

Mass Incarceration Trends

50 YEARS AND
A WAKE UP
ENDING THE
MASS INCARCERATION
CRISIS IN AMERICA

 **THE
SENTENCING
PROJECT**
RESEARCH AND ADVOCACY FOR REFORM

MASS INCARCERATION TRENDS

Fifty years ago, the United States embarked on a path of mass incarceration that has led to a staggering increase in the prison population. This publication is part of The Sentencing Project’s public education campaign, 50 Years and a Wake Up: Ending The Mass Incarceration Crisis In America.

The campaign raises awareness about the dire state of the criminal legal system in the country, the devastating impact of incarceration on communities and families, and proposes more effective crime prevention strategies for our country.

The title for this campaign was born out of a colloquial phrase that incarcerated people sometimes use to describe the life of their sentence, plus one day (e.g. “I have 20 years and a wake up”). It also serves as a double-entendre, calling for our country to “wake up” to the harsh and dangerous realities of mass incarceration in America.

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The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

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MASS INCARCERATION TRENDS

The United States is unparalleled historically and ranks among the highest worldwide in its dependence on incarceration.¹ Over five million people in total are under supervision by the criminal legal system.² Of these, nearly two million people, disproportionately Black, are living in prisons and jails instead of their communities. Compare this to the figures of the early 1970s when this count was 360,000.³

MASS INCARCERATION'S REACH

The social, moral, and fiscal costs associated with the large-scale, decades-long investment in mass imprisonment cannot be justified by any evidence of its effectiveness. *Misguided changes in sentencing law and policy—not crime—account for most of the increase in correctional supervision.*⁴

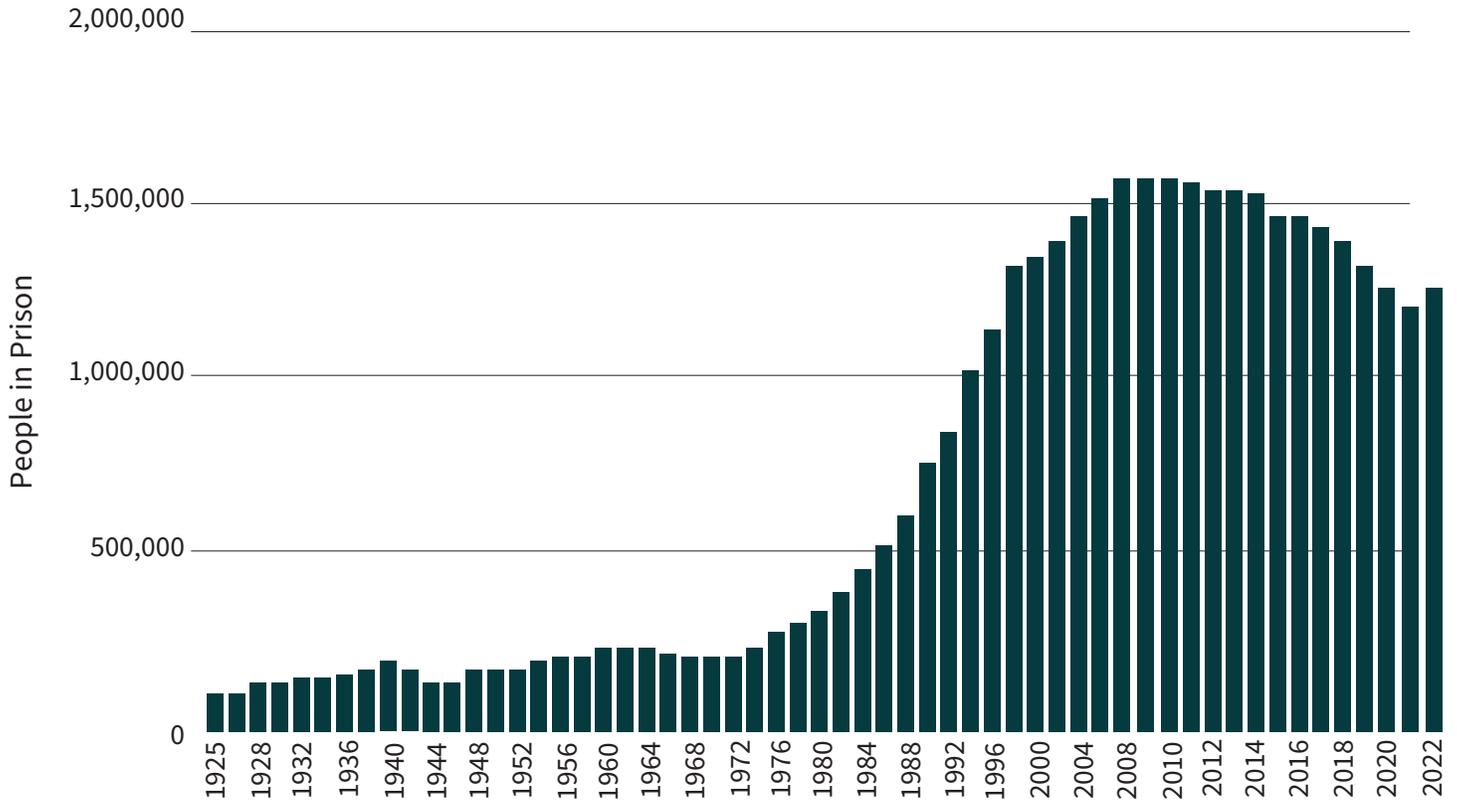
Mass incarceration instigates numerous poor physical, psychological, and economic outcomes for the people who experience imprisonment, for their families, as well as for the broader community.⁵ Imprisonment leads to declining prospects for employment and results in lower earnings in the longer term.⁶ Food insecurity, housing instability, and reliance on public assistance are also associated with prior imprisonment.⁷ Children of incarcerated parents suffer tremendously; imprisonment of a parent leads to significant declines in academic and health outcomes for children.⁸ High levels of incarceration also destabilizes entire communities, leading to dissolution of informal networks that are known to serve as barriers to neighborhood crime.⁹ Trust in law enforcement deteriorates as community members experience elevated levels of victimization and the loss of community members, friends, and family members to incarceration.¹⁰

