is often ignored. The “whole pie” incorporates data from these systems to provide the most comprehensive view of incarceration possible.

To produce this report, we took the most recent data available for each part of these systems, and, where necessary, adjusted the data to ensure that each person was only counted once, only once, and in the right place. ↴

Data sources

This report uses the most recent data available on the number of people in various types of facilities and the most significant charge or conviction. Because the various systems of confinement collect and report data on different schedules, this report reflects population data collected between 2019 and 2024. Furthermore, because not all types of data are updated each year, we sometimes had to calculate estimates; for example, we applied the percentage distribution of offense types from the previous year to the current year's total count data. For this reason, we chose to round most labels in the graphics to the nearest thousand, except where rounding to the nearest ten, nearest one hundred, or the nearest 500 was more informative given the context. This rounding process may also result in some parts not adding up precisely to the total.

Our data sources were:

- **State prisons:** Bureau of Justice Statistics, Prisoners in 2022 — Statistical Tables Table 1 provides the total population as of December 31, 2022, and Table 16 provides data (as of December 31, 2021) that we use to calculate the ratio of different offense types.
- **Jails:** Bureau of Justice Statistics, Jail Inmates in 2022 — Statistical Tables Table 1 and Table 5, reporting average daily population and convicted status for midyear 2021, and our analysis of the Survey of Inmates in Local Jails, 2002.⁽⁴³⁾
- **Federal:**
 - **Bureau of Prisons:** Federal Bureau of Prisons (BOP) Population Statistics, reporting data as of January 18, 2024 (total population of 156,845), and Prisoners in 2022 — Statistical Tables Table 19, reporting data as of September 30, 2022 (we applied the percentage distribution of offense types from that table to the 2024 BOP population).
 - **U.S. Marshals Service** provided its most recent estimated population count (60,439) in a February 2023 response to our FOIA request, reporting the projected average daily population for fiscal year 2023.

The same response also provided a more detailed breakdown of this population by facility and offense type. The numbers of people held in federal detention centers (9,445), in directly-contracted private facilities (6,731), in non-paid facilities (17), and in all state, local, and indirectly-contracted (“pass thru”) facilities with Intergovernmental Service Agreements (IGAs) combined (44,246) came from the FOIA response. To determine how many people held in facilities with IGAs were held in local jails specifically (33,900, which includes an unknown portion of indirectly-contracted “pass thru” jails), we turned to Table 8 Jail Inmates in 2021 — Statistical Tables Table 8, reporting data as of June 30, 2021. The remainder of those in IGAs (10,346) were held in state facilities and other indirectly-contracted (“pass thru”) facilities (most of which are private), but the available data make it impossible to disaggregate those

two groups.

We created our own estimated offense breakdown by applying the ratios of reported offense types (excluding the vague “other new offense” and “writs, holds & transfers” categories”) to the total average daily population in 2023. (For those interested in the raw data including those categories, see page 9 of the [2023 FOIA response](#).) ↗

- **Youth:** Office of Juvenile Justice and Delinquency Prevention, [Easy Access to the Census of Juveniles in Residential Placement \(EZACJRP\)](#), reporting total population and facility data for October 27, 2021. Our data on youth incarcerated in adult prisons comes from [Prisoners in 2022 — Statistical Tables Table 15](#), reporting data for December 31, 2022, and youth in adult jails from [Jail Inmates in 2022 — Statistical Tables Table 2](#), reporting data for the last weekday in June 2022. The number of youth reported in Indian Country facilities comes from the Bureau of Justice Statistics report [Jails in Indian Country, 2022 Table 6](#), also reporting data for the last weekday in June, 2022. For more information on the geography of the juvenile system, see the [No Kids in Prison campaign](#).
- **Immigration detention:** The average daily population of 38,182 in Immigration and Customs Enforcement (ICE) detention comes from ICE’s [FY 2024 ICE Statistics spreadsheet](#) as of January 12, 2024. The count of 8,042 youth in Office of Refugee Resettlement (ORR) custody comes from the Unaccompanied Alien Children (UAC) Program [Fact Sheet](#), reporting the population as of January 19, 2024. Our estimates of how many ICE detainees are held in federal, private, and local facilities come from our analysis of the same ICE FY 2024 ICE Statistics Spreadsheet. Ten percent were in federal ICE/BOP facilities (which we defined as Service Processing Centers, Staging facilities, and BOP detention centers); 78% in private contract facilities (including Contract Detention Facilities for ICE and U.S. Marshals Service and Dedicated Intergovernmental Service Agreements); and 11% in city and county-operated jails (including Intergovernmental Service Agreements for ICE and U.S. Marshals Service).
- Criminal legal system-related involuntary commitment:
 - **State psychiatric hospitals** (people committed to state psychiatric hospitals by courts after being found “not guilty by reason of insanity” (NGRI) or, in some states, “guilty but mentally ill” (GBMI) and others held for pretrial evaluation or for treatment as “incompetent to stand trial” (IST)): The total number (18,948) is from the Treatment Advocacy Center’s 2024 report [Prevention over Punishment](#), reporting findings from their 2023 survey. In past years, we used an older source that offered a breakdown by the status of these “forensic” patients; the TAC report does not provide such a breakdown. Also, it’s important to note that this is not a complete view of all involuntary commitments, many of which have nothing to do with underlying criminal charges or convictions.

