

Mass Incarceration in Nebraska:

Data and Historical Analysis of Inmates from 1980-2020

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by

Anna Krause

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Under the Supervision of Dr. Kenneth J. Winkle and Dr. Mohammad Rashedul Hasan

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Abstract

This study examines Nebraska Department of Corrections inmate data from 1980-2020, looking specifically at inmate demographics and offense trends. State-of-the-art data analysis is conducted to collect, modify, and visualize the data sources. Inmates are organized by each decade they were incarcerated within. The current active prison population is also examined in their own research group. The demographic and offense trends are compared previous local and national research. Historical context is given for evolving trends in offenses. Solutions for Nebraska prison overcrowding are presented from various interest groups. This study aims to enlighten all interested Nebraskans on who inhabits their prisons, why those individuals are incarcerated, and how the overcrowding emergency is currently being solved.

Key Words: Mass Incarceration, History, Computer Science, Data Analysis, Digital Humanities

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Introduction

The State of Nebraska currently stands as the second most overcrowded prison system in the United States and holds 1,800 more inmates than it was originally designed to house.¹ On July 1st, 2020, a prison overcrowding emergency was officially declared. The declaration was part of a law passed in 2015 that stated if Nebraska prisons exceeded 140% capacity, an automatic overcrowding emergency would be declared on July 1st, 2020.² In 2020, the prisons were operating at around 151% of their design capacity. The American Civil Liberties Union (ACLU) reports that one in ten Nebraska children grow up with a parent being incarcerated at some point in their lives.³ Within the late 2010s, other states with overcrowding issues seemed to resolve their situations. However, Nebraska has failed to reduce its overcrowding issues, which detracts inmates' quality of life and Nebraska taxpayers' pockets. Yet, questions still remain as to who is incarcerated within The Nebraska Department of Correctional Services (NDCS). How has the inmate population changed over time in regard to individuals' demographics and offenses committed? How do these findings relate to national incarceration trends? What solutions has the state offered to combat the grave issue of facility overcrowding? This study aims to answer all of these questions through state-of-the-art data analysis of the inmate population, comparison with national incarceration trends with their historical context, and potential solutions to overcrowding.

¹ Hammel, "Nebraska Moves Forward with Plan for New \$230 Million Prison to Relieve Overcrowding."

² Hammel, "Prison Overcrowding Emergency Begins July 1 in Nebraska. Will Much Change?"

³ Holmquist and Eickholt, "The State House to Prison Pipeline."

Previous Research

The Nebraska Department of Correctional Services has provided their own publicly available inmate population summaries since 2007. These reports were submitted annually from 2007 to 2014, and quarterly since 2017.⁴ The Nebraska Department of Correctional Services houses their own research team to generate these documents. The annual reports included summaries of their correctional facilities, inmate programs, and the statistical breakdown of their inmates. They tracked the total number of inmates incarcerated and released within that fiscal year. The reports broke down inmates by both demographic information such as age, race, region, marital status, and by their offense's category. These annual reports were replaced with quarterly reports to more accurately display the evolving prison population and correctional programs' status. The quarterly reports still contain facility and inmate average daily population information but have a tighter focus on inmate clinical program enrollment and behavioral health diagnoses. These reports chart the average daily prison population by most serious offense type, but do not reflect specific sentencing information for inmates and their offenses. The quarterly reports also do not distinguish between recently arrested or older inmates. The NDCS' reports provide useful informatics to track inmates in areas they have a vested interest in but are not necessarily palatable to the general public.

The University of Nebraska at Omaha's Center for Public Affairs Research tracked the racial disparity in arrests from 2014-2019. They found a "significant disparity" in the racial composition of arrests and incarcerations.⁵ African Americans made up approximately 5% of Nebraska's population, but disproportionately represented 17-20% of arrests. The disparity was found to be even greater within the incarcerated population. African Americans made up 27.74%

⁴ "NDCS Reports."

⁵ "Racial and Ethnic Disparities in the Criminal Justice System in Nebraska."

of the incarcerated population. The University also found that Native American inmates accounted for 1% of the state population, but 3.23-3.59% of its prison population.⁶ African Americans were also less represented in probation classifications aimed to help reintroduce inmates into society. Across the board, African Americans were found to be unequally represented in the Nebraska Department of Correctional Services. However, the report did not distinguish racial disparity among different offenses nor the average sentencing for inmates of different races incarcerated for the same crime. Researchers suggested that future study should focus on racial disparity within incarceration sentencing. The study recognized that future research remains difficult because Nebraska lacks a standardized source of criminal justice data. Racial disparity within the criminal justice system must be examined beyond arrest and incarceration rates. Contact with law enforcement, courts, and corrections should all be tracked and collected in a centralized format.

A research report from Nebraska Wesleyan University by Allison Walcker examined incarcerated individuals serving life sentences in Nebraska prisons. She highlighted the racial disparity among adult inmates serving life sentences. Black inmates accounted for 62% of the population, while White inmates only comprised 31%.⁷ She found that the number of individuals serving life sentences from national sources were largely overestimated. Walcker suggested that more in depth state-by-state reporting should take place to ensure a more accurate inmate count. She pushed for stronger state-wide inmate reporting and making their population's race composition available. Still, Walcker's research focused solely on inmates serving life sentences and was not expanded to the entire prison population.

⁶ "Racial and Ethnic Disparities in the Criminal Justice System in Nebraska."

⁷ Walcker, "Examining the Differences of 'Life' between Adults and Juveniles Incarcerated in Nebraska's Correctional Systems."

Data Source

The databases used in this study were acquired from the Nebraska Department of Correctional Services (NDCS) and were the primary resource for the statistical analysis portion of the project.⁸ They can be found on the NDCS' public records page on their website. The databases document all incarcerated persons in the state correctional facilities. Electronic data keeping began in the department in 1979 but took employees multiple years to transition. By 1985 the records were accurate reflections of those being incarcerated each year. The databases are continuously maintained by the Nebraska Department of Correctional Services.

The full inmate database version acquired in December 2020 includes both past and active inmates.⁹ It is composed of two record components. The first contains 72,954 inmates and their corresponding demographic information. It is made up of 31 columns and 72,955 rows. However, not all of the columns and rows are utilized in this study. Important demographic columns include the ID NUMBER given to inmates at the time of their incarceration, DATE OF BIRTH, RACE DESC, and GENDER. The FACILITY column tells where each inmate served their sentence. A limitation of this database is that if an inmate is released and incarcerated again, they are given a new id number. This makes tracking inmates that were incarcerated multiple times extremely difficult and therefore, not included in this study. The SENTENCE BEGIN DATE column tells when prisoners began their incarceration. The MIN TERM/YEAR and MAX/TERM YEAR columns are the minimum and maximum years of incarceration. These columns are particularly useful to measure the shifting population changes in the prison environment, as well as how minimum and maximum sentences differ between demographic groups. The birth dates and sentence start dates are key to further evaluating the aging active

⁸ "Download Inmate Database File."

⁹ "Download Inmate Database File."

prison population. Figure 1 shows some of the useful columns from the first component.

	ID NUMBER	DATE OF BIRTH	RACE DESC	GENDER	FACILITY	SENTENCE BEGIN DATE	MIN TERM/YEAR	MAX TERM/YEAR	INST RELEASE DATE	ACTIVE	SENTENCE BEGIN DATE DT	DATE OF BIRTH DT	SENTENCE BEGIN AGE	CURRENT AGE
0	27642	1955-05-18	BLACK	MALE	NaN	2015-12-01	90.0	95.0	2016-08-25	0	2015-12-01	1955-05-18	60.580822	65.816438
1	27739	1936-04-06	WHITE	MALE	NaN	1982-11-15	5.0	11.0	1986-07-23	0	1982-11-15	1936-04-06	46.641096	84.942466
2	28160	1953-01-22	WHITE	MALE	NaN	1981-06-09	1.0	5.0	1984-02-19	0	1981-06-09	1953-01-22	28.397260	68.134247
3	28350	1954-03-27	WHITE	MALE	NaN	1983-05-03	13.0	20.0	1992-03-22	0	1983-05-03	1954-03-27	29.120548	66.958904
4	28789	1938-05-28	WHITE	MALE	NaN	1987-04-03	4.0	15.0	1993-06-24	0	1987-04-03	1938-05-28	48.882192	82.800000

Figure 1. Example Columns from First Component of Full Dataset

The second component from the full inmate database houses 129,897 records about the inmates' single or multiple offenses.¹⁰ It is comprised of 13 columns and 129,898 rows, but not all of these are used. Individual inmates may be repeated within this database. Important records about the inmate's offenses include the OFFENSE MINIMUM YEAR OR TERM and OFFENSE MAXIMUM YEAR OR TERM columns, which describe the offense's minimum and maximum sentences. Both the inmate's and offense's minimum and maximum columns may include either the number of years, a life, death, or indeterminate sentence value. The FELONY MSDMNR CODE column tells if the offense is a felony or misdemeanor with a specific distinction. The OFFENSE TYPE CODE column shows a * value if it is the offense the inmate was incarcerated for. Other values such as A, B, C, D are subsequent offenses the inmate was imprisoned for. The OFFENSE ATTEMPT DESC column tells if the offense was committed or just attempted. The HABITUAL CRIMINAL column shows if the incarcerated individual is labeled as a habitual criminal. An inmate is labeled as a habitual criminal if they have been "twice convicted of a crime, sentenced, and committed to prison" for at least a year each and

¹⁰ "Download Inmate Database File."

then are convicted of another felony in Nebraska.¹¹ At the time of their conviction, they receive an enhanced penalty for the crime committed with a minimum sentence of 10 years and maximum sentence of 60 years. The OFFENSE RUN CODE column documents if a sentence was being served consecutively or concurrently with a previous sentence. The column COUNTY COMMITTED states the Nebraska county in which the offense was committed. OFFENSE ARREST CD and OFFENSE ARREST columns are the corresponding official offense codes and titles given at the time of incarceration. These columns are helpful when analyzing the evolving offense demographics over time. Figure 2 includes some of the important columns within this component.

	ID NUMBER	OFFENSE MINIMUM YEAR OR TERM	OFFENSE MAXIMUM YEAR OR TERM	OFFENSE ARREST DESC	FELONY MSDMNR CODE	OFFENSE TYPE CODE	OFFENSE ATTEMPT DESC	HABITUAL CRIMINAL	OFFENSE RUN CODE	COUNTY COMMITTED	OFFENSE ARREST CD	OFFENSE ARREST	OFFENSE GROUP
0	6145	1	3	CATTLE STEALING	FELONY	*	NaN	NaN	CC	MADISON	D21	THEFT	Theft
1	6452	2	10	FORGERY 2ND DEGREE	NaN	*	NaN	NaN	CC	SCOTTS BLUFF	E02	FORGERY 2ND DEGREE	Fraud
2	12444	1	9	BURGLARY	FELONY	*	NaN	NaN	CC	HAMILTON	D11	BURGLARY	Burglary
3	15379	10	LFE	MURDER 2ND DEGREE	NaN	*	NaN	NaN	CC	DOUGLAS	B02	MURDER 2ND DEGREE	Homicide
4	15410	2	3	FORGERY 1ST DEGREE	FELONY	*	NaN	NaN	CC	SCOTTS BLUFF	E01	FORGERY 1ST DEGREE	Fraud

Figure 2. Example Columns from Second Component of Full Dataset

The second inmate database acquired in December 2020 contains solely the active inmates within the Nebraska Department of Correctional Services.¹² This resource was also acquired from the NDCS' public records page on their website. It is separated into two record components in the same manner as the full database. It contains 7,453 rows of inmates and their demographic information, and 18,988 rows of their corresponding offense information. The first component has 31 columns and 7,454 rows, and the second has 13 columns and 18,989 rows.

¹¹ "Nebraska Revised Statute 29-2221."

¹² "Download Inmate Database File."

Not all of these columns and rows were used in the research. All active inmates are included within the full inmate database, but they are not distinguished from past inmates. The active inmate database's important columns are identical to the previous columns stated in the full inmate database. There are no new important columns within the active prisoner database. This data is particularly helpful for analysis on the current inmate population.

The third database retrieved in January 2021 includes more information on offenses and their broader groups.¹³ This database was acquired from a NDCS employee and is available to access within this study's resources. The database is a key for matching offense codes to more information about the crime previously unavailable in the other databases. This source does not contain any data on specific inmates. The OFFENSE ARREST CD column contains the same types of values found in the identically named column in the full database. There are 216 unique offense codes in this database. The two new columns are OFFENSE GROUP and OFFENSE CATEGORY. OFFENSE GROUP describes the broader family the offense is in, and has categories such as Drugs, Burglary, and Assault. OFFENSE CATEGORY tells what or who the offense targeted. Some example values are Property, Person, and Sex Offenses. These columns help connect larger crime themes to the offense codes. They are useful when looking at how broad types of offenses change over time. Figure 3 shows these columns and their corresponding values.

¹³ "Offense Arrest Groups."

	Offense Arrest CD	Offense Group	Offense Category
0	NaN	Data Unavailable	NaN
1	A01	Other	Other
2	A02	Other	Other
3	A03	Other	Other
4	A04	Other	Other

Figure 3. Example Columns from Offense Group Database

Analytic Strategy

Due to limitations within the data itself and the time constraints of the research, the NDCS data is being categorized as non-experimental data. Non-experimental data is defined when the experimenter “describes a group or examines a relationship between preexisting groups.”¹⁴ The results of the study are simply descriptions of the data and its variables’ correlation with national mass incarceration trends. No data significance tests are being conducted. This study will only generate descriptive statistics of the NDCS data. The data’s variables are being manipulated solely to increase readability, and not altered for a specific experimental goal. Rows of inmates or their offenses were not randomly selected for analysis, as all relevant rows were observed.¹⁵ This “non-experimental” status can be altered if future research wishes to expand on specific variables as predictors for incarceration.

The Nebraska Department of Correctional Services’ inmate databases were researched using the industry standard methodology for data analysis. Data scientists Hilary Mason and Chris Wiggins defined the “Taxonomy of Data Science” to include five steps, “obtain, scrub, explore, model, and interpret.”¹⁶ This research utilizes the first three steps of their methodology. I acquired the NDCS data from their records webpage and from their research employee. This

¹⁴ Salkind, “Nonexperimental Designs.”

¹⁵ “Experimental Vs Non-Experimental Research: 15 Key Differences.”

¹⁶ Mason and Wiggins, “A Taxonomy of Data Science.”

completed the “obtain” step. I analyzed the data in two separate reports, one that explored inmates’ demographics and one that explored inmates’ offenses. These reports are publicly available on my GitHub page.¹⁷ The demographics report is based off of the first component of the full inmate database. It has one unique inmate per row, which is defined by their unique inmate id. The offense report is based off of the second component of the full database. It has one unique offense per row, and individual inmates may be repeated in this report if they are imprisoned for multiple offenses. For both reports, I merged the active inmate database with the full inmate database. I merged them through the prisoners’ unique inmate id. I added an “ACTIVE” column that assigned a certain value if the inmate was currently incarcerated. For the offense report, I combined both components of the full database with the offense group database. I merged these databases on their shared offense code values. The databases I merged and altered are the foundation of both inmate reports.

I completed the second step, scrub, by using an array of data analysis tools to both simplify and organize the information. Data scrubbing is inevitable when doing analysis, and often includes deleting duplicate or irrelevant rows of information, filling in blank values, filtering outlier information, adding new columns, and altering how the data is being stored. This work is crucial to having a database that is free of errors and runs analyses efficiently. I performed the third step, explore, through clustering and visualizing the clean data. This step is helpful to understand the relationships between values such as race and minimum sentencing or the year an inmate’s sentence began and the offense description. I visualized these relationships within various charts and graphs. These steps are not only helpful, but also follow data analysts’ best practices.