THE SURGE IN PRISON GROWTH

In 1972, the imprisonment rate was 93 per 100,000 people.¹¹ The prison population expansion that commenced in 1973 reached its peak in 2009, achieving a seven-fold increase over the intervening years. Between 1985 and 1995 alone, the total prison population grew an average of eight percent *annually*. And between 1990 and 1995, all states, with the exception of Maine, substantially increased their prison populations, from 13% in South Carolina to as high as 130% in Texas. The federal system grew 53% larger during this five-year period alone.¹²

The number of people in prison began a marginal decline beginning in 2010¹³ and continued along this course for more than a decade, including a remarkable 14% decline in 2020 alone, which was principally caused by accelerated releases and reduced admissions during the first year of the COVID-19 pandemic. The year 2022, however, marked the first year in more than a decade where the prison population rose again, by two percent, led by increases in 36 states and the federal government.¹⁴ Mississippi alone raised its population of imprisoned persons 15% between 2021 and 2022.

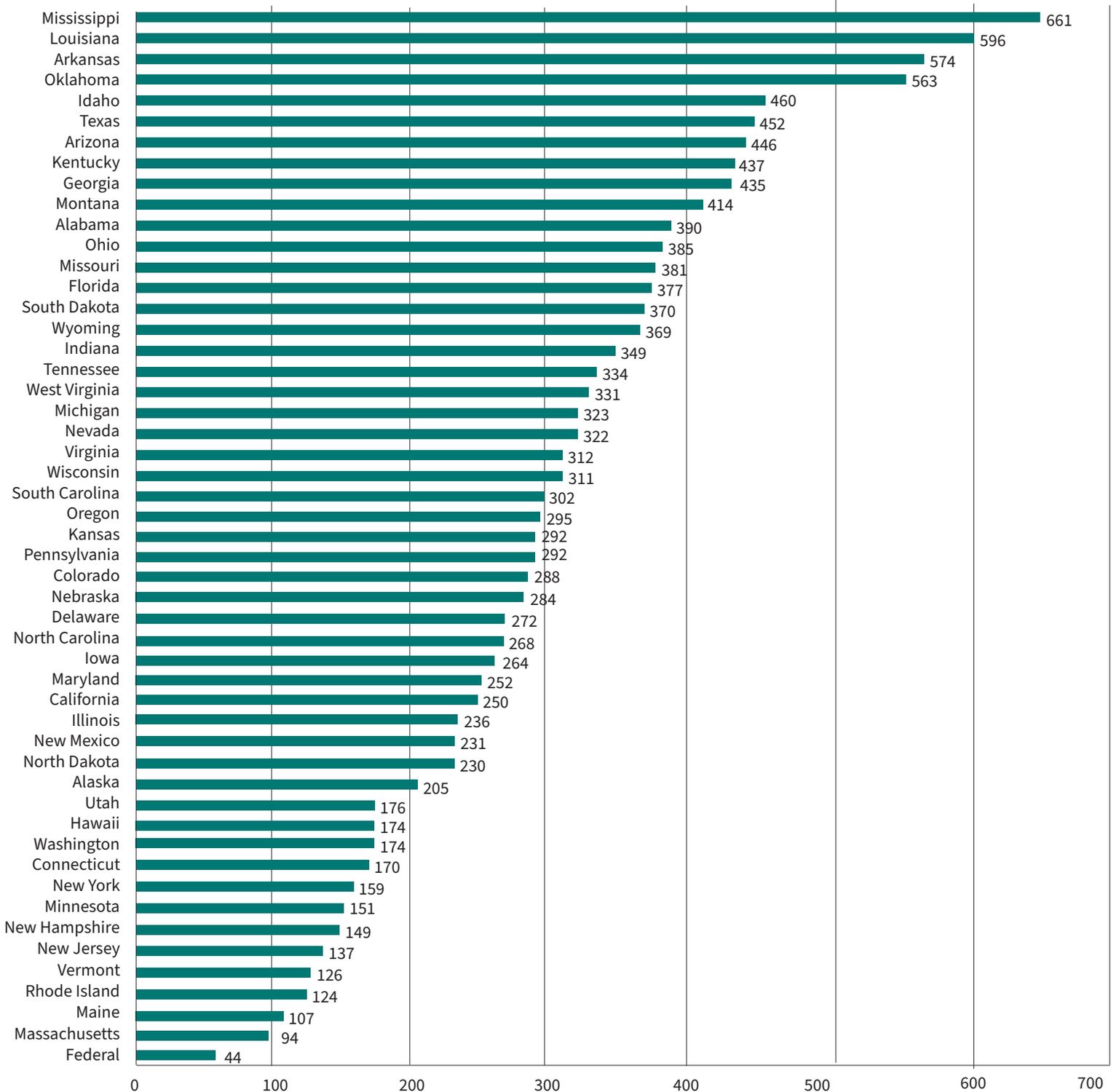
Figure 1. U.S. State and Federal Prison Population, 1925-2022



Sources: Cahalan, M. W. (1986). *Historical corrections statistics in the United States, 1850-1984*. Bureau of Justice Statistics; Carson, E. A. & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. Bureau of Justice Statistics.