- **Civil detention and commitment:** (At least 20 states and the federal government operate facilities for the purposes of detaining people convicted of sex-related crimes after their sentences are complete. These facilities and the confinement there are technically civil, but in reality are quite like prisons. People under civil commitment are held in custody continuously from the time they start serving their sentence at a correctional facility through their confinement in the civil facility.) The civil commitment counts come from an annual survey conducted by the Sex Offender Civil Commitment Programs Network shared by SOCCPN President Shan Jumper. Counts for most states are from the 2023 survey, but for states that did not participate in 2023, we included the most recent figures available: California’s count is as of 2022; Nebraska’s is from 2018; South Carolina’s is from 2021; and the federal Bureau of Prisons’ count is from 2017.
- **Territorial prisons** (correctional facilities in the U.S. Territories of American Samoa, Guam, and the U.S. Virgin Islands, and U.S. Commonwealths of the Northern Mariana Islands and Puerto Rico): Prisoners in 2022 — Statistical Tables Table 25, reporting data for December 31, 2022.
- **Indian country jails** (correctional facilities operated by tribal authorities or the U.S. Department of the Interior’s Bureau of Indian Affairs): Jails in Indian Country, 2022 Table 1, reporting the population as of the last weekday in June, 2022.
- **Military:** Prisoners in 2021 — Statistical Tables Tables 23 (for total population) and 24 (for offense types) reporting data as of December 31, 2021.
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- **Probation and parole:** Our counts of the number of people on probation and parole are based on the Bureau of Justice Statistics report Correctional Populations in the United States, 2021 — Statistical Tables Table 1, reporting data for December 31, 2021. We adjusted these totals to ensure that people with multiple statuses (e.g., people on probation who were also held in jails) were counted only once in their most restrictive category, using published data on people with dual statuses in Table 11 of the same report. Because the incarcerated population grew significantly between 2021 and 2022, and we know of no reason that the probation and parole populations wouldn’t have grown at similar rates, we then calculated updated estimates for these categories based on their proportions to one another in 2021 (34% incarcerated, 52% on probation, and 14% on parole). We applied those percentages to our updated total number incarcerated to estimate roughly 2,991,000 on probation and 798,000 on parole in 2022. For readers interested in knowing the total number of people on parole and probation, ignoring any double-counting with other forms of correctional control, there were 803,200 people on parole and 2,963,000 people on probation as of December 31, 2021. (A 2022 update of these numbers is anticipated from the Bureau of Justice Statistics in the first quarter of 2024, but this was not published as of this report’s publication date.)
↗

- **Private facilities:** Except for local jails (which we will explain in the “Adjustments to avoid double counting” section below), our identification of the number of people held in private facilities was as follows:
 - For state prisons, the number of people in private prisons came from Table 14 in Prisoners in 2022 — Statistical Tables.
 - For the Federal Bureau of Prisons, we calculated the percentage of the total BOP population (9%) that were held in Residential Reentry Centers (halfway houses) or in home confinement as of January 18, 2024, according to the Bureau of Prisons “Population Statistics.” We then applied that percentage to our total convicted BOP population (removing the 9,445 people held in 12 BOP detention centers being held for the U.S. Marshals Service) to estimate the number of people serving a sentence in a privately-operated setting for the BOP. We chose this method instead of using the number published in Table 14 of Prisoners in 2022 — Statistical Tables because as of 2023, the BOP no longer places sentenced people in private prisons. The inclusion of Residential Reentry Centers and home confinement in our definition of “private” facilities is consistent with the definition used by the Bureau of Justice Statistics in Table 14 of Prisoners in 2022 — Statistical Tables.
 - For the U.S. Marshals Service, we used the 2023 FOIA response reporting the projected average daily population for fiscal year 2023 as of February 12, 2023, including only those held in “private” (directly contracted) facilities. However, we note that an unknown portion of the 14,752 people held in indirectly-contracted (“pass thru”) facilities with Intergovernmental Service Agreements (IGAs) are also held in private facilities; the available data make it impossible to disaggregate these “pass thru” facilities according to status as private or public.
 - For youth, we used the 2021 Census of Juveniles in Residential Placement, which provides a breakdown of the number of youth held in publicly and privately operated facilities.
 - For immigration detention, we used the Facility Information provided in ICE’s FY 2024 ICE Statistics spreadsheet to calculate the number of people detained in facilities categorized as “CDF” (Contract Detention Facilities), “USMS CDF” (Contract Detention Facilities contracted by the U.S. Marshals Service), and “DIGSA” (privately owned and/or operated facilities contracted through Dedicated Intergovernmental Service Agreements for ICE use). ↗

Adjustments to avoid double counting

To avoid counting anyone twice, we performed the following adjustments:

- To avoid anyone in immigration detention being counted twice, we removed the 11% (4,383) of the Immigration and Customs Enforcement (ICE) detained population that is held in local jails under Intergovernmental Service Agreement

contracts (IGSAs) from the total jail population. We removed 23.2% of these ICE detainees from the jail convicted population and the balance from the unconvicted population. We based these percentages on the breakdown by criminal status of the ICE “currently detained” population as of January 12, 2024 in the ICE Detention Statistics spreadsheet, counting “convicted criminal” as convicted and “pending criminal charges” and “other immigration violator” as unconvicted.