¹⁷ <https://github.com/anna-k-krause/Thesis>

I examined, manipulated, and analyzed the databases through the programming language Python and multiple of its open-source software libraries. I used the data manipulation library, Pandas, to store, alter, and show statistical elements of the databases. Pandas is the most widely used data manipulation library and was essential to the research.¹⁸ I used the Python Library Numerical Python (NumPy) to find calculations within the analysis.¹⁹ This is the industry standard library to work with. I utilized the Seaborn and Matplotlib visualization libraries to easily communicate my data findings.²⁰ Both libraries allow users to create different types of graphs and images to reflect the relationships between data pieces.²¹ These tools build on top of the Pandas library to showcase its organized information. The analysis was all hosted using a Jupyter Notebook, which is an open-source web application that allows users to share documents that contain live code, equations, visualizations, and narrative text.²² The notebook allows for all of the data analysis to be contained in readable documents that actively track its process. The analysis work would be impossible if not for these tools.

In order to properly “scrub” the inmate information from the full database, I needed to extensively clean and manipulate the data. First, I deleted certain columns from the demographic and offense record reports. These columns were removed to give privacy to the inmates and declutter the future analysis. I dropped parole information on the recommendation of the NDCS because it was incomplete and too difficult to analyze. I checked specific rows of inmates to see if they contained missing values in their birth date or sentence begin date columns. If rows had these missing values, they were deleted. The inmates would be too difficult to research without

¹⁸ “Pandas.”

¹⁹ “NumPy.”

²⁰ “Seaborn: Statistical Data Visualization.”

²¹ “Matplotlib.”

²² “Jupyter.”

those important dates. Duplicate rows of inmates' offenses were also found and deleted within the offense report. The deletions in both reports do cause small inaccuracies within prison population numbers. However, future analysis is hindered if an incomplete or duplicate data row is allowed to pass through.

I created new columns for deeper analysis on inmates and their offenses. In both reports, a SENTENCE BEGIN AGE and CURRENT AGE column were added to show the ages of inmates when they began their sentence and their age in February 2021. Those with a life sentence value had their sentences converted to a new value. This value was the number of years between the average life sentence for a Nebraskan minus their age at the start of the sentence. This decision was advised by an associate within the Nebraska Legislature who worked with similar data. The conversion is not a perfect representation of a life sentence, but it still allows for life sentence inmates to be a part of the research effectively. Inmates with a death or an indeterminate sentence were removed from the database. I determined it would be too difficult to incorporate these values in the analysis. Some new columns were renamed to match the style of others within the database. Other columns had their data type changed to allow for an easier research process. For example, the minimum and maximum sentence years were changed from "object" or text values to "integer" values. The data was also cut to only contain inmates incarcerated from 1980 through 2020 because of the electronic documentation limitations. After the cleaning and manipulation, the demographics report contained 68,583 inmates. The offense report housed 114,765 inmate offenses available for study. I saved both reports as comma separated value documents for their next step of research.

Both inmate reports' data were separated, organized, and put into visualizations. I separated each report into four different decades that contained inmates incarcerated within that

time frame. The periods of study are the 1980s, 1990s, 2000s, and 2010s. I made an active prisoner section for each report that contained inmates arrested at any time that were currently incarcerated. In the demographics report, the inmates' race, age when incarcerated, year when incarcerated, minimum sentence, and maximum sentence were analyzed during each decade. The offenses' name, group, category, felony or misdemeanor code, county committed in, minimum sentence, and maximum sentence were investigated in the offense report. These values all helped provide a narrative as to how Nebraska inmates have changed over the past four decades.

Results and Analysis

Each segment of the prison population is broken up by which decade the inmate began their incarceration and contains their demographic and offense data. Inmates are not continuously tracked into another decade after the one they were incarcerated in, even if they were a part of the prison population. The aim of the results and analysis section is to track what types of inmates are being imprisoned each year and why. Each decade contains analysis on inmate race/ethnicity, age at time of incarceration, and average minimum and maximum sentence for all of their offenses. The offense data analyzed includes the offense group, offense category, offense name, and offense-specific minimum and maximum sentences. I identified certain trends and gave them potential historical context. I provided visualizations for various demographic and offense data trends.

Before analyzing the data by decade, I took a broad look at the inmate population from 1980-2020. Figure 4 shows the growth of inmates incarcerated within each year. As time goes on, the prison population seems to gradually rise. The year with the largest number of new incarcerations was 2013 with 2,625 inmates. Since 2013, the rate of new inmates seems to have dropped, but was still trending up from 2016 to 2019. From 1980-2020, 59.3% of inmates were White, 24.7% were Black, 11.3% were Hispanic, and 4.7% were Native American. All other

ethnicities were less than 1% of the inmate population, so they will be omitted from this study because of their small sample size. These statistics can be seen in Figure 5. The average inmate age at the time of incarceration was 31.92 years.

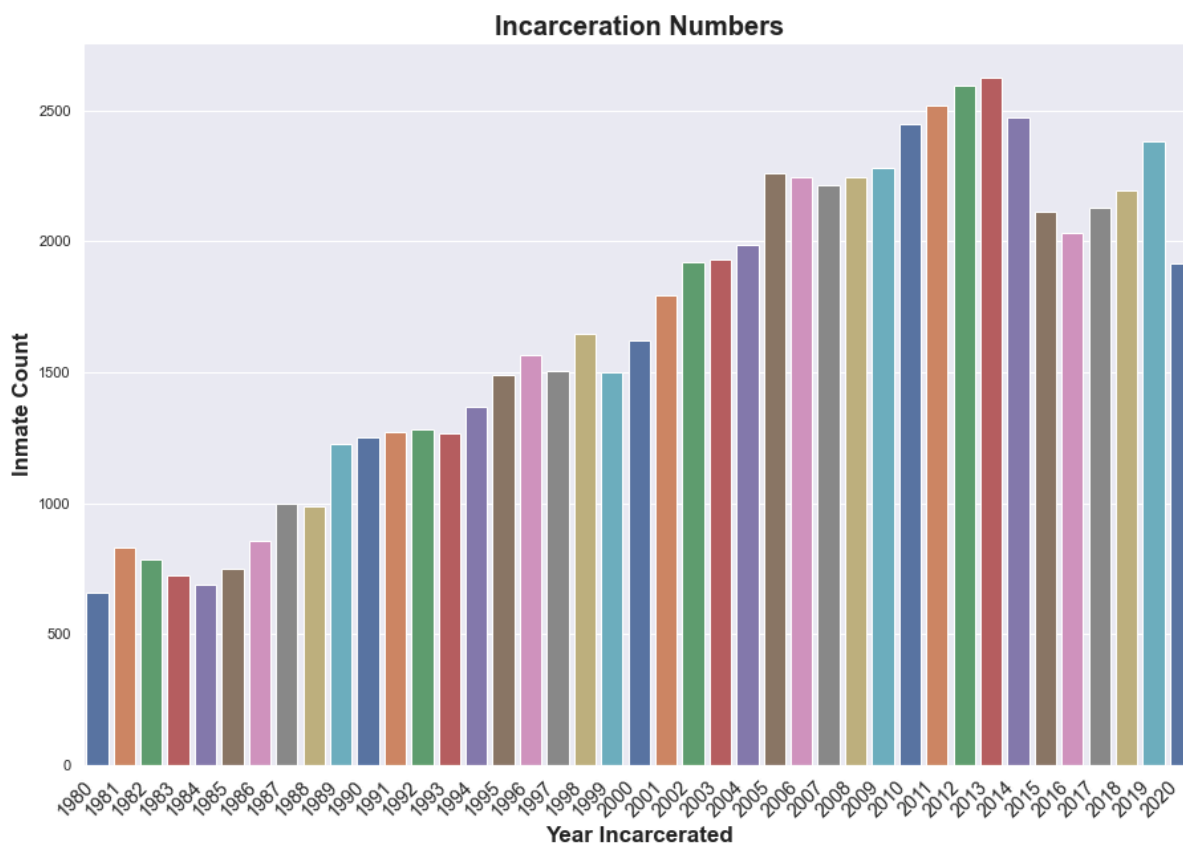


Figure 4. Inmates Incarcerated Each Year (1980-2020)

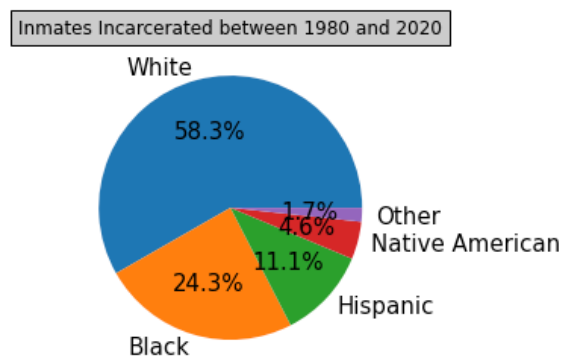


Figure 5. Racial Breakdown of Inmates 1980-2020

I also analyzed the inmate's offenses as a whole from 1980-2020. The top five offense groups were 19.98% in Drug crimes, 13.54% in Theft, 12.94% in Assault, 9.55% in Motor Vehicles, and 8.4% in Burglary. In the offense category column, 22.42% were crimes against a Person, 22.31% involved Property, 19.98% involved Drugs, 7.09% involved Sex Offenses, and 28.2% fitted into another unspecified "Other" category. This "Other" category includes crimes that involve fraud, motor vehicles, or weapons. 34.26% of all incarcerated offenses were Class IV felonies, the lowest level felony in the state.²³ These are usually crimes like second-degree forgery and assisted suicide.²⁴ Figure 6 shows the offense group numbers broken down by race.

White Nebraskans are on average incarcerated more often for all the offense groups. The only notable exceptions are offenses in the Weapons and Robbery groups. In these, Black Nebraskans trail or surpass White Nebraskans incarcerated. This may be because weapons-related crimes and robbery are often crimes of poverty, and poor households have a higher rate of violence involving firearms compared to those above the poverty line.²⁵ In Nebraska, 23.4% of Black people live below the poverty line compared to only 9.1% of White people.²⁶ This disparity most likely influences what crimes certain races/ethnicities are likely to commit. Poorer Nebraskans may also be more likely to enter into a plea deal to avoid court costs and choose incarceration.

²³ "Nebraska Revised Statute 28-105."

²⁴ "Understanding Nebraska Felony Crimes and Sentences."

²⁵ Harrell, "Household Poverty and Nonfatal Violent Victimization, 2008-2012."

²⁶ "Nebraska Report 2018."

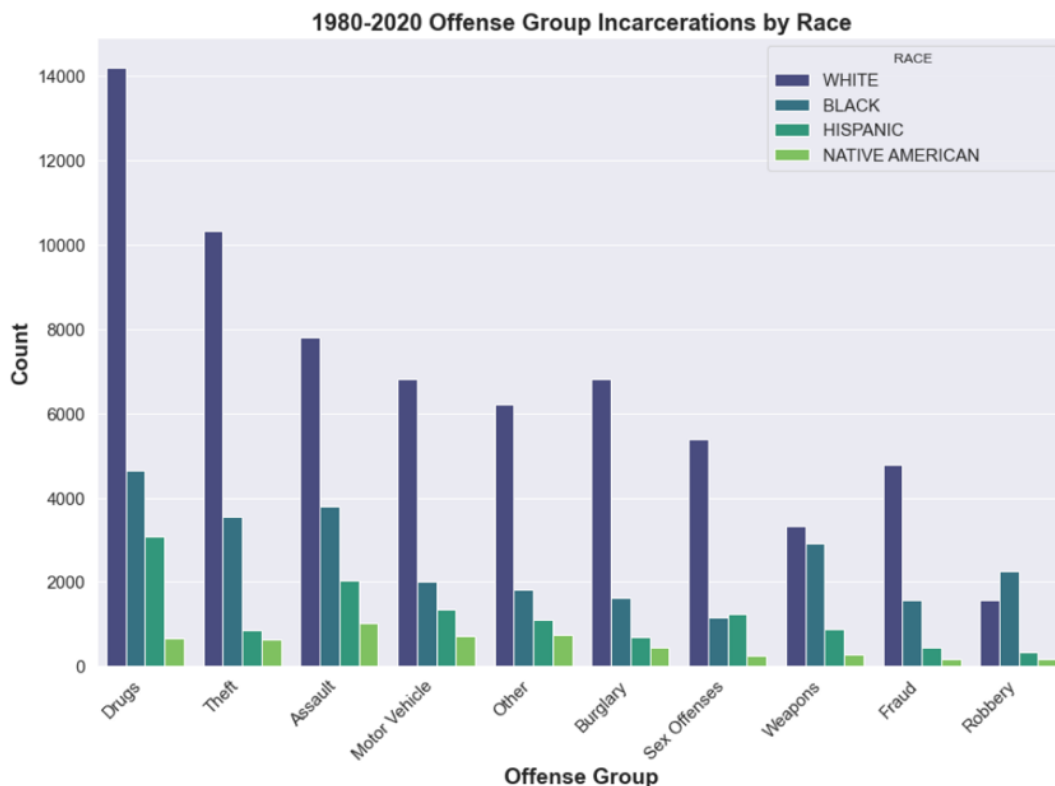


Figure 6. 1980-2020 Offense Group Counts by Race

I examined the offense arrest information from 1980-2020. Its results are shown in Figure 7. The offense arrests are the names of the crimes the inmates were convicted of and incarcerated for. The data shows that overall, 9.55% of offenses are possession of a controlled substance except marijuana and 9.08% are the manufacturing/distribution/delivery/dispensary or possession of a controlled substance with intent to do any of the previously stated actions. This is also known as the “dealer” charge and will be referred to as such. 8.04% of offenses are for Burglary, 3.82% are for Robbery, and 3.7% are for Theft by unlawful taking or disposition. Similar to Figure 6, White Nebraskans are on average the majority of the individuals incarcerated for the most common offenses. Again, Black Nebraskans are the majority of the individuals incarcerated for Robbery. Also, Black and Hispanic people are more likely to be sent to prison for the “dealer” charge over drug possession. This trend is not seen with White

Nebraskans. This may be because Black Americans are more likely to be arrested for drug dealing than White Americans, even though more White people sell drugs.²⁷ When Black Americans deal drugs, it is often in more open, outdoor spaces. This increases the likelihood that they will be caught and then arrested. The same habits are likely true in Nebraska and may contribute to the disparity.