2022 marked the first year in more than a decade where the prison population rose — led by increases in 36 states and the federal government.

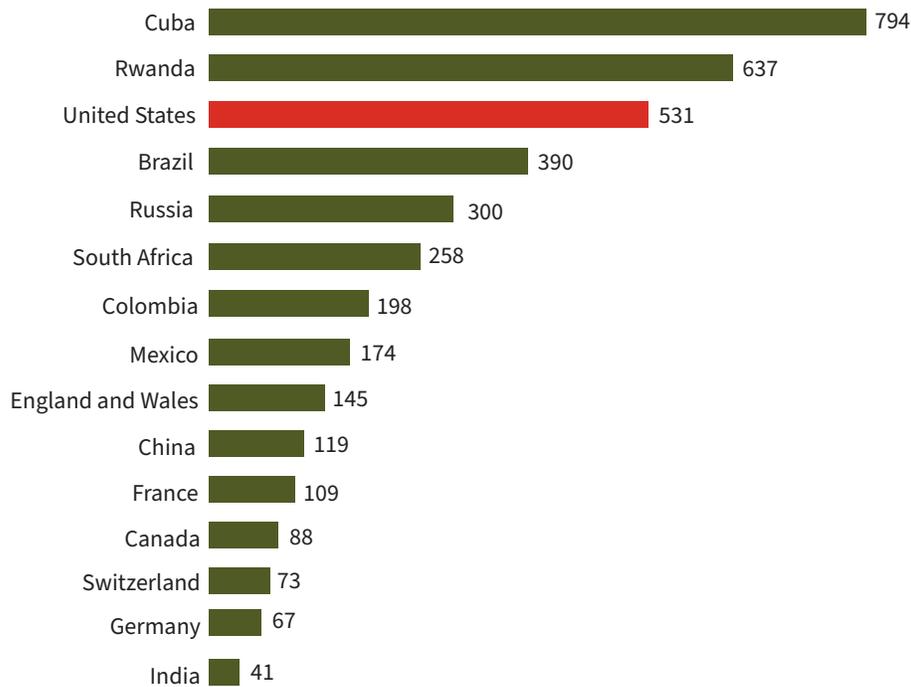
Figure 2. Ranked Imprisonment Rates (Per 100,000 people) in State & Federal Prison, 2022



Source: Carson, E. A. & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. Bureau of Justice Statistics.

In a global comparison, the United States remains a leader in per capita rates of incarceration. Though a handful of countries incarcerate a higher proportion of their population, the U.S. rate of incarceration is significantly higher than the rest of the world, including its closest neighbors, Canada and Mexico.

Figure 3. International Rates of Incarceration

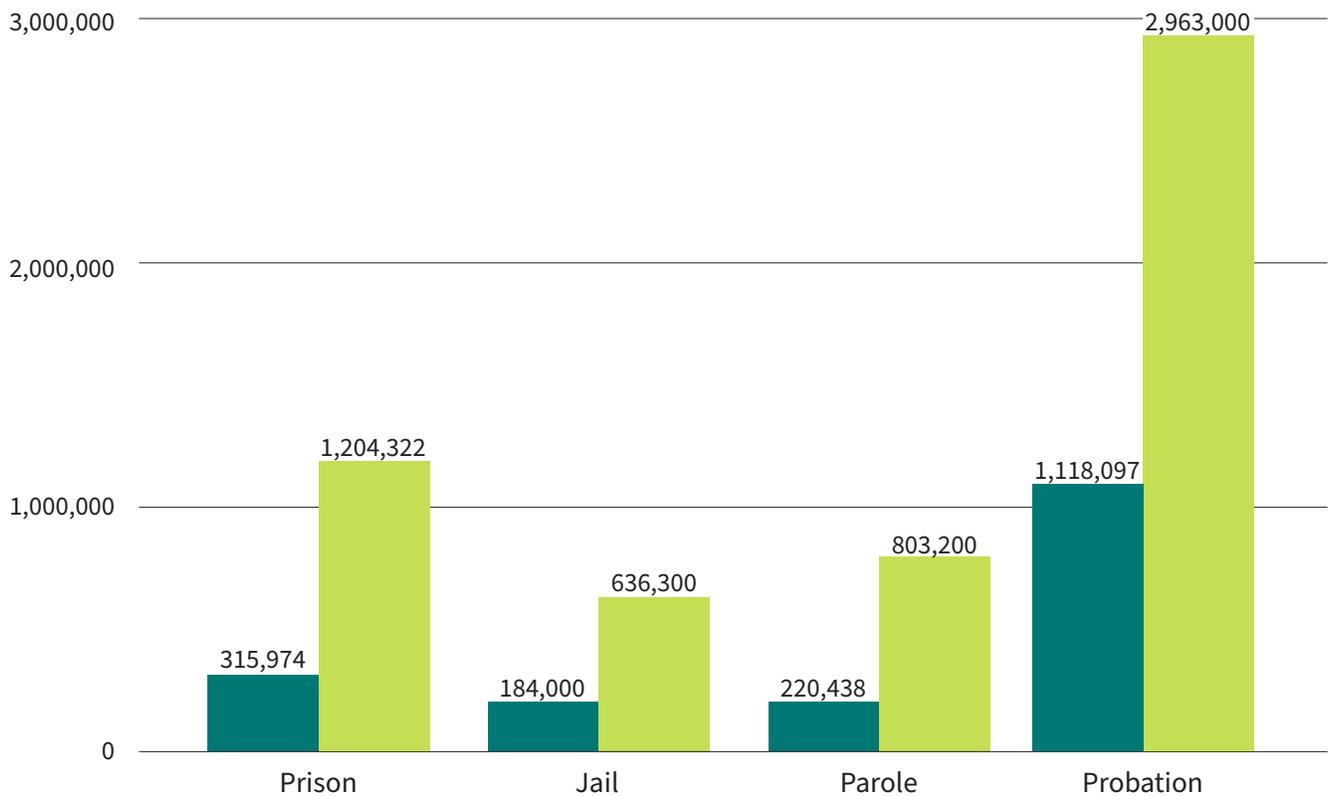


Source: World Prison Brief, compiled and hosted by the Institute of Crime and Justice Policy Research at Birkbeck, University of London.