- To avoid anyone in local jails on behalf of state or federal prison authorities from being counted twice, we removed the 65,573 people — reported in Table 14 of Prisoners in 2022 — Statistical Tables — confined in local jails on behalf of federal or state prison systems from the total jail population and from the numbers we calculated for those in local jails that are convicted. To avoid those being held by the U.S. Marshals Service from being counted twice, we removed from the jail total 32,300 Marshals detainees reported as held in local jails in Jail Inmates in 2022 — Statistical Tables Table 8. We removed 75.9% of these people held in jails for the Marshals Service from the jail convicted population, and the balance from the unconvicted jail population. We based these percentages on our analysis of the Profile of Jail Inmates, 2002. We are not aware of any more recent source breaking down the U.S. Marshals Service detained population by conviction status.
- Because we removed ICE detainees and people under the jurisdiction of federal and state authorities from the jail population, we had to recalculate the offense distribution reported in Profile of Jail Inmates, 2002 who were “convicted” or “not convicted,” excluding the people who reported that they were being held on behalf of state authorities, the Federal Bureau of Prisons, the U.S. Marshals Service, or U.S. Immigration and Customs Enforcement (ICE). Our definition of “convicted” was those who reported that they were “To serve a sentence in this jail,” “To await sentencing for an offense,” or “To await transfer to serve a sentence somewhere else.” Our definition of “not convicted” was “To stand trial for an offense,” “To await arraignment,” or “To await hearing for revocation of probation/parole or community release.”
- For our analysis of people held in private jails for local authorities, we applied the percentage of the total custody population held in private facilities in midyear 2019 (calculated from Table 20 of Census of Jails, 2005-2019) to our count of people held in jails for local authorities (550,244) in 2022, after making the adjustments described in this section. ↗
- **Our graph of the racial and ethnic disparities** in correctional facilities (as shown in Slideshow 6) uses the only data source that has data for all types of adult correctional facilities: the U.S. Census. We used the American Community Survey 2022 1-Year Estimates table S2603 and represented the four named racial and ethnic groups that account for at least 2%, nationally, of the population in adult correctional facilities. Not included on the graphic are Asian people, who make up 0.9% of the correctional population, Native Hawaiians and Other Pacific Islanders, who make up 0.3%, people reporting “Some other race,” who account for 7%, and those of “Two or more races,” who make up

12.4% of the total national correctional population.

- Note that because Latinos may be of any race and because of how the Census Bureau published race and ethnicity data in the relevant table, we used the Census data for “White alone, Not Hispanic or Latino” for white people, but the Census Bureau’s data for “Black or African American” and “American Indian and Alaska Native” people may include people who identify as both that race and Latino. ↗

How to link to specific images and sections

To help readers link to specific images in this report, we created these special urls:

How many people are locked up in the United States?

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow1/1>

1 in 3 people behind bars is in a jail. Most have yet to be tried in court.

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow1/2>

Despite reforms, drug offenses are still a defining characteristic of the federal system

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow1/3>

Beyond “federal prison,” multiple agencies and thousands of local facilities confine people for the federal government

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow1/4>

Pretrial Detention

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow2/1>

Pretrial policies drive jail growth

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow2/2>

Why are so many people detained in jails before trial? They’re not wealthy enough to afford money bail.

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow2/3>

1 in 3 people behind bars is in a jail. Most have yet to be tried in court

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow2/4>

Only 8% of confined people are held in private prisons

https://www.prisonpolicy.org/reports/pie2024.html#private_facilities

1 in 5 incarcerated people is locked up for a drug offense

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow3/1>

Police make over a million drug possession arrests each year

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow3/2>

Some states have largely ended the War on Drugs. Other states, not so much.

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow3/3>

Most states track and publish just one measure of post-release recidivism

<https://www.prisonpolicy.org/reports/pie2024.html#releaserecidivism>

Very few states track and publish any recidivism data for people on probation

<https://www.prisonpolicy.org/reports/pie2024.html#probationrecidivism>

Contrary to myth, people incarcerated for violent offenses and released are least likely to be arrested again

<https://www.prisonpolicy.org/reports/pie2024.html#rearrests>

U.S. crime rates continue to fall, and preliminary data indicate crime likely hit a 60-year low in 2023

<https://www.prisonpolicy.org/reports/pie2024.html#crimerates>

What do victims of violent crimes really want?