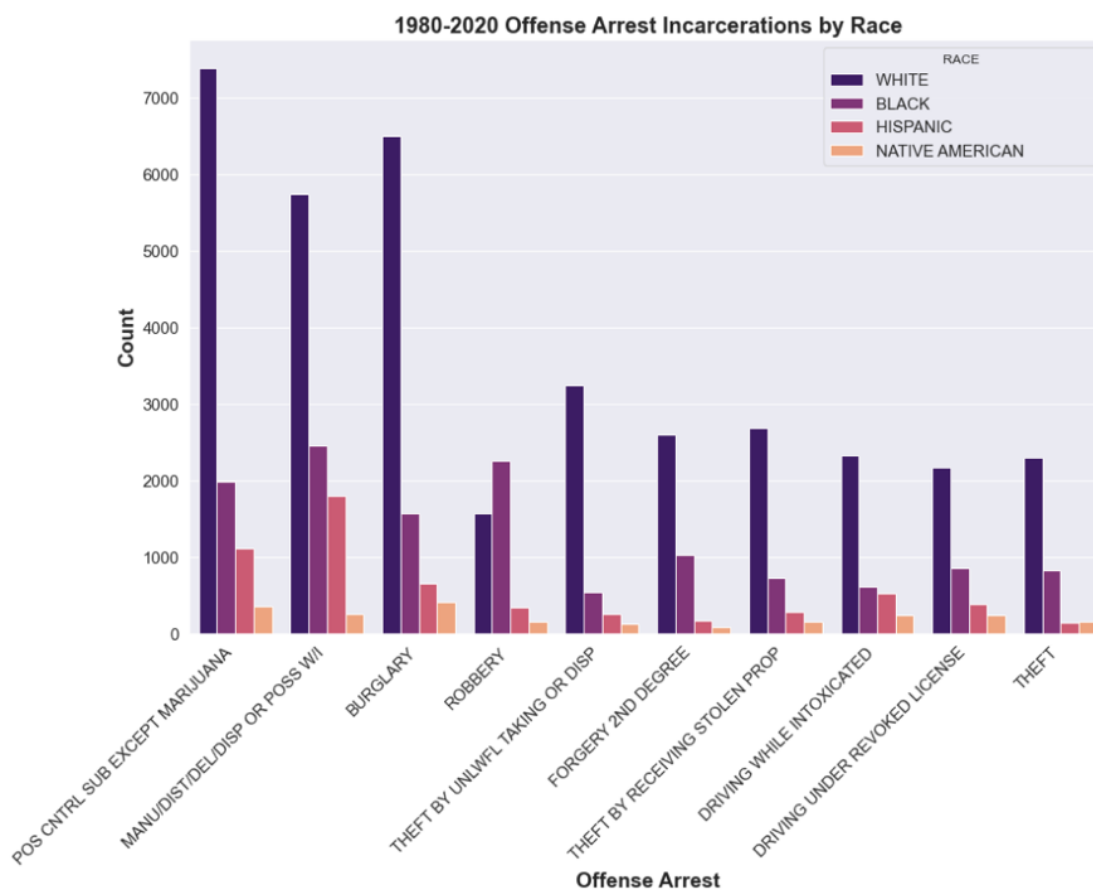


Figure 7. 1980-2020 Offense Arrest Counts by Race

United States federal and state prisons have seen a sharp increase in incarcerations, particularly in drug offenses over the past 40 years that match trends within Nebraska. In 2018, The Sentencing Project estimated that drug incarcerations grew from 19,000 in 1980 to 183,900

²⁷ Ingraham, “White People Are More Likely to Deal Drugs, but Black People Are More Likely to Get Arrested for It.”

in 2018 in state prisons.²⁸ They also found a 500% increase in incarcerations over federal prisons, state prisons, and jails from 1980 to 2018. This rapid rise in inmates has caused national overcrowding situations that mirror Nebraska's. The Nebraska Department of Correctional Services is not alone both their increased incarceration rates and potentially dangerous level of overcrowding.

1980s

I used the same data analysis process to examine inmates who began their sentence within the 1980s. I analyzed 8,498 inmates in this portion. Figure 8 shows some of the yearly incarceration counts. Incarceration rates appeared to decline in the middle of the decade, but then picked back up as Nebraska entered the 1990s. The most significant rise took place from 1988 to 1989. The smaller counts at the beginning of the decade may also be due to NDCS' electronic data keeping learning curve. By the NDCS' data team's estimate, all inmates marked incarcerated within 1985 onward are trusted to be fully accurate. Individuals incarcerated in the 1980s were 66% White, 25.1% Black, 4.5% Hispanic, and 3.8% Native American. These numbers can be seen in Figure 9. The average age an inmate was at the start of their incarceration was 28.55 years old. The average minimum sentence was 2.59 years per inmate. The average maximum sentence was 5.68 years per inmate.

²⁸ "Fact Sheet: Trends in U.S. Corrections."

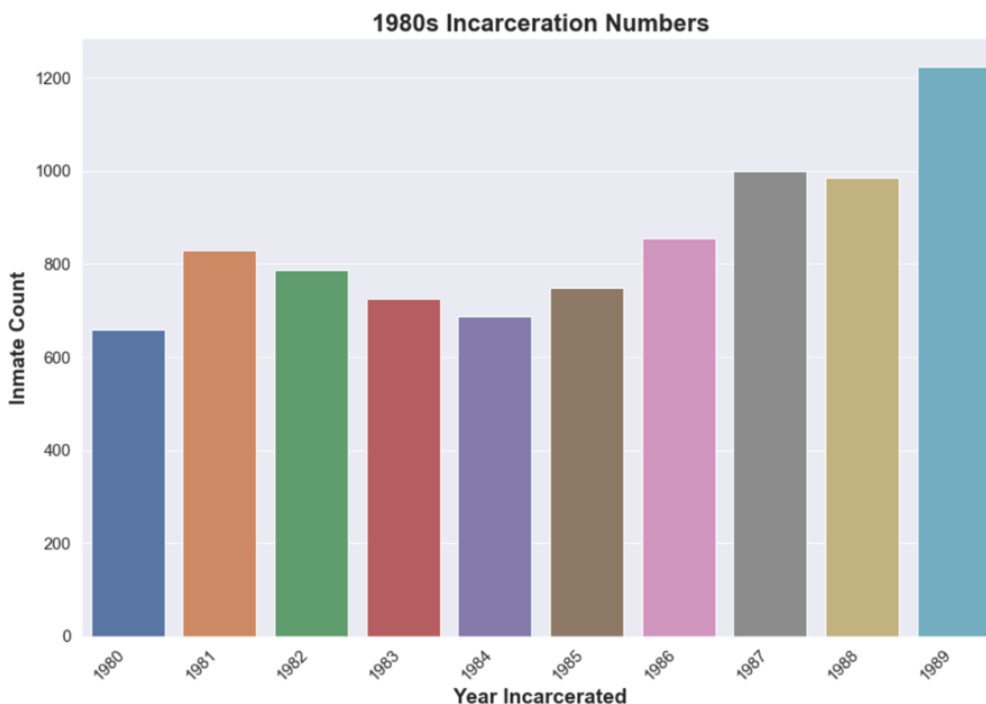


Figure 8. Incarceration Count in 1980s

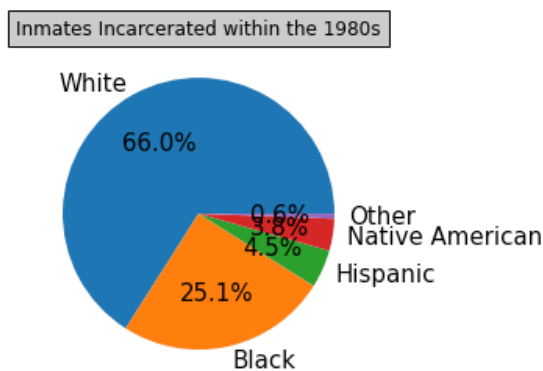


Figure 9. Racial Breakdown of 1980s Inmates

I also evaluated the 11,943 offenses that 1980s inmates were incarcerated for. Burglary accounted for 16.81% of offenses, Theft for 15.38%, Drugs for 11.55%, and Assault for 7.15%. Figure 10 highlights these offense group categories broken down by race. Similar to the overall averages, White inmates were the clear majority of all offense groups except for Robbery and Weapons. 32.91% of 1980s offenses involved property, 26.41% had an “Other” distinction, 21.86% were against another Person, and Drugs only accounted for 11.59%. Most inmates in the

1980s were given an unspecified Felony charge, which may be another shortcoming of the new electronic data keeping system. However similar to the overall averages, low felony offenses in the Class III and Class IV categories were the next most common.

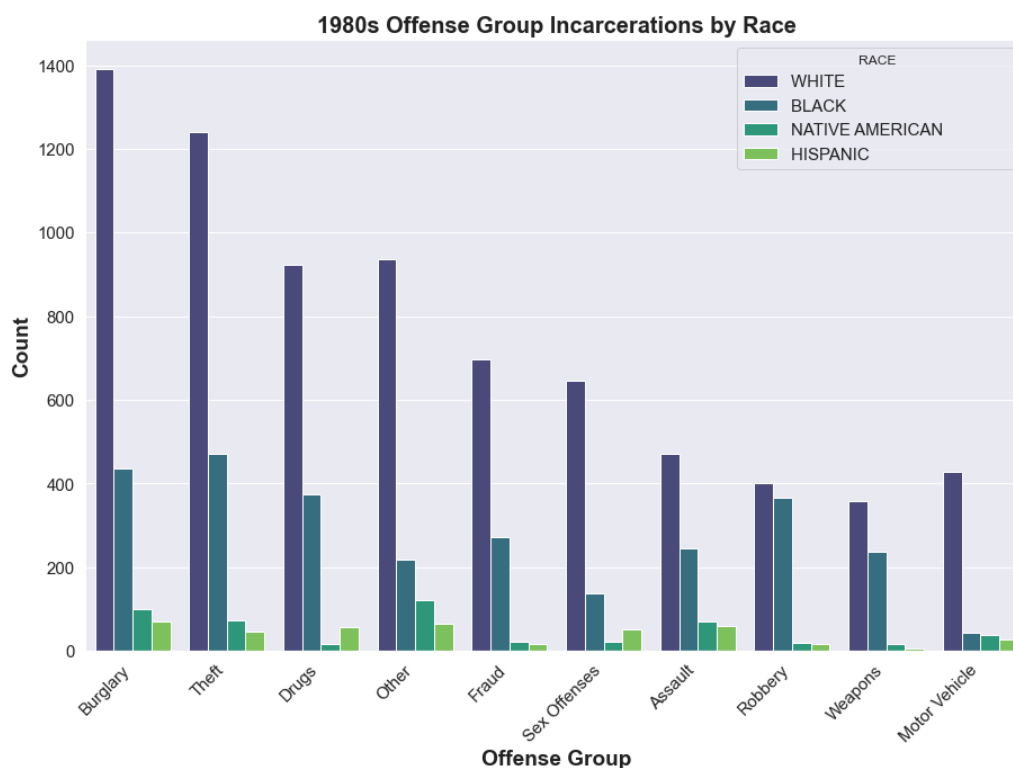


Figure 10. 1980s Offense Group Counts by Race

The 1980s specific offense data contains a few trends unique to its decade. Figure 11 shows most common named offenses for the decade, broken down by race. The three most common offenses in the 1980s were Burglary, Theft, and Robbery, which made up 16.2%, 13.37%, and 6.78% percent of offenses respectively. The 1980s were the only decade where Property offenses were the three most common. Similar to Figure 10, Robbery had nearly equal Black and White offense counts. A 1986 Bureau of Justice Statistics Report found that “Robbery

rates per 1,000 persons were 18 robberies for Black males and 7 for White males.”²⁹ They also stated that in urban areas, Black people had higher rates of Robbery than White people. Interestingly, Black and White Nebraskans also had very close offense numbers in drug possession and use of a firearm to commit a felony. This closeness is not shared in other offense populations. The average offense minimum was 2.06 years, and the average offense maximum was 4.50 years.

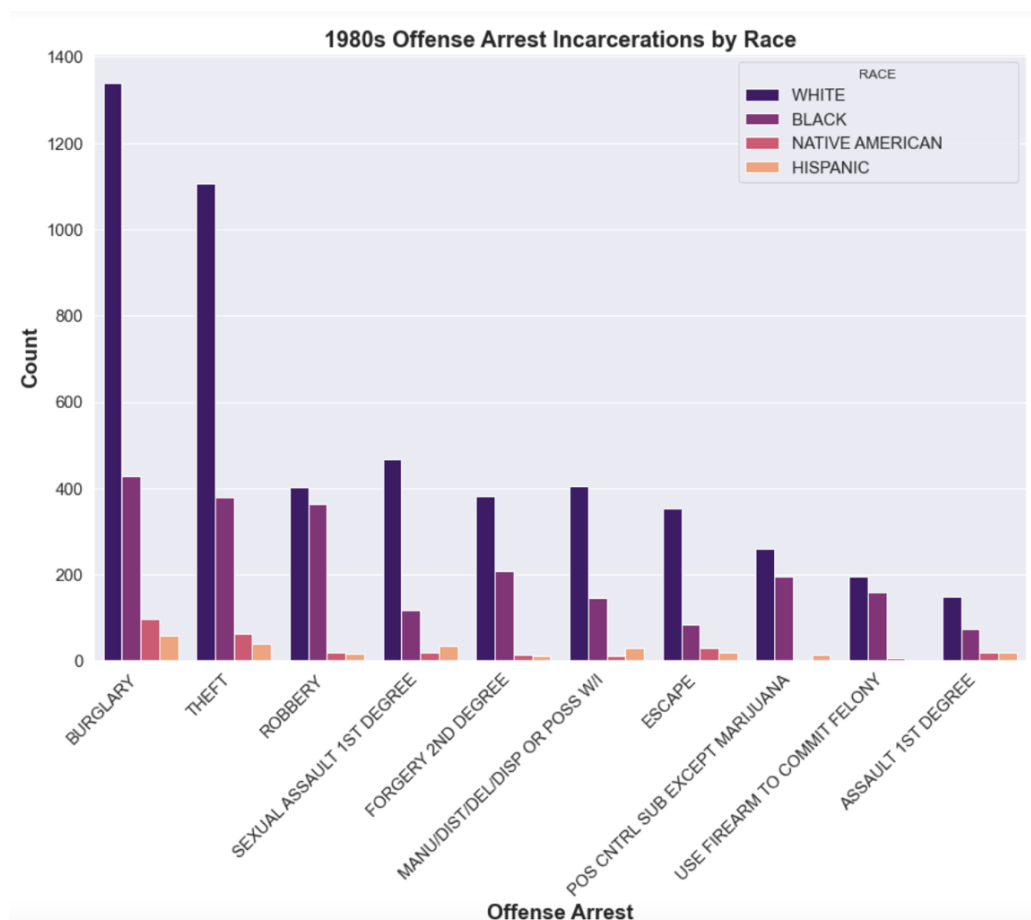


Figure 11. 1980s Offense Arrest Counts by Race

1990s

I examined inmates incarcerated within the 1990s under the same parameters. I studied 14,154 inmates, a hefty increase from the previous decade. On average, incarceration rates

²⁹ Whitaker, “Black Victims.”

increased year after year. These trends can be seen in Figure 12. The 1990s inmate population was 57.8% White, 27% Black, 10.2% Hispanic, and 4.5% Native American. Figure 13 visualizes these statistics. The average age when inmates began their sentence was 30.16 years, a small increase from the 1980s. The average minimum sentence per inmate was 2.92 years, with the maximum being 5.92 years.