PROBATION AND PAROLE

Probation and parole have expanded both in the absolute number and length of supervision for the past several decades.¹⁵ Between 1980 and 2021, the number of people on probation more than doubled and the number of people under parole supervision more than tripled.

Figure 4. People Under U.S. Correctional Supervision, 1980 and 2021

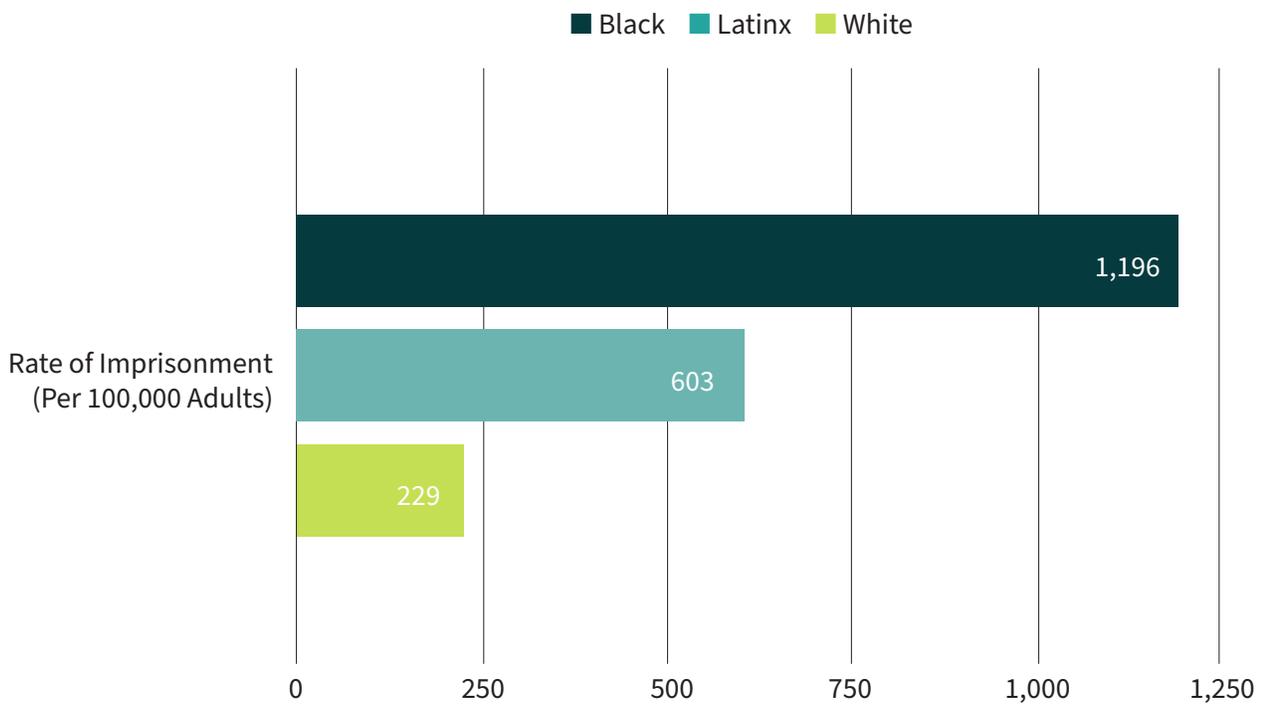


Source: Cahalan, M. W. (1986). *Historical corrections statistics in the United States, 1850-1984*. Bureau of Justice Statistics, Table 7-9A; Carsen, E., Kluckow, R. & Zeng, Z. (2022). *Correctional populations in the United States, 2021—Statistical Tables*. Bureau of Justice Statistics.

RACIAL AND ETHNIC DISPARITIES

One in five Black men born in 2001 is likely to be imprisoned at some point in their lifetime.¹⁶ People of color remain massively overrepresented in prisons, accounting for nearly 7 in 10 people in prison. Systemic causes range from a history of racial and ethnic subordination to ongoing police tactics that unfairly ensnare people of color into the system, and also include charging and sentencing practices that create stiffer punishments for people of color. Recent estimates find that one in 81 Black adults in the United States is serving time in state prison.¹⁷

Figure 5. Racial and Ethnic Disparities in State and Federal Prisons, 2022



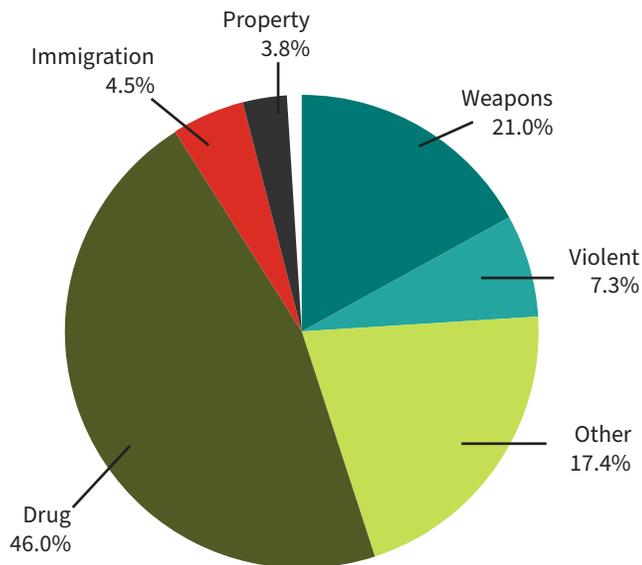
Source: Carson, E. A. & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. Bureau of Justice Statistics.