<https://www.prisonpolicy.org/reports/pie2024.html#victimswant>

In jails, the most effective treatment options are the least accessible for people with opioid use disorder

<https://www.prisonpolicy.org/reports/pie2024.html#jailtreatment>

Non-criminal (or “technical”) violations are the main reason for incarceration of people on probation and parole

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow4/1>

The growth of electronic monitoring for the criminal legal and immigration systems, 2015-2022

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow4/2>

Electronic monitoring doesn't reduce jail populations

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow4/3>

Most confined youth are held for non-person offenses, and 1 in 3 is held for an act that is not a “crime” at all

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow5/1>

More than 1 in 3 people in state prison were first arrested before their 16th birthday

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow5/2>

Almost 65,000 people are confined for immigration reasons

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow5/3>

Psychiatric facilities confine 25,000 people every day for criminal legal system involvement

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow5/4>

Most people in Indian Country jails are locked up for property, drug, and public order charges

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow5/5>

The rapid expansion of ICE's electronic monitoring program

<https://www.prisonpolicy.org/reports/pie2024.html#iceexpansion>

Mass incarceration directly impacts millions of people: But just how many, and in what ways?

<https://www.prisonpolicy.org/reports/pie2024.html#impacted>

Incarceration is just one piece of the much larger system of correctional control

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow6/1>

Racial and ethnic disparities in correctional facilities

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow6/2>

How many women are locked up in the United States?

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow6/3>

Most people in prison are poor, and the poorest are women and people of color

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow6/4>

Many people in state prisons grew up facing serious family, housing, economic, and educational challenges

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow6/5>

The youngest and oldest people in prison

<https://www.prisonpolicy.org/reports/pie2024.html#slideshows/slideshow6/6>

To help readers link to specific report sections or paragraphs, we created these special urls:

Jails vs. prisons: What's the difference?

<https://www.prisonpolicy.org/reports/pie2024.html#jailsvprisons>

Ten myths about mass incarceration

<https://www.prisonpolicy.org/reports/pie2024.html#myths>

Offense categories might not mean what you think

<https://www.prisonpolicy.org/reports/pie2024.html#offensecategories>

The first myth: Private prisons are the corrupt heart of mass incarceration

<https://www.prisonpolicy.org/reports/pie2024.html#firstmyth>

The second myth: Prisons are “factories behind fences” that exist to provide companies with a huge slave labor force

<https://www.prisonpolicy.org/reports/pie2024.html#secondmyth>

The third myth: Releasing “nonviolent drug offenders” would end mass

incarceration

<https://www.prisonpolicy.org/reports/pie2024.html#thirdmyth>

The fourth myth: By definition, “violent crime” involves physical harm

<https://www.prisonpolicy.org/reports/pie2024.html#fourthmyth>

The fifth myth: People in prison for violent or sexual crimes are too dangerous to be released

<https://www.prisonpolicy.org/reports/pie2024.html#fifthmyth>

Recidivism: A slippery statistic

https://www.prisonpolicy.org/reports/pie2024.html#recidivism_measures

The sixth myth: Reforming the criminal legal system leads to more crime

<https://www.prisonpolicy.org/reports/pie2024.html#sixthmyth>

The seventh myth: Harsh punishments deter crime, making us safer

<https://www.prisonpolicy.org/reports/pie2024.html#seventhmyth>

The eighth myth: Crime victims support long prison sentences

<https://www.prisonpolicy.org/reports/pie2024.html#eighthmyth>

The ninth myth: Some people need to go to jail to get treatment and services

<https://www.prisonpolicy.org/reports/pie2024.html#ninthmyth>

The tenth myth: Expanding community supervision is the best way to reduce incarceration

<https://www.prisonpolicy.org/reports/pie2024.html#tenthmyth>

The high costs of low-level offenses

<https://www.prisonpolicy.org/reports/pie2024.html#lowlevel>

Probation & parole violations and “holds” lead to unnecessary incarceration

<https://www.prisonpolicy.org/reports/pie2024.html#holds>

Misdemeanors: Minor offenses with major consequences

<https://www.prisonpolicy.org/reports/pie2024.html#misdemeanors>

“Low-level fugitives” live in fear of incarceration for missed court dates and unpaid fines

<https://www.prisonpolicy.org/reports/pie2024.html#benchwarrants>

Lessons from the smaller “slices”: Youth, immigration, and involuntary commitment

<https://www.prisonpolicy.org/reports/pie2024.html#smallerslices>

Beyond the “Whole Pie”: Community supervision, poverty, age, and race and gender disparities

<https://www.prisonpolicy.org/reports/pie2024.html#community>

Each paragraph is also numbered, so you can use urls in this format:

<https://www.prisonpolicy.org/reports/pie2024.html#paragraph1>

<https://www.prisonpolicy.org/reports/pie2024.html#paragraph2>

<https://www.prisonpolicy.org/reports/pie2024.html#paragraph3>

etc...