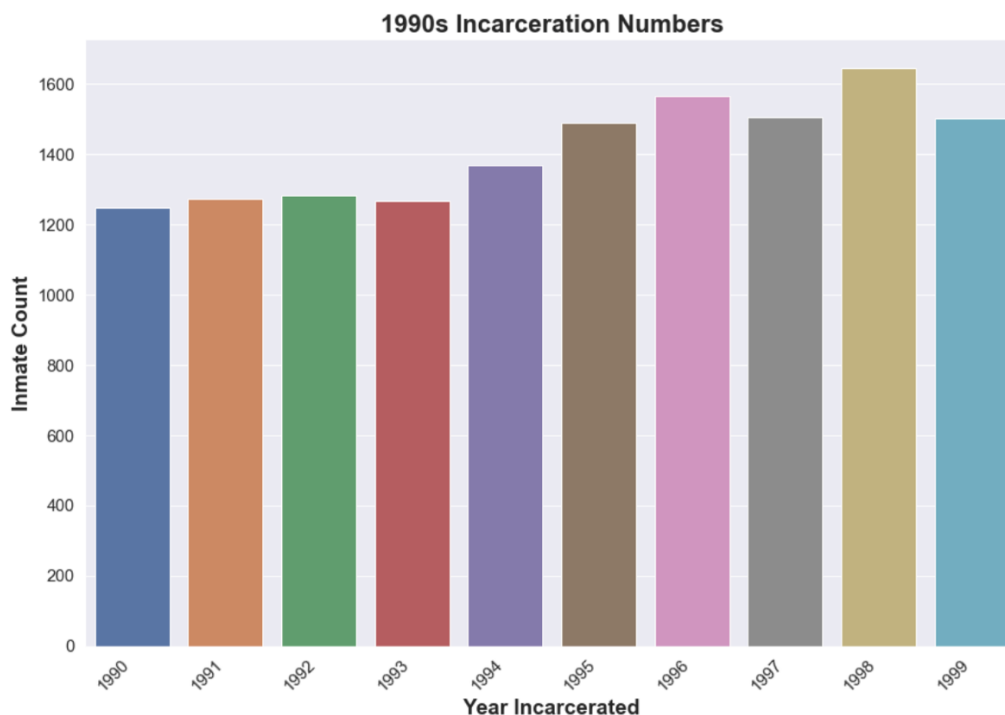


Figure 12. Incarceration Count in 1990s

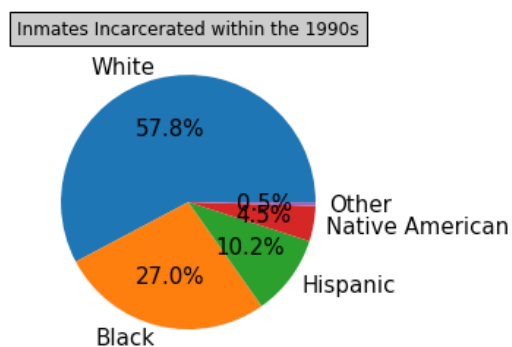


Figure 13. Racial Breakdown of 1990s Inmates

I observed 22,297 offenses committed by 1990s inmates. Figure 14 shows these numbers. Drug offenses jumped up to be 19.62% of the offense total. Theft accounted for 13.7%, Assault for 10%, “Other” for 9.56%, and Burglary for 9.4% of offenses groups. Robbery, Weapons, and Drugs all contained more Black inmates compared to other offense groups. 28.8% of offenses were in the “Other” category, 23.61% were Property related, 20.36 were against another Person, 19.62% were Drug related, and 7.54% were Sex Offenses. Most offenses were unspecified, Class III, and Class IV felonies. This was consistent with trends in the 1980s data.

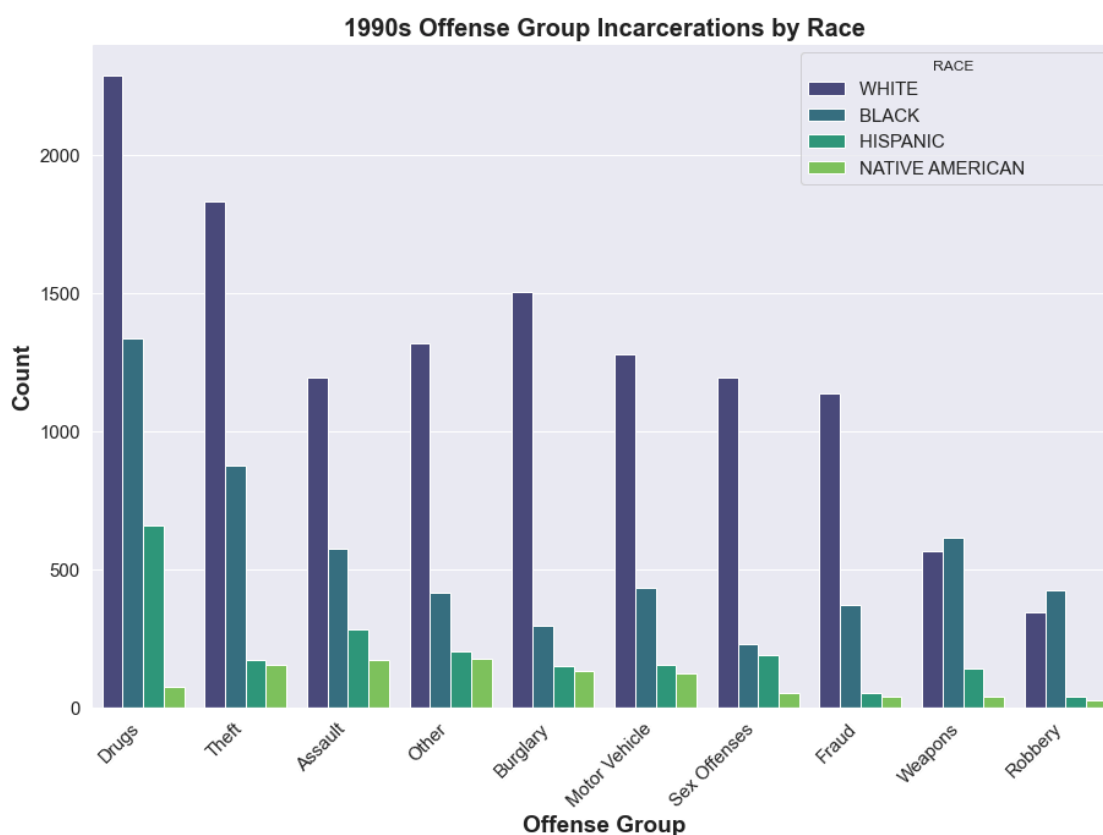


Figure 14. 1990s Offense Group Counts by Race

The 1990s offense arrests differed from the 1980s. Figure 15 shows these changes. 12.26% of offenses were the “dealer” charge, 9.04% were Burglary, 6.5% were Theft, 6.27% were drug possession, and 5.53% were driving under a revoked license. This composition was

very different than the most common offenses in the 1980s. Drug dealing, possession, and driving under a revoked license all rose between the decades. The 1990s average offense minimum year was 2.05, and the maximum was 4.28 years.

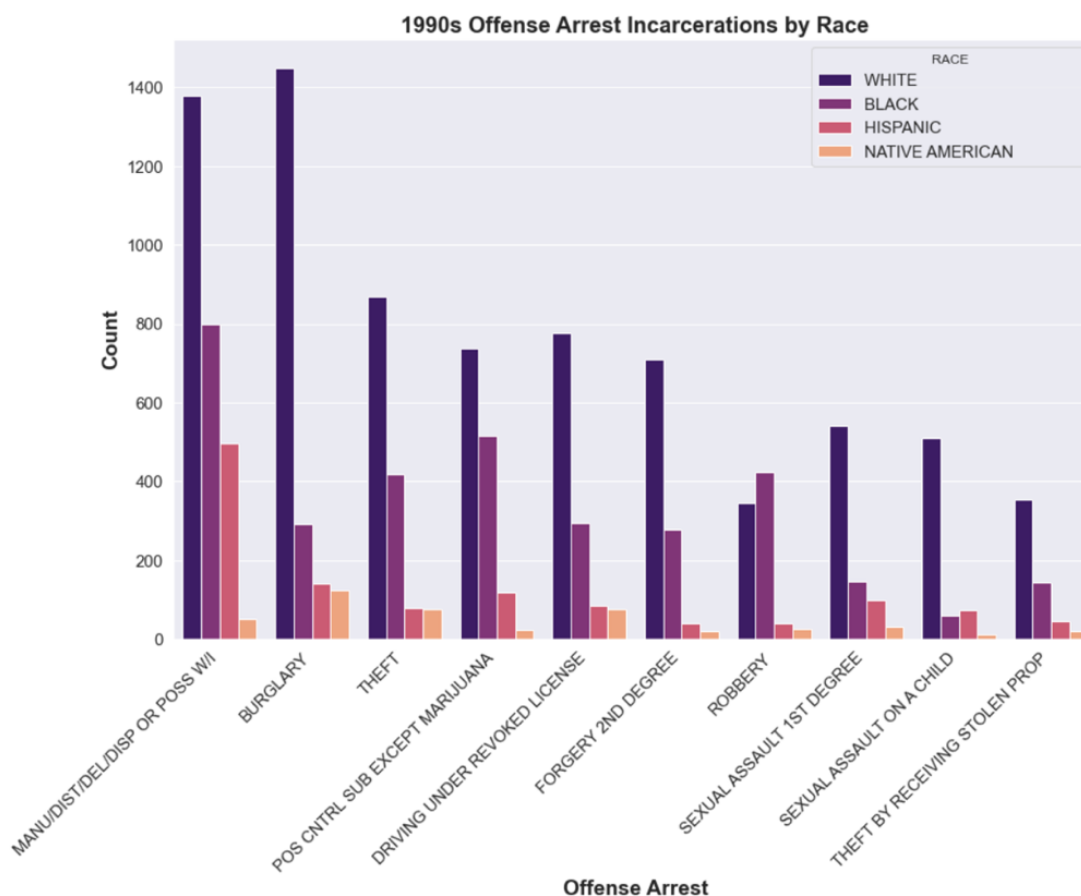


Figure 15. 1990s Offense Arrest Counts by Race

Drug incarcerations had one of the most profound offense increases from the 1980s to 1990s, and this may be due to societal and policy changes of the time. The “War on Drugs” was officially declared by Ricard Nixon in 1971, and American anxieties about violent, foreign drug trade were on the rise.³⁰ Drug lord figures like Pablo Escobar were gaining power in South America, and the United States feared their influence. Crack cocaine became an epidemic within inner-city neighborhoods in the early 1980s. In October 1986, President Ronald Reagan signed

³⁰ “Timeline: America’s War on Drugs.”

the Anti-Drug Abuse Act, which created “mandatory minimum penalties for drug offenses.”³¹

The Anti-Drug Abuse Act required inmates to serve more time for drug offenses, and prison populations rose because of it. The Act was also criticized because of its harsher sentencing policies on crack cocaine vs powder cocaine. Crack cocaine was more widely used in urban, poorer neighborhoods, which disproportionately affected Black Americans. These social anxieties and legislations impacted Nebraskans to also be harsher on drug crimes, and the 1990s incarceration statistics were consistent with this.

A study by Alfred Blumstein and Allen J Beck investigated mass incarceration trends from 1980 to 1996. The researchers found that drug incarceration rates increased by “more than ninefold” from 1980 to 1996.³² They found that 33% of incarceration increases were due to drug offenses alone. In 1996, 23% of state prisoners were convicted of drug offenses.³³ This was fairly consistent with Nebraska’s percentage of drug offenses in the 1990s and led the state toward more crowded prisons.

Figures 16 and Figure 17 show the number of offenses and minimum and maximum for drug possession and drug dealing charges over time. There appeared to be a significant increase in both drug possession and dealer offenses from the 1980s to the 1990s. Drug crimes continued to grow in each decade. The overall average minimum and maximum sentencing also rose within each decade. However, the sentencing averages were not equal among races. For drug possession, Black and White sentencing were inconsistent with each other, and in the 2010s Black inmates served longer for the offense. In the 2000s and 2010s, Hispanic drug possession offenses were higher than the White averages. For drug dealing, Black inmates served longer

³¹ “Timeline: America’s War on Drugs.”

³² Beck and Blumstein, *Population Growth in U.S. Prisons, 1980-1996*. Page 21

³³ Beck and Blumstein, *Population Growth in U.S. Prisons, 1980-1996*. Page 9

average sentences than White inmates during every single decade. The same trend was seen with Hispanic inmates compared to White inmates. This may be due to the harsher sentencing on drugs more prevalent in minority communities compared to white communities. Due to societal and policy changes, drug crimes' sentencing lengthened and disproportionately affected Black and Hispanic inmates in Nebraska prisons.

<i>Timeframe</i>	<i>Offense</i>	<i>White Min.</i>	<i>White Max.</i>	<i>Black Min.</i>	<i>Black Max.</i>	<i>Hispanic</i>	<i>Hispanic</i>
	<i>Count</i>	<i>Term</i>	<i>Term</i>	<i>Term</i>	<i>Term</i>	<i>Min. Term</i>	<i>Max. Term</i>
<i>1980s</i>	471	.92	2.75	1	3.06	0.71	2.93
<i>1990s</i>	1399	1.04	2.65	1.01	2.54	.95	2.49
<i>2000s</i>	3803	.80	2.37	.93	2.28	.99	2.56
<i>2010s</i>	4737	.72	1.64	1.11	1.94	1.33	2.46

Figure 16. Drug Possession Average Min/Max Terms by Race

<i>Timeframe</i>	<i>Offense</i>	<i>White Min.</i>	<i>White Max.</i>	<i>Black Min.</i>	<i>Black Max.</i>	<i>Hispanic</i>	<i>Hispanic</i>
	<i>Count</i>	<i>Term</i>	<i>Term</i>	<i>Term</i>	<i>Term</i>	<i>Min. Term</i>	<i>Max. Term</i>
<i>1980s</i>	597	1.59	3.58	2.9	5.73	1.93	3.73
<i>1990s</i>	2733	1.82	3.90	2.60	4.93	2.38	4.54
<i>2000s</i>	3116	2.32	4.39	2.49	4.29	2.71	4.66
<i>2010s</i>	3644	2.44	4.29	3.05	4.85	2.74	4.65

Figure 17. Drug Dealing Average Min/Max Terms by Race

2000s

I analyzed 20,501 inmates who began their incarceration in the 2000s using the same methods. Figure 18 showcases the continual growth of incarceration in the 2000s. This decade seemed to show the most consistent growth year to year. The racial makeup of 2000s inmates were 58.3% White, 22.7% Black, 13.2% Hispanic, and 4.9% Native American. Figure 18 shows this breakdown. The average age at the start of an inmate's sentence was 32.25 years. The minimum sentence term was a 3.38-year average with a 5.86 average maximum.

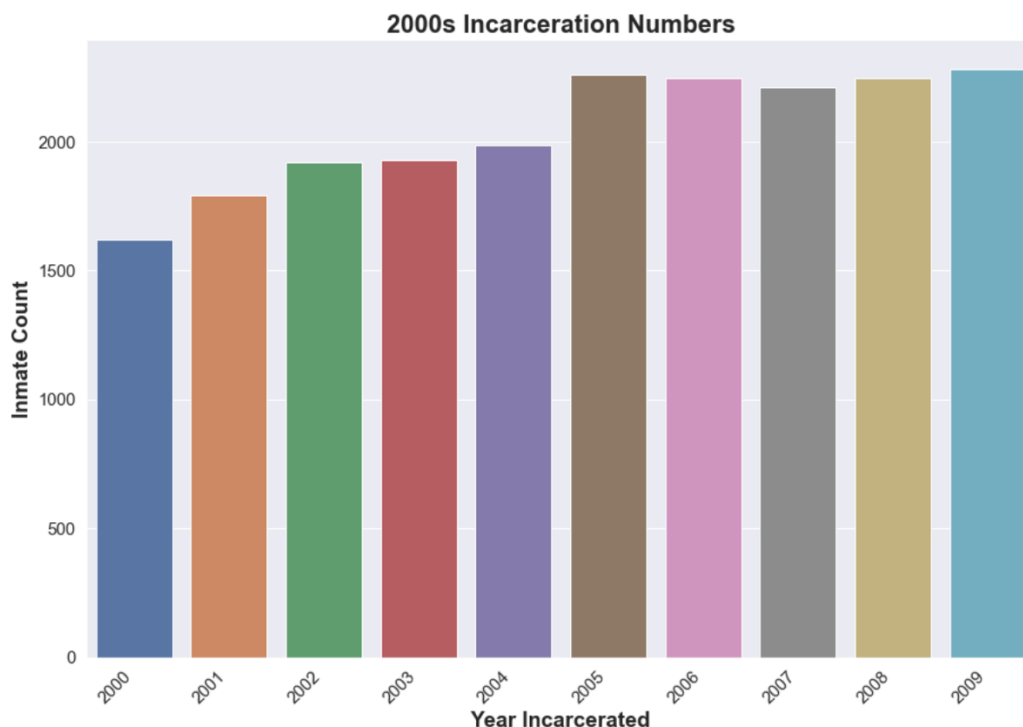


Figure 18. Incarceration Count in 2000s

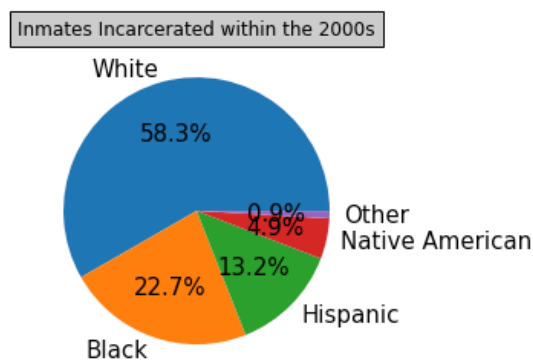


Figure 19. Racial Breakdown of 1990s Inmates

Figure 20 shows a similar offense patterns to the 1990s. 21.63% of offenses were drug-related, 13.45% were Theft, 12.64% were Assault, 10.5% were Motor Vehicle, and 8.04% “Other.” The Black and Hispanic Inmates took up a sizeable chunk of the 2000s offenses within drug possession. Again, Black Nebraskans surpassed White Nebraskans in Weapons and Robbery offense counts. 28.25% of Offenses were in the “Other” category, 22% were against

another Person, 21.63% were Drug related, 21.52% were Property related, and 6.59% were Sex Offenses. Most inmates were incarcerated for Class IV and Class III Felonies.