OFFENSE TYPES

In 2022, more than three in five people (63%) sentenced to state prison had been convicted of a violent crime,¹⁸ as compared with 1970 when 30% of people in prison had been convicted of violence.¹⁹

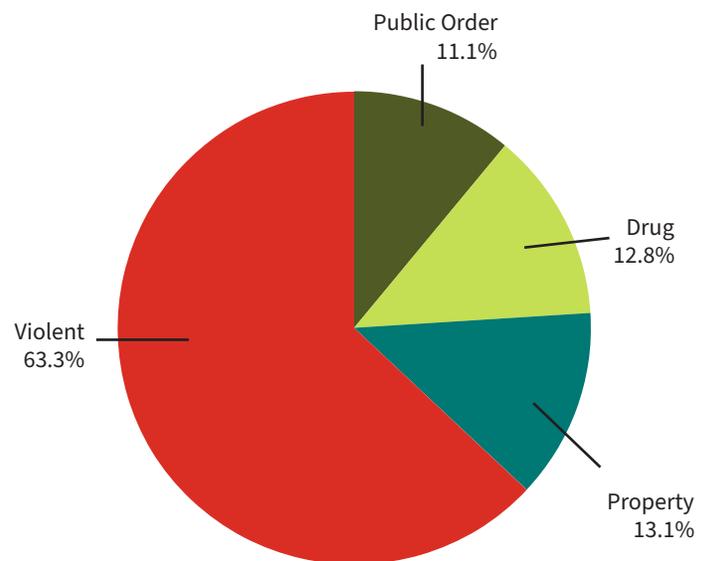
Offense types among those convicted in the federal and state prison systems are presented below (Figures 6 and 7). Despite common misconceptions that federal prison is reserved for the most violent crimes, it is the case that roughly half (46%) of those sentenced to federal prison have been convicted of drug offenses.

Figure 6.
Federal Prison Population by Offense, 2022



Source: Carson, E. A. & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. Bureau of Justice Statistics.

Figure 7.
State Prison Population by Offense, 2022



Source: Carson, E. A. & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. Bureau of Justice Statistics.

FEDERAL DRUG LAWS

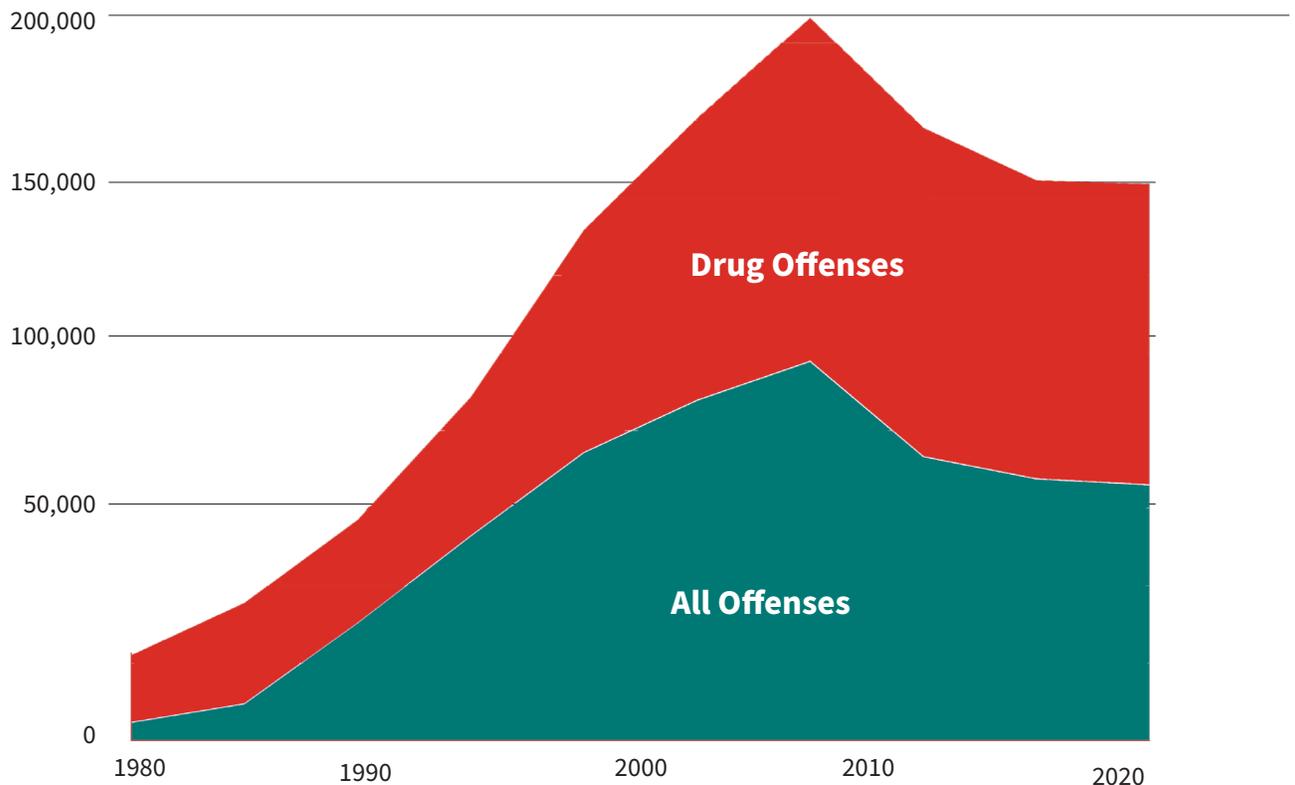
Sentencing policies enacted under the banner of the “War on Drugs” which began in the early 1970s and accelerated with the utilization of broadly punitive mandatory minimum and three-strikes policies, resulted in dramatic growth in incarceration for drug offenses. This is particularly evident at the federal level.