Acknowledgments

All Prison Policy Initiative reports are collaborative endeavors, but this report builds

on the successful collaborations of the several versions of this report we have produced since 2014. For this year's report, the authors are particularly indebted to Shan Jumper for sharing updated civil detention and commitment data, Brian Nam-Sonenstein and Emily Widra for research and editing support, and Ed Epping for help with one of the visuals. However, any errors or omissions, and final responsibility for all of the many value judgements required to produce a data visualization like this, are the sole responsibility of the authors.

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About the authors

Wendy Sawyer is the Research Director at the Prison Policy Initiative. Along with directing the organization's research priorities, Wendy is the author (or co-author) of several major reports, including *Women's Mass Incarceration: The Whole Pie*, *Beyond the Count: A deep dive into state prison populations*, *All Profit, No Risk: How the bail industry exploits the justice system* and *Arrest, Release, Repeat: How police and jails are misused to respond to social problems*. Wendy also frequently publishes briefings on recent data releases, academic research, women's incarceration, pretrial detention, probation, and more.

Peter Wagner is an attorney and the Executive Director of the Prison Policy Initiative. He co-founded the Prison Policy Initiative in 2001 in order to spark a national discussion about mass incarceration.

About the Prison Policy Initiative

The non-profit, non-partisan Prison Policy Initiative was founded in 2001 to expose the broader harm of mass criminalization and spark advocacy campaigns to create a more just society. Alongside reports like this that help the public more fully engage in criminal legal system reform, the organization leads the nation's fight to keep the prison system from exerting undue influence on the political process (a.k.a. prison gerrymandering) and has helped to protect the families of incarcerated people from the predatory prison and jail telephone industry and the video visitation industry.

Footnotes

1. The number of state facilities is from the Census of State and Federal Adult Correctional Facilities, 2019 (the private adult facilities are also included in this number); the number of federal facilities is from the

list of prison locations on the Bureau of Prisons website (as of January 11, 2024); the number of youth facilities is from the Juvenile Residential Facility Census Databook (2020); the number of jails from Census of Jails 2005-2019 (counting facilities,

- not jurisdictions); the number of immigration detention facilities from Immigration and Customs Enforcement's Dedicated and Non Dedicated Facility List (as of January 2, 2024); and the number of Indian Country jails from Jails in Indian Country, 2022. In addition to these larger systems of confinement, people are incarcerated in 41 prisons in U.S. territories, according to the World Prison Brief (accessed January 24, 2024), and in 36 military prisons, according to a December 2022 GAO report to Congressional Committees (page 5). We aren't currently aware of a good source of data on the number of facilities that hold people involuntarily committed to civil commitment centers or psychiatric facilities due to underlying criminal charges or convictions. ↵
2. This is undoubtedly a low estimate, as it does not capture the costs of all facilities included in this "whole pie," and there are several significant types of expenses for which we could not create reliable national estimates, such as fines and fees. Moreover, many costs, such as those related to correctional health care, have also increased since we published the report. For more information including our methodology for calculating the \$182 billion figure, see our 2017 report Following the Money of Mass Incarceration. ↵
 3. This is not the only lens through which we should think about mass incarceration, of course. For instance, while this view of the data shows clearly *which government agencies* are most central to mass incarceration and *which criminalized behaviors* (or "offenses") result in the most incarceration on a given day, at least some of the same data could instead be presented to emphasize the well-documented *racial and economic disparities* that characterize mass incarceration. It would be impossible to present all possible "views" of mass incarceration in one report, but we encourage readers to take inspiration from our approach here to create further "big picture" analyses that can help people better understand mass incarceration, its harms, and how to end it. ↵
 4. The number of annual jail admissions includes multiple admissions of some individuals; it does not mean 7 million unique individuals cycling through jails in a year. In a presentation, The Importance of Successful Reentry to Jail Population Growth [PowerPoint] given at The Jail Reentry Roundtable, Bureau of Justice Statistics statistician Allen Beck estimated that of the 12-12.6 million jail admissions in 2004-2005, 9 million were unique individuals. More recently, we analyzed the 2017 National Survey on Drug Use and Health, which includes questions about whether respondents have been booked into jail; from this source, we estimated that of the 10.6 million jail admissions in 2017, at least 4.9 million were unique individuals. ↵
 5. Prison and jail admissions were dramatically impacted by the COVID-19 pandemic. State and federal prison admissions dropped 40% in the first year of the pandemic (2020), and by June 2021, jail admissions were down 33% compared to the 12 months ending in June 2019. Before 2020, the number of annual jail admissions was consistently 10 million or more. Because these declines were not generally due to permanent policy changes, we expect that the number of prison and jail admissions will return to pre-pandemic levels as cases that were delayed for pandemic-related reasons work their way through the court system. ↵
 6. The local jail population in the main pie chart (550,244) reflects only the population under local jurisdiction; it excludes the people being held in jails for other state and federal agencies. The population under local jurisdiction is smaller than the population (652,500) physically located in jails on an average day in 2022, often called the custody population. (For this distinction, see the second image in the first slideshow above.) ↵
 7. The federal government defines the hierarchy of offenses with felonies higher than misdemeanors. And "[w]ithin these levels, ... the hierarchy from most to least serious is as follows: homicide, rape/other sexual assault, robbery, aggravated assault, burglary, larceny/motor vehicle theft, fraud, drug trafficking, drug possession, weapons offense, driving under the influence, other public-order, and other." See page 13 of Recidivism of Prisoners Released in 1994. ↵
 8. The felony murder rule has also been applied when the person who died was a participant in the crime. For example, in some jurisdictions, if one of the bank robbers is killed by the police during a chase, the surviving bank robbers can be convicted of felony murder of their colleague. For example, see *People v. Hudson*, 222 Ill. 2d 392 (Ill. 2006) and *People v. Klebanowski*, 221 Ill. 2d 538 (Ill. 2006). According to a New York Times article, the U.S. is currently the only country still using the felony murder rule; other British common law countries abolished it years ago. A small but growing number of states have abolished it at the state level. ↵
 9. For an explanation of how we calculated this, see "private facilities" in the Methodology. For those interested in how many facilities are privately operated, in 2019 (the most recent year for which we have data) only 445 (9%) of the 4,793 prisons and jails in the U.S. were privately operated. ↵
 10. At yearend 2022, five states held more than 20% of those incarcerated under the state prison system's jurisdiction in local jail facilities: Louisiana (53%), Kentucky (47%), Mississippi (33%), Utah (26%), and Tennessee (20%). For more on how renting jail space to other agencies skews priorities and fuels jail expansion, see the second part of our report Era of Mass Expansion. ↵
 11. According to the most recent National Correctional Industries Association survey that is publicly available, an average of 6% of all people incarcerated in state prisons work in state-owned prison industries. However, the portion of incarcerated people working in these jobs ranges from 1% (in Connecticut) to 18% (in Minnesota).