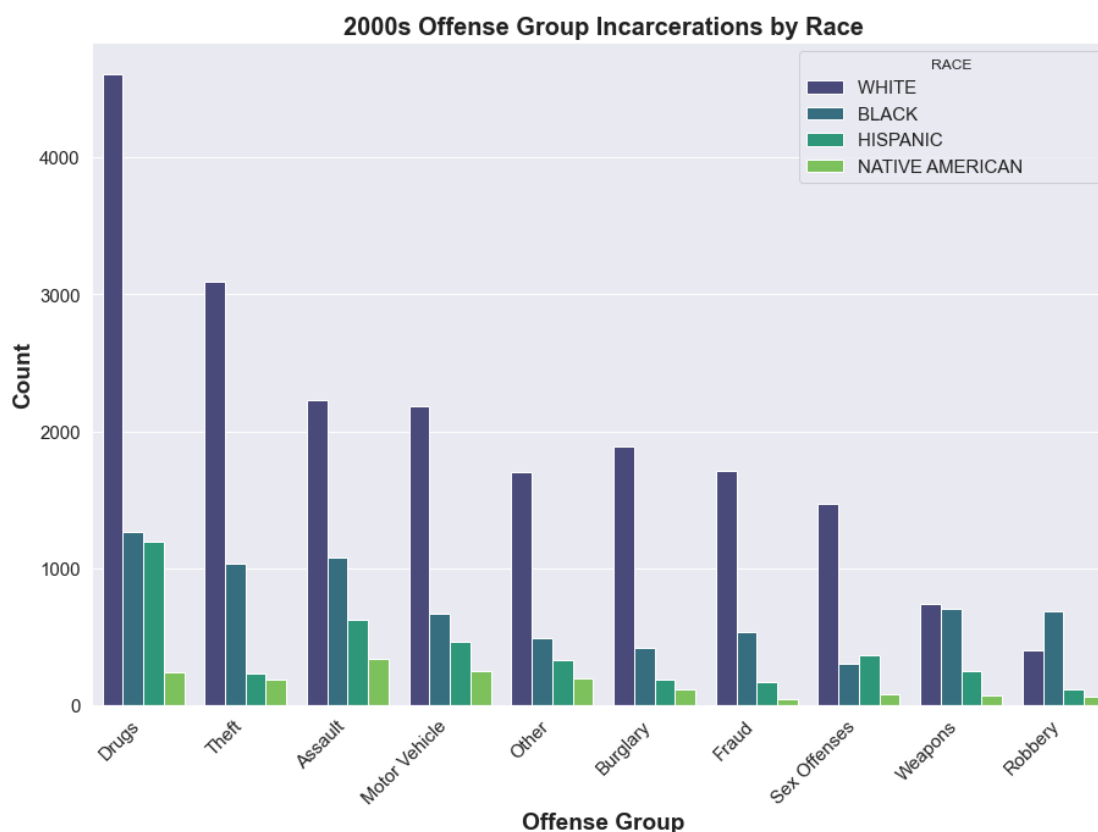


Figure 20. 2000s Offense Group Counts by Race

Figure 21 shows the offense arrest information individuals were incarcerated for in the 1990s. Drug possession was 11.12%, 9.12% was the “dealer” charge, 7.41% was Burglary, 4.62% was Theft by unlawful taking, and 4.48% were forgery in the 2nd degree. The Black and Hispanic Inmates were a sizeable portion of the 2000s offenses within drug possession and the “dealer” charge. Robbery was the only viewable offense where more Black Nebraskans were incarcerated than White Nebraskans. The average minimum term year was 2.29, and the maximum was 4.11 years.

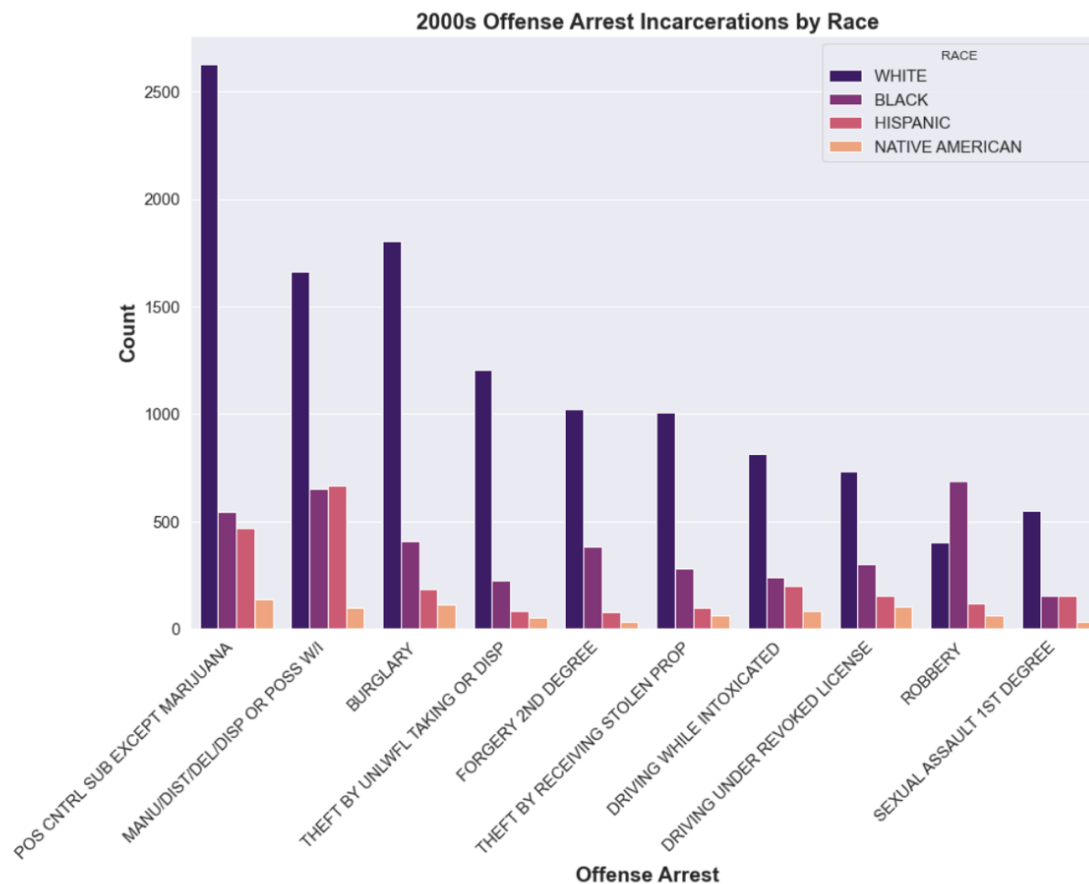


Figure 21. 2000s Offense Arrest Counts by Race

2010s

I examined 2010s inmates in the same manner as the previous decades. Figure 22 shows the steady growth of incarcerations. There was a large decline in 2015 but a new resurgence of incarcerations in the last part of the decade. The Crime in Nebraska 2015 report stated that Crime decreased 9.1% in 2015 compared to the previous year, however no other reasoning for the incarceration drop was able to be found.³⁴ The racial makeup of the 2010s inmates was 57% White, 24% Black, 12.9% Hispanic, and 4.3% Native American. Figure 23 shows these numbers. The average age at the start of the sentence was 33.67 years, continuing the trend of rising start

³⁴ "Crime in Nebraska 2015."

ages. The average inmates' minimum sentence term was 4.36 years, and the maximum was 6.71 years.

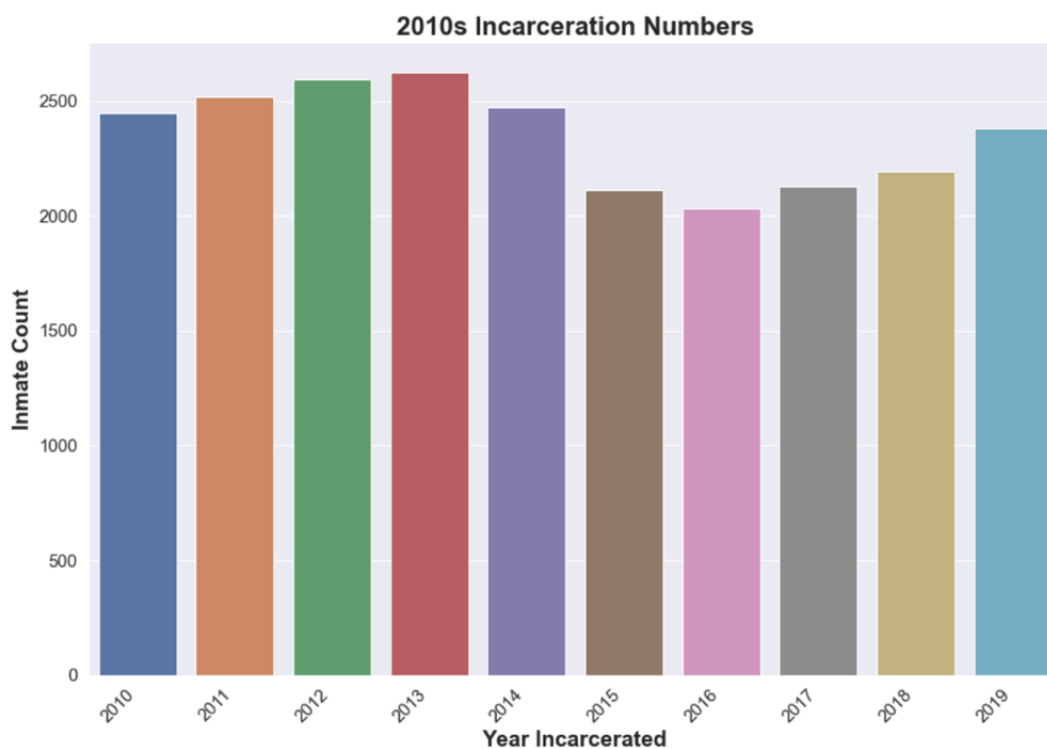


Figure 22. Incarceration Count in 2010s

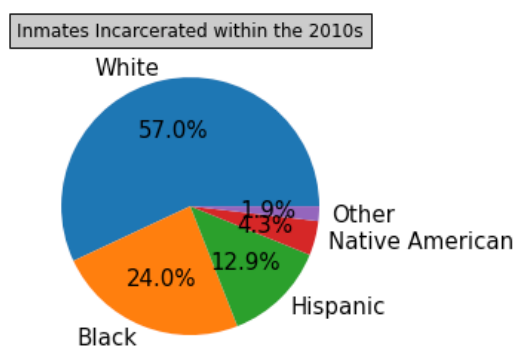


Figure 23. Racial Breakdown of 2010s Inmates

Figure 24 shows the offense group statistics for 2010s offenses. Drugs accounted for 20.88% of offenses, Assault for 15.7%, Theft for 13.26%, Motor Vehicle for 10.56%, and “Other” for 8.02% of offenses. Drug crimes continued to rise in numbers but comprised less of

the total than in the 2000s. Assault crimes also rose considerably between decades. 28.33% of 2010s incarcerations were in the “Other” category, 23.68% were committed against another Person, 20.88% were Drug related, 19.86% were Property related, and 7.25% were Sex Offenses. In trend with previous decades, 2010s offenses were mostly Class IV and Class III felonies.

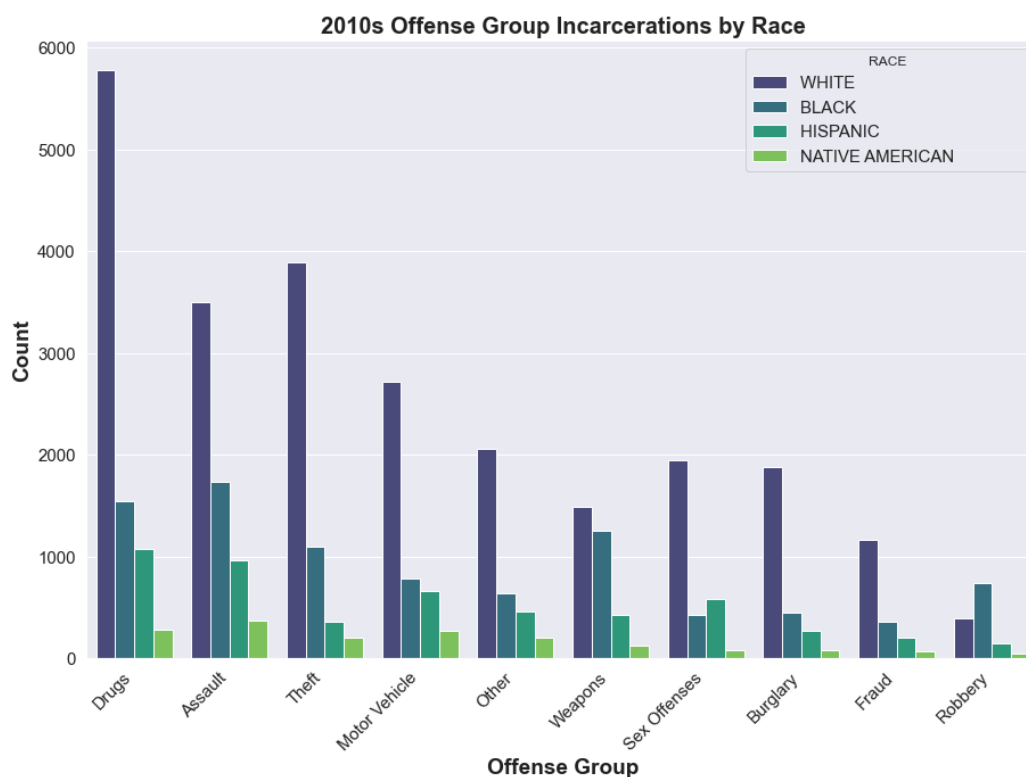


Figure 24. 2010s Offense Group Counts by Race

Offense Arrests and their racial breakdown are described in Figure 25. 11.11% of offenses were drug possession, 8.58% were the “dealer charge,” 6.07% were Burglary, 4.6% were Theft by unlawful taking, and 4.18% were Driving while intoxicated. The most common crimes were largely the same, except for the rise of Driving While Intoxicated and Terroristic Threats. Both Robbery, Possession of a Deadly weapon by felon/fugitive, and Theft by shoplifting have less disparity between White and Black Nebraskans. The average minimum offense year was 2.75 years, and the maximum was 4.34 years.