The *Sentencing Reform Act of 1984*²⁰ established the United States Sentencing Commission (USSC) with the primary task of creating sentencing guidelines for the purpose of limiting the discretion of sentencing judges at the federal level.²¹ The guidelines went into effect in late 1987, at the same time that federal parole was eliminated, and federal prison sentences began their steep upward climb, especially for drug offenses.²² This climb was exacerbated by the passage of the *Anti-Drug Abuse Act* in 1986, which imposed stiff mandatory minimums for drug offenses, including a five-year mandatory min-

imum for the simple possession or sale of five grams of crack cocaine. In contrast, the mandatory minimum trigger for powder cocaine, a chemically identical drug to crack, required the sale of *100 times that amount*. In 1986, people released after federal imprisonment for a drug conviction spent under two years in prison, but by 2005 people convicted of federal drug charges served an average of seven years.²³ That increase was borne disproportionately by Black individuals: prior to the enactment of the Anti-Drug Abuse Act, the average federal drug sentence for Black individuals was 11% higher than for whites, four years after its passage, that figure increased to 49%.²⁴

In 2010, the US Congress passed the Fair Sentencing Act in an effort to ameliorate some of the damage done by the law, reducing the sentencing cocaine disparity from 100-1 to 18-1.²⁵ In 2019, the First Step Act applied the 2010 Fair Sentencing Act retroactively, and reduced other sentences for drug offenses. Approximately 4,000 people benefited from retroactivity of the law.²⁶

Figure 8. Share of People in Federal Prison for Drug Offenses, 1980-2022

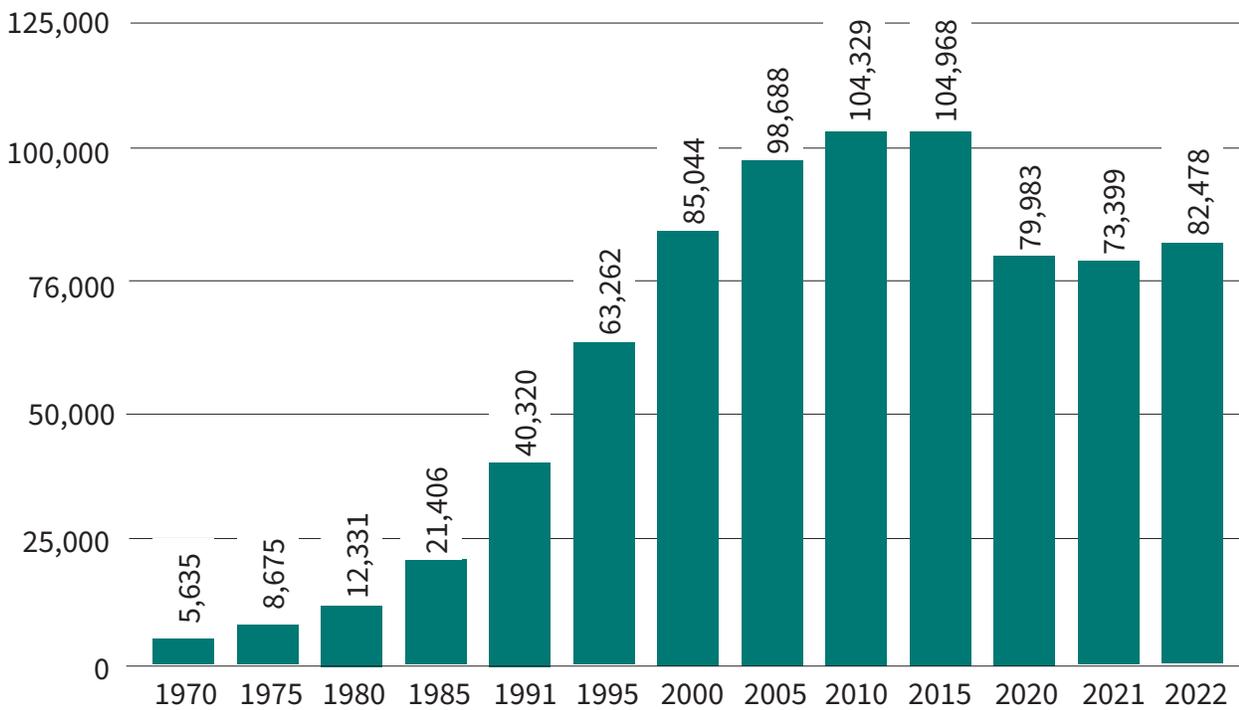


Sources: Bureau of Justice Statistics *Prisoners Series*; Albany University (n.d.) *Sourcebook of criminal justice statistics online*.