For a description of other kinds of prison work assignments, see [our 2017 analysis](#). ↩

12. In 2022, a [report](#) by the ACLU and the University of Chicago Law School Global Human Rights Clinic found that very little has changed since then: Using a similar methodology, they found that prisons paid incarcerated workers a minimum average hourly wage of 13 cents and a maximum of 52 cents. ↩
13. In 2020, there were 1,155,610 drug arrests in the U.S., the vast majority of which (86.7%) were for drug possession or use rather than for sale or manufacturing. See [Crime in the United States Annual Reports, 2020, “Persons Arrested” Table 29 and the Arrests for Drug Abuse Violations table](#) (available for [download here](#)). In 2021, the FBI (which aggregates these data from local law enforcement agencies) began requiring all agencies to report data using the NIBRS system, and no longer accepted reporting through the Unified Crime Reporting program. While this switch was planned years in advance, this resulted in “[a massive gap in information](#),” as almost 40% of agencies submitted no data in 2021, including those in large cities like New York and Los Angeles. Therefore, crime and arrest data from 2021 are less reliable than past years. For that reason, we caution against relying on the national arrest data from 2021. In 2022, the FBI accepted data through both the old and new systems, so 2022 data cover more jurisdictions than 2021; still, in 10 states (including large states like Florida, Illinois, and Georgia) less than 60% of law enforcement agencies submitted data. ↩
14. Despite this evidence, people convicted of violent offenses often face decades of incarceration, and those convicted of sexual offenses can be [committed to indefinite confinement](#) or [stigmatized by sex offender registries](#) long after completing their sentences. ↩
15. Using the FBI’s [Crime Data Explorer](#), we estimated 2023 data based on the reported percent change in crime rates between the first nine months of 2022 and the first nine months of 2023 and found significant decreases in violent crime (8.2%), property crime (6.3%) and all Index crime (6.6%). However, 2023 data should be considered preliminary until annual crime data are reported later this year. ↩
16. In 14 states, the prison population grew by 5% or more in 2022, with just nine states (mostly in the South) and the federal Bureau of Prisons accounting for 91% of all prison growth nationwide. Local jail populations grew at an even faster pace than prisons in 2022; jails held 4% more people at the end of June 2022 than at the end of June 2021. In both cases, these increases were driven by changes in admissions more than anything else. ↩
17. Prison populations were the lowest they’d been in decades during the first years of the pandemic, but not because officials released more people (in fact, [they released fewer than before the pandemic](#)). In reality, prison admissions fell sharply: there were 40% fewer admissions in 2020 and 27% fewer in 2021 than in 2019 due to declines in most types of crime, court delays, and temporary suspensions of transfers from local jails. Releases were the rare exception, not the rule. Even parole boards failed to use their existing authority to release more parole-eligible people. ↩
18. The [linked 2022 study](#) found that a smaller portion of cities with “progressive” prosecutors saw increases in homicides compared to cities with “traditional” prosecutors (56% versus 68%) between 2015 and 2019, and the relative increase in homicides was lower in places with “progressive” prosecutors than those with “traditional” prosecutors (43% versus 55%). [Another study](#) by the Thurgood Marshall Institute at the Legal Defense Fund found no significant difference in pandemic-era increases in homicides between cities with “progressive” versus “traditional” prosecutors. ↩
19. Although they’ve failed to deter crime, long sentences have accomplished a barbaric rise in the [incarceration of elderly people](#). Older people make up five times as much of the prison population as they did three decades ago: from 3% of the prison population in 1991 to 15% in 2021. This growth is seen even more acutely when looking at people serving life sentences: by 2020, 30% of people serving life sentences were at least 55 years old, with more than 61,400 older adults sentenced to die in prison. ↩
20. In its [Defining Violence](#) report, the Justice Policy Institute cites earlier surveys that found similar preferences. These include the 1997 [Iowa Crime Victimization Survey](#), in which burglary victims “voiced stronger support for approaches that rely less on incarceration, such as community service (75.7%), regular probation (68.6%), treatment and rehabilitation (53.5%), and intensive probation (43.7%)” and the 2013 first-ever [Survey of California Crime Victims and Survivors](#), in which “seven in 10 victims supported directing resources to crime prevention versus towards incarceration (a five-to-one margin).” In a 2019 update to that survey, 75% of victims “support reducing prison terms by 20% for people in prison that are a low risk to public safety and do not have life sentences” and using the savings to fund crime prevention and rehabilitation. ↩
21. Many people convicted of violent offenses have been chronically exposed to neighborhood and interpersonal violence or trauma as children and into adulthood. As the Square One Project explains, “Rather than violence being a behavioral tendency among a guilty few who harm the innocent, people convicted of violent crimes have lived in social contexts in which violence is likely. Often growing up in poor communities in which rates of street crime are high, and in chaotic homes which can be risky settings for children, justice-involved people can be swept into violence as victims and witnesses. From this perspective, the violent offender may have caused serious harm, but is likely to have suffered serious harm as well.” Our report [Reforms Without](#)