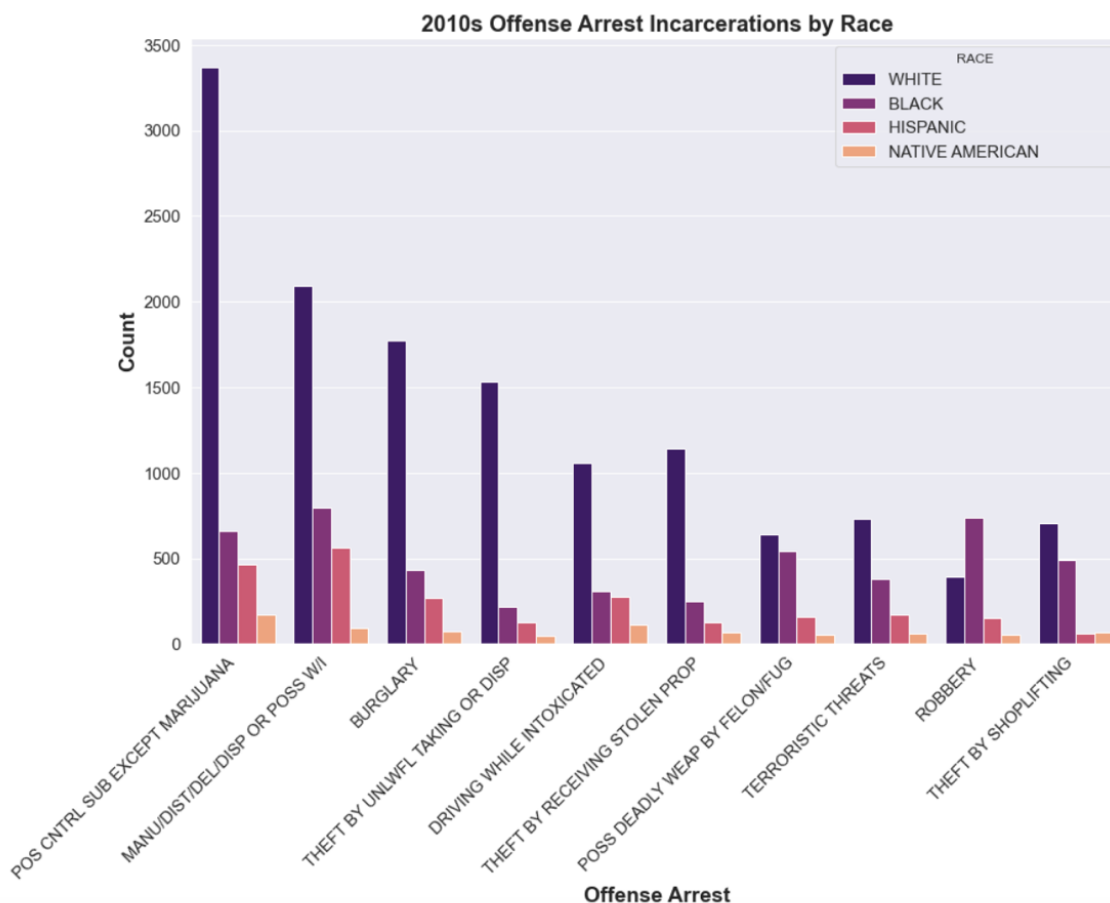


Figure 25. 2010s Offense Arrest Counts by Race

In the 2000s and 2010s, social and legislative changes led to a rise in the number of Terroristic Threats offenses. In Nebraska, Terroristic Threats are a Class IIIA felony that is charged if a person “threatens to commit any crime of violence.”³⁵ The suspect does not have to actually commit the crime in order to get charged for the felony. This distinction was made in the 1999 *State v. Tucker* case which stated, ‘to be guilty of the crime charged, it is not necessary that the State prove that the defendant himself committed the unlawful act or acts in question.’³⁶ The threat may be written down, said orally, physical, or any combination of those methods in order to be considered a terroristic threat. A Nebraska Law Firm also poses that the Federal Bureau of

³⁵ “Nebraska Revised Statute 28-311.01.”

³⁶ “*State v. Tucker*.”

Investigation are often interested in terroristic threat cases and may become involved. If so, they provide “near-limitless” resources behind the prosecution and investigators.³⁷ The terrorist attacks on September 11, 2001 sparked massive fear of terrorism from foreigners and domestic American citizens. This ignited fear may be why Nebraska has incarcerated more individuals on a Terroristic Threats offense. However, it may be simply because the charge is easier to prove. If a threat is made on social media or recorded on a phone, it will be much easier to present as evidence in court. Overall, the progression of the Terroristic Threats charge is noteworthy in the historical progression of Nebraska inmate offenses.

Figure 26 shows the forty-year progression of Terroristic Threats offenses in Nebraska. The offense jumped up to be the eighth most common in the 2010s. The minimum and maximum sentencing between Black and White inmates showed that Black inmates are being incarcerated for longer periods than White or Hispanic inmates. Hispanic inmates have had the lowest minimum and maximum sentencing, but very few have been incarcerated for the offense compared with Black and White inmates. The Terroristic threats offense is growing in Nebraska and its sentencing appears to be racially unequal.

<i>Timeframe</i>	<i>Offense</i>	<i>White Min.</i>	<i>White Max.</i>	<i>Black Min.</i>	<i>Black Max.</i>	<i>Hispanic</i>	<i>Hispanic</i>
	<i>Count</i>	<i>Term</i>	<i>Term</i>	<i>Term</i>	<i>Term</i>	<i>Min. Term</i>	<i>Max. Term</i>
<i>1980s</i>	29	.67	2.57	1	2.6	0	1
<i>1990s</i>	307	1.12	3.18	1.18	2.80	.89	2.47
<i>2000s</i>	796	.85	2.79	1.06	2.72	.84	2.39
<i>2010s</i>	1378	.98	2.24	1.21	2.35	.91	1.79

Figure 26. Terroristic Threat Statistics

³⁷ “How Does the Law Define Terroristic Threats?”

Active Prison Population

I also evaluated the active inmate population as of December 2020. 7,406 inmates were examined. Figure 27 shows the most common years active inmates were incarcerated in. Most inmates began their sentence in 2019 and 2020, showing the majority of the inmate population is relatively new. The yearly inmate count decreases as it goes back in time. This is not surprising, as past average minimum sentencing statistics show that most terms are less than 5 years.

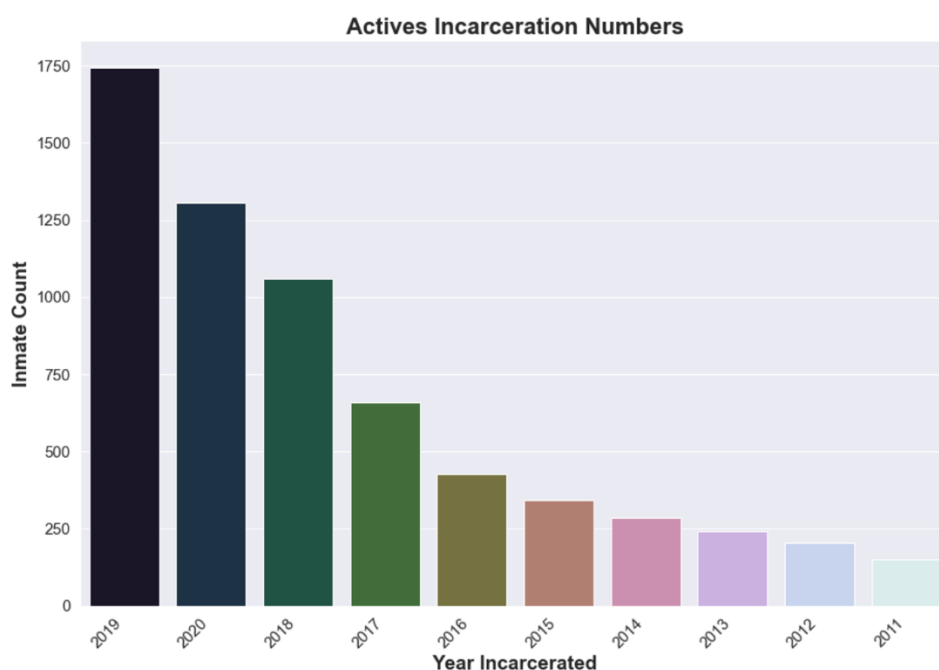


Figure 27. Most Common Years Active Inmates were Incarcerated

The average age active inmates were incarcerated is 33.85. This average is fleshed out in Figure 28, which counts the ages of inmates when they began their sentence. Most inmates seem to be 23-33 range, but quite a few older inmates are also shown. As inmate age rises, their counts go down. The average current inmate age is 38.92 years. This age distribution is shown in Figure 29, which only looks slightly different than Figure 28. Most inmates currently incarcerated are in their late 20s to early 40s. There is also a sizeable older inmate population. The older inmate counts do not decrease as sharply compared to Figure 28's. Many inmates are older individuals that are serving long sentences and have been in prison for a large portion of their adult life. The

average inmate's minimum term is 13.74 years, and the maximum is 19.6 years. These much higher averages are likely because of inmates serving life sentences skewing the numbers.

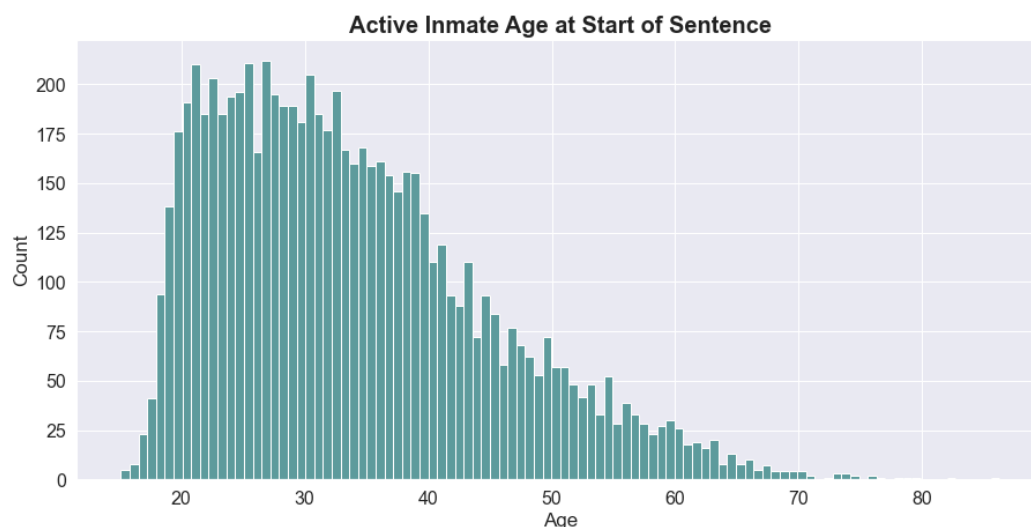


Figure 28. Active Inmate Age at the Start of their Sentence

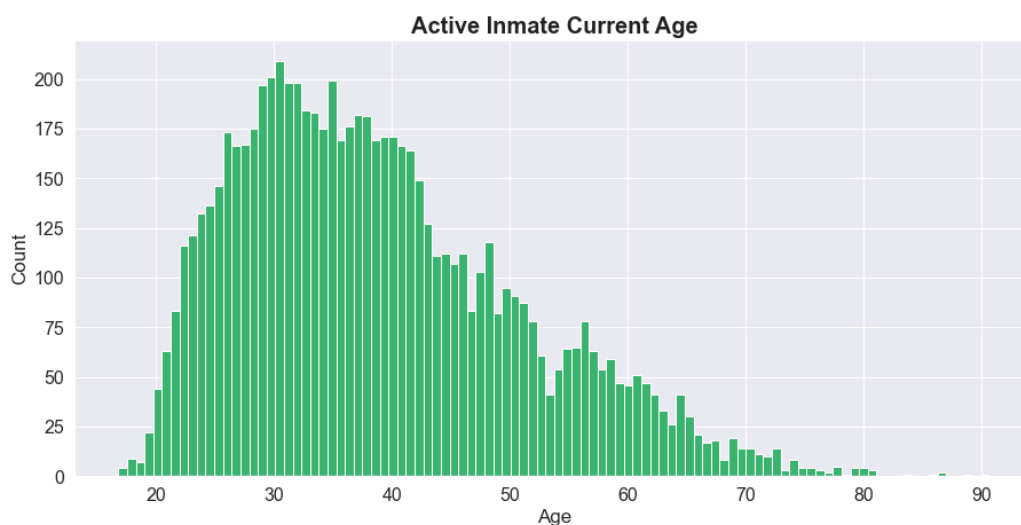


Figure 29. Active Inmate Current Age

Figure 30 further explores the average age at the time of incarceration and inmate's average minimum and maximum terms. Over time, the inmates' average age at the time of incarceration has increased. The average minimum and maximum terms have also increased. The National Academy of Science's report on the growth of incarceration references why these minimum and maximum terms may be rising. They state in the 1980s and 1990s, lawmakers on

all levels signed bills that mandated “lengthier prison terms.”³⁸ They lengthened incarceration sentences across the board of offenses. An inmate would likely serve more time for the same crime if they were incarcerated in 1995 compared to 1975.

<i>Timeframe</i>	<i>Average Age Incarcerated</i>	<i>Average Minimum Term</i>	<i>Average Maximum Term</i>
<i>1980s</i>	28.55	2.59	5.68
<i>1990s</i>	30.16	2.93	5.92
<i>2000s</i>	32.25	3.38	5.86
<i>2010s</i>	33.67	4.36	6.71
<i>Active</i>	33.85	13.74	19.6

Figure 30. Average Inmate Ages and Terms Over Time

The racial composition of the of active inmates is 53.5% White, 26.1% Black, 14.1% Hispanic, and 4.5% Native American. This demographic breakdown is quite different than the state population. Figure 31 shows these numbers. The 2019 Nebraska census estimates that 78.2% of the state is White, 5.2% is Black, 1.5% is Native American, and 11.4% is Hispanic.³⁹ These disparities show that Black, Native American, and Hispanic Nebraskans are overrepresented in the NDCS. The Sentencing Project estimates that Black men are 6 times as likely to be arrested compared with White men, and Hispanic men are 2.7 times more likely.⁴⁰ Nationally, 1 in 3 black men born in 2001 are likely to be imprisoned at some point in their life. This same statistic is only true for 1 in 9 white men and 1 in 6 Hispanic men. This difference between census and prison demographics is present nationally and within Nebraska.

³⁸ National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*.

³⁹ “QuickFacts Nebraska.”

⁴⁰ “Fact Sheet: Trends in U.S. Corrections.”

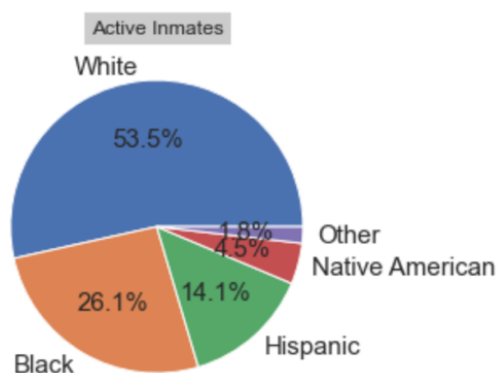


Figure 31. Racial Breakdown of Active Inmates

I also examined the offense information for Active inmates. The most common offense groups are Assault with 17.42% of the total, Drugs with 16.04%, Weapons with 13.71%, Sex Offenses with 11.02%, and Theft for 8.92%. These statistics are explored in Figure 32, and also have the racial breakdown of each offense group. The Assault, Weapons, Robbery, and Homicide groups have higher percentages of Black inmates involved. More serious group like Assault, Weapons, and Homicide are more present in the active section because they have longer terms. 34.28% of active inmates' offenses are committed against another Person, 24.17% are in the "Other" category, 16.04% are Drug related, 14.5% are Property related, and 11.02% are Sex Offenses. The most common offense is still a Class IV felony.