WOMEN

At the start of the era of mass incarceration, fewer than 6,000 women were in state or federal prisons.²⁷ As noted in Figure 9 below, this level reached a high of 105,000—more than 17 times the 1970 level—by 2015, followed by marginal but steady declines since. Still, 2022’s population figures are far above those of the pre-mass incarceration era – more than 82,000 women were imprisoned in state or federal prison. The growth in women’s imprisonment from 2021 to 2022 was more than double (4%) that of men (1.5%).

Figure 9. Women in State and Federal Prisons

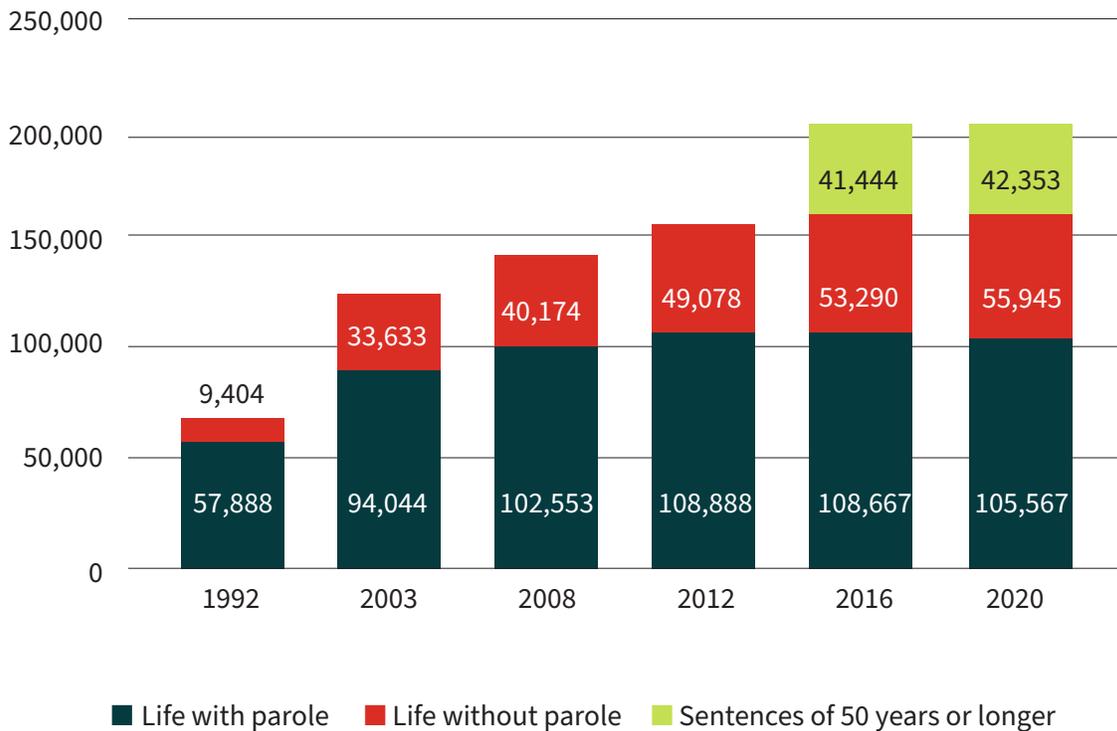


Source: Cahalan, M. W. (1986). *Historical corrections statistics in the United States, 1850-1984*. Bureau of Justice Statistics; BJS Prisoners Series (1985-2022).

LIFE AND LONG-TERM IMPRISONMENT

Mass incarceration’s toll on human dignity is no more apparent than with the staggering proliferation of life sentences; today one in seven imprisoned people is serving a life sentence. Life sentences have consistently been included as a sentencing option, but their use expanded dramatically during the era of mass incarceration.²⁸ Historically, life sentences came with the expectation of release; they were used to encourage good behavior among people who were incarcerated. Individuals were typically released in 10-15 years through parole or executive clemency.²⁹

Figure 10. The Growth of Life Sentences, 1992-2020



Sources: Figures for 1992 obtained from: Maguire, K., Pastore, A. L., & Flanagan, T. J. (Eds.) (1993). *Sourcebook of Criminal Justice Statistics 1992*. Bureau of Justice Statistics. Figures for 2005 obtained from: Liptak, A. (2005, October 5). *Serving life with no chance at redemption*. The New York Times. Data for 2003, 2008, 2012, 2016, and 2020 were collected from each state and federal department of corrections by The Sentencing Project.

As depicted in Figure 10 above, in 1992, just over 9,000 people were reportedly serving life without parole and another 58,000 people were serving parole-eligible life sentences. By 2003, the number of people serving LWOP had more than tripled and parole-eligible lifers had increased 62%. By 2020, *six times as many people* were serving LWOP, reaching an all-time high of 55,945; the total population of people serving LWP rose 82% over these years.

Evidence shows that criminal careers are relatively short, in the range of 10 years,³⁰ meaning that continued incarceration beyond this point produces diminishing returns on public safety, wasting limited resources that could be put toward effective crime prevention strategies. Long sentences also do little to deter criminal behavior because criminal engagement is often not rational and not carried out with a sophisticated understanding of the criminal code that determines punishment.³¹ Among youth and emerging adults, research finds that brain

development impacts behavior. Sanctions that accommodate this reality incorporate reduced culpability for those who were young at the time of their offense.³²