Results summarizes research findings that bear this out. ↵

22. Prisons are also entirely failing to provide people with adequate treatment. 43% of people in state prisons have a diagnosed mental disorder, yet at any given time, only an estimated 6% of people in state prisons are receiving professional help. And while half of people in state prisons had a substance use disorder in the year before their admission to prison, only 10% report having received any clinical treatment while incarcerated. ↵
23. Even the most common parole and probation conditions are often stifling for those reentering society. In many states, for example, “association restrictions” prohibit interactions between people on supervision and large swaths of the population, such as those with felony convictions or others on probation or parole. As a result, people must steer clear of certain places altogether, producing a complex web of prohibited activities and relationships that make it even harder to find housing and work, arrange for transportation, participate in treatment programs, or otherwise succeed in reentry. ↵
24. A Community Spring program known as Just Income, which is led by formerly incarcerated people, offers a new way to understand these experiences through a simulator they designed called “ReEntry: A Look at the Journey Back to Life.” ↵
25. According to the most recent data available — Appendix Table 7 in the Bureau of Justice Statistics report Probation and Parole in the United States, 2021 — 73,310 adults exited probation to incarceration under their current sentence; Appendix Table 11 shows 54,572 adults were returned to incarceration from parole with a revocation. The number of people incarcerated for non-criminal violations may be much higher, however, since almost 35,000 people exiting probation and parole to incarceration did so for “other/unknown” reasons. ↵
26. Electronic monitoring restricts people’s ability to leave their homes, subjecting them to extremely long and complicated approval processes for job interviews and denying them the flexibility required to work in food service, waste management, construction, and other industries. They are frequently denied permission to go to the doctor or the pharmacy to fill prescriptions. A survey of people subjected to monitoring by ICE found that an astonishing 90% of people on electronic monitoring experienced harm to their physical health, including open sores and even electrical shocks. Many people report depressive and even suicidal thoughts from the stigma and isolation of wearing a monitor. To make matters worse, the technology can trigger relapse for those managing addiction, potentially leading to new offenses, overdose, and even death. Families and, overwhelmingly, Black and Brown communities endure these harms alongside the people on electronic monitoring, as the practice impedes participation in childcare, key family events such as child birth or funerals. Some have also noted the technology has been deployed to undermine participation in social justice movements. ↵
27. While some of this expansion has taken place in reaction to the pandemic, the Vera Institute of Justice also notes that evolving technology is driving increasing electronic monitoring usage. Their report points out that the use of GPS devices increased thirty-fold between 2005 and 2021. Advancing technology has also increased the use of programs like cell phone apps designed to track and monitor people under supervision, which has allowed for rapid expansion of electronic monitoring and raised new areas of concern, such as the potential for highly personal data to be shared and compromised. ↵
28. For example, in Los Angeles County between 2015 and 2021, 94% of people on EM who did not successfully complete electronic monitoring were sent back to jail for technical violations rather than for a new arrest. ↵
29. A medical journal article also includes in this group people with developmental disabilities, dementia, and other forms of cognitive impairment. ↵
30. In 2021, more than half (58%) of juvenile status offense cases were for truancy. Twelve percent were for running away, 9% were for being “ungovernable,” 11% were for underage liquor law violations, and 4% were for breaking curfew (the remaining 7% were petitioned for “miscellaneous” offenses). ↵
31. As of 2016, nearly 9 out of 10 people incarcerated for immigration offenses by the Federal Bureau of Prisons were there for illegal entry and reentry. We know of no newer source of detailed information about these offenses. ↵
32. People detained by ICE because they are facing “removal proceedings” and “removal” include longtime permanent residents, authorized foreign workers, and students, as well as those who have crossed U.S. borders. ↵
33. It’s worth noting that the significant drop in immigration detention during the first two years of the COVID-19 pandemic was not the result of reforms; it had more to do with litigation and court orders that forced some releases, the use of public health law Title 42 to shut asylum seekers out at the border, and pandemic-related staffing issues at both ICE and Customs and Border Patrol. ↵
34. This program imposes electronic monitoring — whether through GPS ankle monitor, a mobile phone-based app, or other new technologies — on individuals with little or no criminal history, and has expanded from 23,000 people under active surveillance in 2014 to more than 293,000 people in February of 2023. The Transactional Records Access Clearinghouse (TRAC) provides frequently-updated data and analysis on this program, and many other aspects of immigration detention. ↵