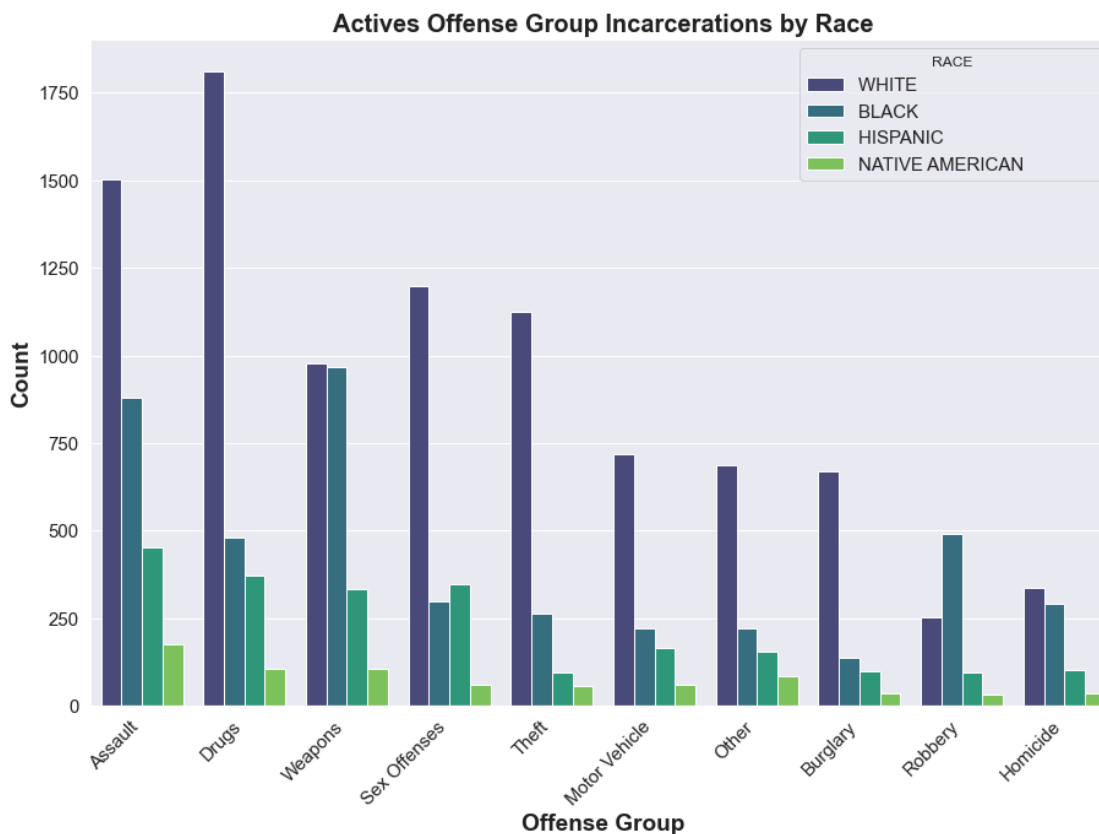


Figure 32. Active Inmates Offense Group Counts by Race

The active inmate offense arrests are also explored in Figure 33. Drug possession accounts for 8.67%, drug dealing for 6.77%, Burglary for 5.11%, Robbery for 5.01%, and Possession of a deadly weapon by a felon/fugitive is 4.42% of offenses. More Black inmates are incarcerated for Robbery and Use of a Deadly Weapon offenses. These statistics match previous decades of incarceration trends for Black inmates. The average offense minimum term is 6.67 years, and the maximum is 9.74 years. These higher numbers are likely skewed by longer sentences and life sentences of inmates that have been in prison for a while. However, most active inmates do appear to be incarcerated for violent and more serious crimes. Though drug possession and dealing were the most common offenses, these usually have a shorter minimum and maximum terms.

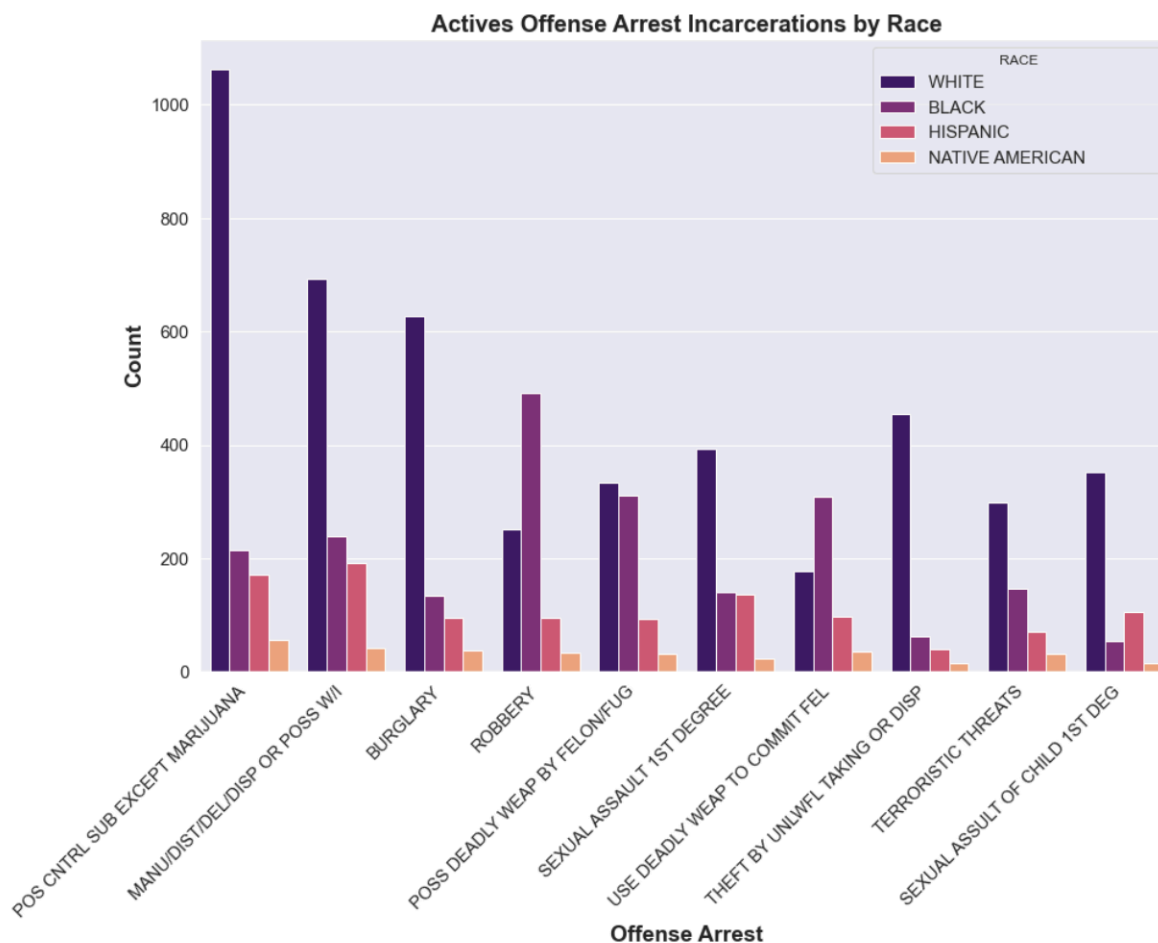


Figure 33. Active Inmates Offense Arrest Counts by Race

These analyses point to a Nebraska prison population that is consistently growing and fluctuating in offenses. Property offenses in the 1980s transitioned into Drug and Assault offenses becoming the most common into the 2010s. Certain racial disparities remain constant throughout each decade, such as Black inmates being incarcerated for more crimes associated with those below the poverty line. Drug offenses and terroristic threats offenses became more common due to societal changes and subsequent policy amendments to address them. Average inmate ages, minimum sentences, and maximum sentences all broadly rose over each decade. These trends point to a racially disproportionate, longer sentenced, aging, and rapidly growing Nebraska Prison population.

Solutions

In 2016, the Justice Center for the Council of State Governments (CSG) assessed the Nebraska Department of Correctional Services and gave advice on how to reduce the inmate population. CSG offered recidivism-reduction program impacts in their report and looked to maximize who receives effective programming. They found the NDCS “misses opportunities to identify risk and needs to target program resources accordingly.”⁴¹ Currently, NDCS programs do not address specific inmates’ needs, especially if they have multiple risk factors. The programs also are taught ineffectively by staff, who depart from curricula and only meet for a few hours each week. The CSG suggested that programs meet more often but finish the overall program more quickly. They also recommended to have consistent programming across prisons and have more staff training. CSG wanted Nebraska to alter some of its mandatory minimum sentencing practices. These suggestions were set to be implemented in LB 605, a bill titled by the Legislature as “Provide, change, and eliminate penalties, punishments, sentencing, restitution, probation, parole, and crime victim provisions and provide for post-release supervision, grants, and suspension of medical assistance for inmates.”⁴² This bill, along with a justice reinvestment was expected to reduce the Nebraska prison population by 1,021 prisoners.

Yet, multiple sources declared these efforts by the CSG and Nebraska Legislature to be a failure. The 2017 annual report by the Nebraska Inspector General of the Correctional System stated these sentencing and parole changes promised were not implemented. They found that many inmates were denied parole, and parole revocations even increased compared to the previous year. The NDCS still lacked avenues to divert low-level, nonviolent felonies away from

⁴¹ Derrick, Friedman, and Kisela, “Findings of the Justice Program Assessment of Nebraska’s Prisons.”

⁴² “LB605 - Provide, Change, and Eliminate Penalties, Punishments, Sentencing, Restitution, Probation, Parole, and Crime Victim Provisions and Provide for Post-Release Supervision, Grants, and Suspension of Medical Assistance for Inmates.”

prison. The office of the inspector general also acknowledged that many inmates faced mental health challenges that were not being properly addressed and treated. Douglas County Public Defender Tom Riley commented on the status of mentally ill inmates in the Douglas County Jail and said, “All we do is talk about it, but there doesn’t seem to be the political will to get something done.”⁴³ These missteps and series of inactions by the state resulted in the July 2020 state of emergency for overcrowding. When overcrowding emergencies are usually declared, an immediate review of parole-eligible inmates takes place to decide if they should be released. However, in July 2020, Governor Pete Ricketts said that most parole-eligible individuals were not fit to be released. The overcrowding emergency did not spark any reform in the form of releasing prisoners or altering sentencing structures. Nebraska ACLU executive director, Danielle Conrad, stated that the Legislature “didn’t fully implement the sentence reforms and alternatives to incarceration” set out in their multiple reports.⁴⁴ These reforms may have not been put into place because of disagreements between the governor, legislators, prosecutors, and the NDCS director. Nebraska Prosecutors did not want bills that restricted minimum sentencing of inmates and wanted judges to retain their control over sentencing.⁴⁵ It seemed that CSG and the Nebraska Legislature did not incorporate judges and prosecutors into their review and suggestion process, and this stalled legislation. This caused very few of the initiatives in LB 605 to be implemented, and prison overcrowding did not decrease.

The American Civil Liberties Union (ACLU) filed a lawsuit against the state in 2017 and offered their own suggestions to reduce the prison population. They believed the NDCS overcrowding had caused “needless suffering and death” of inmates and harmful conditions for

⁴³ Koebernick, “Office of the Inspector General of the Nebraska Correctional System 2016/2017 Report.”

⁴⁴ Koebernick, “Office of the Inspector General of the Nebraska Correctional System 2016/2017 Report.”

⁴⁵ Young, “Sentencing Reform Bill Goes to Full Legislature.”

prison staff.⁴⁶ The ACLU interviewed multiple inmates and featured the testimonies of 11 of them in their lawsuit. The report claimed that many mentally ill inmates did not receive proper treatment and some inmates were forced into solitary confinement for extended periods of time. They stated the suicide rate for Nebraska prisoners was 30% higher than the national average. Their findings indicated truly horrid conditions inside NDCS facilities, all made worse by the extreme overcrowding. In December 2020, the lawsuit was officially dropped. However, they claimed that they would still “continue to fight against overcrowding and perpetual understaffing” within NDCS facilities.⁴⁷ The ACLU’s report “Blueprint for Smart Justice” aimed to reduce NDCS overcrowding by 3,000 inmates and would save Nebraskans 139 million dollars a year.⁴⁸ It was developed in 2020 and included both sentence reductions and the institution of alternative programs to reduce prison admission. The blueprint also suggested the Nebraska Legislature cease introducing laws that create new offenses or lengthen penalties for existing crimes. It wanted the NDCS to expand treatment centers in their facilities, especially to care for inmates with mental health and substance abuse issues. It stated Nebraska has historically underutilized parole for low-risk criminals, even though it is proven that inmates are far less likely to come back to prison if they go through parole. Through their attempted lawsuit and official blueprint, The ACLU sought to combat NDCS overcrowding with the individual inmates’ values in mind.

The Nebraska Department of Correctional Services announced its plans to build a new 230-million-dollar prison in 2021. This facility would have 1,512 beds and house maximum,

⁴⁶ Hammel, “ACLU of Nebraska Files Lawsuit over Prison Overcrowding, Says Conditions Violate Inmates’ Rights.”

⁴⁷ “ACLU Agrees to Drop Lawsuit against Nebraska’s Prison System.”

⁴⁸ “Blueprint for Smart Justice Nebraska.”

medium, and minimum-security inmates.⁴⁹ The prison would not be completed until 2025, even though an outside source predicted that Nebraska prisons would grow to 6,000 prisoners in June 2022. The NDCS has been operating at over 140% of capacity, and its representative stated that efforts to reform sentencing and find alternatives to incarceration have failed. When the new facility is completed, the prison population will still be around 110% capacity. However, the new prison has stricken up controversy among legislators, inmate advocates, and inmates themselves.

Very few groups of Nebraskans agree on the new prison plan. Legislators have mixed opinions on overcrowding solutions. When Nebraska Department of Corrections director Scott Frakes testified to the state legislature in support of the new prison in February 2021, no one else testified with him. However, Governor Pete Ricketts fully supports the new prison and has already included it in his state budget. This dissent between the NDCS, governor, and state senators shows just how difficult it will be to approve the new prison. Omaha state senator Steve Lathrop, who sits as the chairman of the Legislature's Judiciary Committee, thinks the overcrowding solution is "going to be some thoughtful combination of reforms and building."⁵⁰ Other state senators thought the millions of taxpayer dollars would be better spent on job and housing programs. These would assist vulnerable individuals to prevent them from committing future crimes. The ACLU also began a campaign to stop the new prison from being approved and built. A tough road lies ahead for the NDCS if they want to build their new prison.

In 2020 the Nebraskans for Prison Reform group (NFPR), led by currently incarcerated man Todd L Cook, proposed several changes to the NDCS to reduce its population by 50% in 10 years.⁵¹ Cook, who is currently serving a life sentence, has published multiple books about his

⁴⁹ Hammel, "Nebraska Moves Forward with Plan for New \$230 Million Prison to Relieve Overcrowding."

⁵⁰ Young, "New Prison Could Cost \$230 Million to Build under Just Released Proposal."