35. Most children in ORR custody are held in shelters. A small number are in secure juvenile facilities or in short-term or long-term foster care. With the exception of those in foster homes, these children are not free to come and go, and they do not participate in community life (e.g. they do not attend community schools). Their behaviors and interactions are monitored and recorded; any information gathered about them in ORR custody can be used against them later in immigration proceedings. And while the majority of these children came to the U.S. without a parent or legal guardian, those who were separated from parents at the border are, like ICE detainees, confined only because the U.S. has criminalized unauthorized immigration, even by persons lawfully seeking asylum. ↩
36. People committed to state psychiatric facilities in the course of criminal legal proceedings are typically called “forensic” patients. Forensic patients are just one portion of the total number of people civilly committed or detained in psychiatric facilities on a given day; according to a recent Treatment Advocacy Center report, forensic patients occupied more than half (52%) of available state psychiatric beds nationwide in 2023. Government agencies do not publish accessible, transparent data on the fuller picture of civil commitments (i.e., outside of those charged or convicted of criminal offenses), as the authors of this 2020 report helpfully detail. ↩
37. “Civil commitment” has a specific, somewhat euphemistic, meaning in the criminal legal context, but is used much more broadly outside of that context. Here, “civil commitment” refers to the involuntary commitment of people convicted of sex-related crimes after completing their prison sentences. While this is not part of their sentences (and therefore “civil”), these individuals are unquestionably there because of their criminal convictions. For more information, see our 2023 briefing What is civil commitment? ↩
38. The Treatment Advocacy Center reports that “[Not Guilty by Reason of Insanity] patients also sometimes remain in the hospital years longer than they would have been held in prison for the same crime if they did not have a mental illness. ... [I]n our survey, Tennessee and Wisconsin said explicitly that NGRI patients often stay in the state hospitals for life.” ↩
39. While we have yet to find a national estimate of how many people are civilly committed in prisons, jails, or other facilities for involuntary drug treatment on a given day, and therefore cannot include them in our “whole pie” snapshot of confined populations, Massachusetts reportedly commits over 6,000 people each year under its provision, Section 35. According to Prisoners’ Legal Services of Massachusetts, “Due to insufficient capacity at treatment facilities, 3 out of 4 Section 35 beds are in correctional facilities.” ↩
40. Our report on the pre-incarceration incomes of those imprisoned in state prisons, Prisons of Poverty: Uncovering the pre-incarceration incomes of the imprisoned, found that, in 2014 dollars, incarcerated people had a median annual income that is 41% less than non-incarcerated people of similar ages. Our analysis of similar jail data in Detaining the Poor: How money bail perpetuates an endless cycle of poverty and jail time found that people in jail have even lower incomes, with a median annual income that is 54% less than non-incarcerated people of similar ages. ↩
41. Even outside of prisons and jails, the elaborate system of criminal legal system finest and fees feeds a cycle of poverty and punishment for many poor Americans. ↩
42. The data we collected in 12 state-specific reports emphasized what we already know: Communities missing the most residents to incarceration are often disproportionately low-income, communities of color, under-resourced and overpoliced. For example, in Los Angeles, the 14 neighborhoods with the highest imprisonment rates are all clustered in South Central Los Angeles — a predominately Black and Latino region of the city with a median income far below the city average. ↩
43. This is the most recent data available until the Bureau of Justice Statistics begins administering the next Survey of Inmates in Local Jails, last scheduled for 2024 (the status of this survey is uncertain as of this publication date). ↩