⁵¹ Cook, "Reducing Nebraska's Prison Population by 50% in 10 Years."

incarcerated experience and co-founded the Nebraskans for Prison Reform.⁵² The NFPR wanted to return the practice of giving parole to those serving life sentences after they receive a “low-risk” status. There are currently 256 prisoners serving life sentences without parole, and this plan would reduce their numbers by 130 over 10 years. Cook wanted the NDCS to renovate its Hastings location instead of building a brand-new facility. This plan would save the department money to put forth toward other needs. Perhaps most importantly, Cook wanted the NDCS and the Legislature to engage with judges to reduce minimum terms at sentencing.⁵³ This practice would create a more sustainable environment for shortening sentences into the future. Cook estimated this will decrease the prison population by 300 within the next ten years. NFPR also wanted to reduce penalties for habitual criminals of non-violent crimes. Cook thinks that this will reduce the inmate population by 100 individuals. They also suggest the release of elderly inmates. Most have been incarcerated for many years and are no longer a “threat to society.”⁵⁴ For many elderly inmates, they have long aged out of being dangerous individuals. Their release will eliminate 300 inmates in 10 years. These actions proposed by Cook call for instrumental change to how Nebraskans are incarcerated and require substantial legislative work to be accomplished.

The Nebraskans for Prison Reform also suggested adjustments to the prison education, mental health evaluations, and use of community corrections centers to reduce the number of inmates. Cook believed that better education on crime and punishment and restorative justice will reduce the number of crimes that will take place. If children are exposed to what happens to them if they get arrested or incarcerated, it may stop them from committing the crime. Cook

⁵² “Todd L. Cook.”

⁵³ Cook, “Reducing Nebraska’s Prison Population by 50% in 10 Years.”

⁵⁴ Cook, “Reducing Nebraska’s Prison Population by 50% in 10 Years.”

understands that most children are inherently good and would not fall into crime if they were more educated about the subject. Restorative justice education would also expose young people to “alternatives to incarceration.”⁵⁵ According to their website, Restorative justice focuses on repairing the harm caused by a crime.⁵⁶ It creates an avenue for the criminal and those affected to meet and discuss the implications of what has taken place. This style of approaching crime would reduce the number of inmates in Nebraska prisons and prevent their future crimes. These education changes would reduce the inmate population by 500 in 10 years. Cook also suggested that inmates be given psychological evaluations at the start of their sentence and be reexamined throughout their sentence. He said that psychological evaluations were not conducted on long or life sentences unless they are up for consideration for parole. By changing sentence structure to be around psychological status instead of years served, more inmates would possibly be put on parole or set free. Cook estimates 50 inmates will be removed over 10 years if this is put into place. The NFPR also suggested that the NDCS use more community correction centers, especially for long term prisoners. Community Corrections Centers are cheaper, require less staff, and allow inmates to interact with the surrounding area. They also thought prisoners should be allowed an educational release while they are in these centers. College courses used to be taught in prison facilities, but no longer are. Long term prisoners used to be able to live in community corrections centers but have been recently restricted. With this option opened up, more long-term inmates may find hope and improve their behavior. This will lead to greater safety for staff and other inmates. Cook thinks utilizing community corrections centers will allow for lower recidivism and will lower the total prison population by 300. The Nebraskans for Prison Reform’s proposed structural changes to education and prison facilities will reduce

⁵⁵ Cook, “Reducing Nebraska’s Prison Population by 50% in 10 Years.”

⁵⁶ “Lesson 1: What Is Restorative Justice?”

overcrowding. These actions can be completed by the NDCS themselves and will place their inmates into better suited care with a less expensive price tag.

Implications

The main goal of this project was to explore the Nebraska Department of Correctional Services inmate databases and follow the population through 40 years of incarceration. National and local policies changed who was incarcerated in Nebraska prisons and why. However, it is important to consider that each row of data represents a real individual who was or still is an occupant of the Nebraska prison system. This study's intent is to not demean the individual experience of each inmate and their reason for incarceration. When looking at mass incarceration data, it can be easy to see broad trends as just numbers on a page, but the important focus should be on individuals' experience with the prison system. These reports may be of use to those at the Nebraska Legislature, Nebraska Department of Correctional Services, or mass incarceration-focused organizations. However, the primary audience of this research is Nebraskans who are curious to learn more about the people incarcerated within their prisons.

Conclusions

Few Nebraskans are aware of who is currently incarcerated in their prisons, and why they are being held there. Even fewer have examined the Nebraska Department of Correctional Services' inmate databases in search of answers. This study effectively followed industry-standard data analysis procedures, produced understandable inmate statistics, and provided historical context to the evolving population of inmates. The data was purposefully selected, scrubbed, and visualized for proper analysis. Over forty years of inmate demographic and offense trends were investigated. The analysis shows a steadily growing inmate population with an increasing number of offenses in Drugs and Assault offense groups. Average minimum and maximum sentences for offenses have increased. A considerable number of active prisoners are

extremely elderly and remain incarcerated. Racial disparity between the Nebraska general population and its inmate population prove that Black and Native American inmates are being disproportionately incarcerated. The data analysis points to a racially disproportionate, longer sentenced, aging, and rapidly growing Nebraska inmate population.

From 1980 to 2020, the Nebraska Department of Correctional Services has consistently operated over its operational capacity. In 2020, the NDCS was at 125% operational capacity, and now faces multiple solutions for its emergency-status overcrowding.⁵⁷ Outside sources like CSG suggest reducing some mandatory minimum sentencing and improving the NDCS's prison programming to reduce recidivism. The Legislature expanded on this this report by implementing LB 605, which took initiatives from the CSG report, to reduce overcrowding. However, these efforts were largely unsuccessful due to disagreements between prosecutors, judges, and legislators. The ACLU of Nebraska suggested ceasing the creation of laws that lengthen sentencing and investing in better prison programming. Despite these efforts, the NDCS entered a state of emergency overcrowding in July 2020. In 2021, the NDCS director introduced a new 230-million-dollar prison as the solution to combat overcrowding. This proposal was met with disapproval from legislators, inmate advocates, and prisoners themselves. Most legislators are hesitant to approve the new prison plan, and new citizen campaigns are attempting to stop the prison's progress. The Nebraskans for Prison Reform, co-founded by a current NDCS inmate, made their own series of suggestions to fight overcrowding. The overcrowding issues and myriad of solutions are not unique to Nebraska, but instead represent a nation-wide mass incarceration predicament. However, the gravity of Nebraska's overcrowding places it in one of the most difficult positions in the country.

⁵⁷ "NDCS Capacity and Average Daily Population1 – FY1982-FY2030 (YTD)."

Future Research

Future work on this project could include expanded analysis, machine learning work, and a public-facing resource for interested individuals. Members of civil rights organizations, the NDCS, the Nebraska Legislature, or any other interested parties may expand on the research accomplished in this study. Developed research on inmate gender differences, specific correctional facilities, more detailed offense trends, parole or educational programming, or the inclusion of juvenile inmates would help further this study. Machine learning analysis may help find what inmates are most likely to be incarcerated for based on certain conditions, or what their sentence term may be. It may find trends that were previously unnoticed to the human eye. These results could be compared with this study and create a new conversation on how a machine understands the inmate data. A palatable viewing space for interested parties would advance the themes in this report. A dedicated website or social media account would help spread the information in this report to everyday Nebraskans.

Bibliography

- “ACLU Agrees to Drop Lawsuit against Nebraska’s Prison System.” *Associated Press*, December 2, 2020. <https://apnews.com/article/lawsuits-nebraska-prisons-12acef9f30e85224c79f6f71886f32bb>.
- Beck, Allen J., and Alfred Blumstein. *Population Growth in U.S. Prisons, 1980-1996*. The University of Chicago, 1999. <https://www.jstor.org/stable/1147683?seq=1>.
- Berry Law. “How Does the Law Define Terroristic Threats?” 2021. <https://jsberrylaw.com/blog/how-does-the-law-define-terroristic-threats/>.
- “Blueprint for Smart Justice Nebraska.” American Civil Liberties Union, 2018. <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-NE.pdf>.
- Centre for Justice and Reconciliation. “Lesson 1: What Is Restorative Justice ?,” 2021. <http://restorativejustice.org/restorative-justice/about-restorative-justice/tutorial-intro-to-restorative-justice/lesson-1-what-is-restorative-justice/#sthash.7thgeVsU.SilfUWiQ.dpbs>.
- “Crime in Nebraska 2015,” September 17, 2016. <https://ncc.nebraska.gov/sites/ncc.nebraska.gov/files/doc/2015-Crime-Report.pdf>.
- Cook, Todd L. “Reducing Nebraska’s Prison Population by 50% in 10 Years,” 2020.
- Derrick, Bree, Sara Friedman, and Jennifer Kisela. “Findings of the Justice Program Assessment of Nebraska’s Prisons.” The Council of State Governments Justice Center, June 21, 2016.
- Facebook. “Todd L. Cook,” 2021. <https://www.facebook.com/toddcookauthor/>.
- “Fact Sheet: Trends in U.S. Corrections.” The Sentencing Project, August 2020. <https://www.sentencingproject.org/wp-content/uploads/2020/08/Trends-in-US-Corrections.pdf>.
- Formplus. “Experimental Vs Non-Experimental Research: 15 Key Differences,” December 2004. <https://www.formpl.us/blog/experimental-non-experimental->

[research#:~:text=In%20non%2Dexperimental%20research%2C%20researchers,the%20independent%20variable%20is%20impossible.](#)

Jupyter. “Jupyter,” n.d. <https://jupyter.org/>.

Harrell, Erika. “Household Poverty and Nonfatal Violent Victimization, 2008-2012.” Bureau of Justice Statistics, November 18, 2014. <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5137>.

Hammel, Paul. “ACLU of Nebraska Files Lawsuit over Prison Overcrowding, Says Conditions Violate Inmates’ Rights.” *Omaha World Herald*, August 16, 2017. https://omaha.com/news/crime/aclu-of-nebraska-files-lawsuit-over-prison-overcrowding-says-conditions-violate-inmates-rights/article_485863a0-c12c-516e-a3c7-9f51d4ecfa42.html.

Hammel, Paul. “Nebraska Moves Forward with Plan for New \$230 Million Prison to Relieve Overcrowding.” *Omaha World Herald*, February 26, 2021. https://omaha.com/news/state-and-regional/crime-and-courts/nebraska-moves-forward-with-plan-for-new-230-million-prison-to-relieve-overcrowding/article_3f6318b2-43c1-11eb-aae3-478f84b04353.html.

Hammel, Paul. “Prison Overcrowding Emergency Begins July 1 in Nebraska. Will Much Change?” *Omaha World Herald*, June 25, 2020. https://omaha.com/news/local/prison-overcrowding-emergency-begins-july-1-in-nebraska-will-much-change/article_8509ee94-9cfb-525c-bb9f-535066a97f44.html#:~:text=A%20state%20law%20passed%20in,they%20were%20designed%20to%20house.

Holmquist, Anna, and Spike Eickholt. “The State House to Prison Pipeline.” ACLU Nebraska, October 20, 2017. https://www.aclunebraska.org/sites/default/files/field_documents/statehouse_to_prison_pipeline.pdf.

Ingraham, Christopher. “White People Are More Likely to Deal Drugs, but Black People Are More Likely to Get Arrested for It.” *Washington Post*, September 20, 2014.

<https://www.washingtonpost.com/news/wonk/wp/2014/09/30/white-people-are-more-likely-to-deal-drugs-but-black-people-are-more-likely-to-get-arrested-for-it/>.

Koebernick, Doug. “Office of the Inspector General of the Nebraska Correctional System 2016/2017 Report.” Nebraska Legislature, 2017.

https://nebraskalegislature.gov/pdf/reports/public_counsel/2017_oig-ncs.pdf.

“LB605 - Provide, Change, and Eliminate Penalties, Punishments, Sentencing, Restitution, Probation, Parole, and Crime Victim Provisions and Provide for Post-Release Supervision, Grants, and Suspension of Medical Assistance for Inmates.” Nebraska Legislature, 2021.

https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=24635.

“Offense Arrest Groups.” GitHub, 2021. <https://github.com/anna-k-krause/Thesis/blob/main/Offense%20Arrest%20Groups.xlsx>.

Mason, Hillary, and Chris Wiggins. “A Taxonomy of Data Science.” *Dataists* (blog), n.d.

<http://www.dataists.com/2010/09/a-taxonomy-of-data-science/>.

Matplotlib. “Matplotlib,” n.d. <https://matplotlib.org/stable/index.html>.

McGough Law. “Understanding Nebraska Felony Crimes and Sentences,” 2021.

<https://www.mcgoughlaw.com/blog/2018/march/understanding-nebraska-felony-crimes-and-sentenc/#:~:text=Class%20IV%3A%20The%20least%20serious,up%20to%20a%20%2410%2C000%20fine>.

National Research Council. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. The National Academies Press, 2014. <https://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

“NDCS Capacity and Average Daily Population1 – FY1982-FY2030 (YTD).” Nebraska Department of Correctional Services, January 8, 2021. <https://corrections.nebraska.gov/ndcs-average-daily-population-fy1982-fy2020>.

Nebraska Department of Correctional Services Inmate Search. “Download Inmate Database File,” 2021. https://dcs-inmatesearch.ne.gov/Corrections/COR_download.htm.

Nebraska Department of Correctional Services. “NDCS Reports,” 2021. <https://corrections.nebraska.gov/public-information/statistics-reports/ndcs-reports>.

“Nebraska Revised Statute 28-105.” Nebraska Legislature, 2021. <https://nebraskalegislature.gov/laws/statutes.php?statute=28-105>.

“Nebraska Revised Statute 28-311.01.” Nebraska Legislature, 2021. <https://nebraskalegislature.gov/laws/statutes.php?statute=28-311.01>.

“Nebraska Revised Statute 29-2221.” Nebraska Legislature, 2021. <https://nebraskalegislature.gov/laws/statutes.php?statute=29-2221#:~:text=Generally%2C%20one%20deemed%20to%20be,for%20the%20habitual%20criminal%20charge>.

NumPy. “NumPy,” 2021. <https://numpy.org/>.

Pandas. “Pandas,” 2021. <https://pandas.pydata.org/>.

“Racial and Ethnic Disparities in the Criminal Justice System in Nebraska.” UNO Center for Public Affairs Research, November 19, 2020. <https://www.unomaha.edu/news/2020/11/img/full-report--racial-and-ethnic-disparity-in-nebraskas-criminal-justice-system.pdf>.

Seaborn. “Seaborn: Statistical Data Visualization,” n.d. <https://seaborn.pydata.org/index.html>.

Salkind, Neil. “Nonexperimental Designs.” Encyclopedia of Research Design, December 27, 2012. <https://methods.sagepub.com/reference/encyc-of-research-design/n271.xml>.

“State v. Tucker.” FindLaw.com, August 20, 1999. <https://caselaw.findlaw.com/ne-supreme-court/1226058.html>.

Talk Poverty. “Nebraska Report 2018,” 2018. <https://talkpoverty.org/state-year-report/nebraska-2018-report/>.

“Timeline: America’s War on Drugs.” *National Public Radio*, April 2, 2007. <https://www.npr.org/templates/story/story.php?storyId=9252490>.

United States Census. “QuickFacts Nebraska,” 2021. <https://www.census.gov/quickfacts/NE>.

Walcker, Allison. “Examining the Differences of ‘Life’ between Adults and Juveniles Incarcerated in Nebraska’s Correctional Systems,” 2010. <https://corrections.nebraska.gov/public-information/statistics-reports/external-reports>.

Whitaker, Catherine. “Black Victims.” Bureau of Justice Statistics, 1990. <https://www.bjs.gov/content/pub/pdf/bv.pdf>.

Young, JoAnne. “Sentencing Reform Bill Goes to Full Legislature.” *Lincoln Journal Star*, April 15, 2015. https://journalstar.com/legislature/sentencing-reform-bill-goes-to-full-legislature/article_6ffc663f-f83f-514f-994d-72109471e9f7.html.