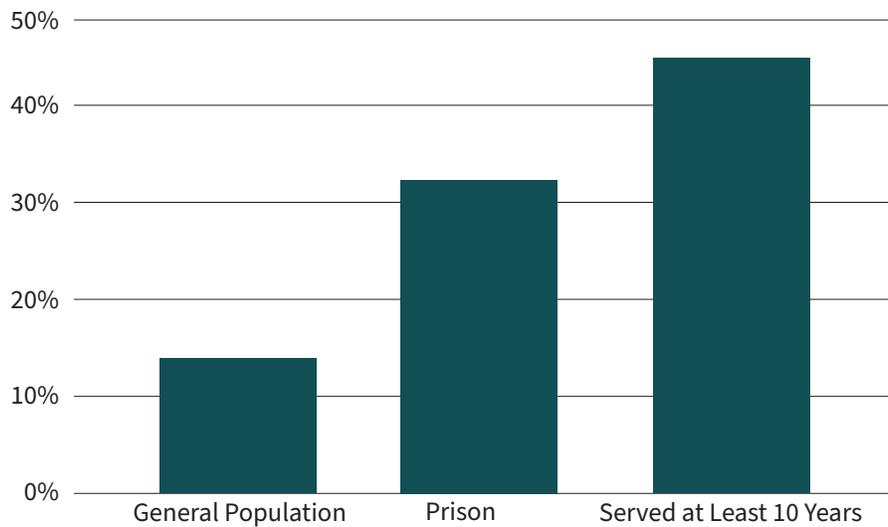
The growth of life imprisonment is echoed by the growth of long prison terms more broadly. Sentences of all lengths have expanded during the era of mass incarceration. New York’s infamous “Rockefeller Drug Laws” (1973), which mandated 15 years for possession of small amounts of marijuana and other drugs, was the first in a broad range of state-level mandatory sentencing schemes. In 1984, Washington state adopted the nation’s first “truth-in-sentencing” law that required people to serve 85% of their sentences, and 27 states quickly

adopted similar laws over the next 15 years. Fourteen states eliminated parole altogether.³³

Nearly one in five people in U.S. prisons—over 260,000 people—had already served at least 10 years as of 2019. This is an increase from 133,000 people in 2000—which represented 10% of the prison population in that year.³⁴

While Black Americans are vastly over-represented in the prison population, this disparity widens for those serving lengthy sentences. As depicted in Figure 11, in 2019, Black Americans represented 14% of the total U.S. population, 33% of the total prison population, and 46% of the prison population who had already served at least 10 years.³⁵

Figure 11. Black Americans as a Percentage of U.S. Population, Total Prison Population, and Prison Population Who Have Served At Least 10 Years, 2019



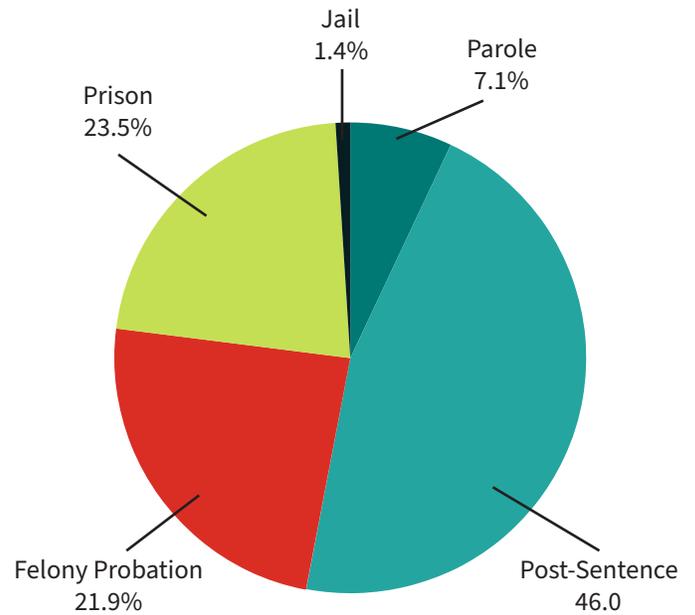
Sources: U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates; Carson, E.A. (2020). *Prisoners in 2019*. Bureau of Justice Statistics; Bureau of Justice Statistics. National Corrections Reporting Program, 1991-2019: Selected Variables. Inter-university Consortium for Political and Social Research [distributor], 2021-07-15.

Racial disparities in the criminal legal system are at their most extreme among people serving life sentences; Black Americans comprise 55% of those serving life without the possibility of parole, the most extreme life sentence.³⁶

VOTING RIGHTS

In 48 states, a felony conviction can result in an individual’s loss of voting rights. The period of disenfranchisement varies by state, with some states restoring the vote upon completion of a prison term, and others effectively disenfranchising people for life. As a result of the dramatic expansion of the criminal legal system over the past 50 years, restrictions on voting rights for persons with a felony conviction have diminished the political voice of many communities. As of 2022, over 4.4 million Americans were unable to vote due to state laws restricting voting rights for those with felony convictions. Among African American adults, five percent are disenfranchised compared to two percent of the overall adult population. Three out of four people disenfranchised are living in communities, having fully completed their sentences or remain supervised while on felony probation or parole.³⁷

Figure 12. Disenfranchisement Distribution Across Correctional Populations



Source: Uggen, C., Larsen R., Shannon, S., & Stewart, R. (2022). *Locked Out 2022: Estimates of People Denied Voting Rights Due to a Felony Conviction*. The Sentencing Project. (Mississippi data not included in these totals. Please see the full report for explanation.)

Table 1. Rate of Disenfranchisement, by Race/Ethnicity, 2022

Race/Ethnicity	Percent Disenfranchised
African American	4.97%
Latinx	1.69%
White	1.43%
Overall	1.91%

Source: Uggen, C., Larsen R., Shannon, S., & Stewart, R. (2022). *Locked Out 2022: Estimates of People Denied Voting Rights Due to a Felony Conviction*. The Sentencing Project. (Mississippi data not included in these totals. Please see the full report for explanation.)

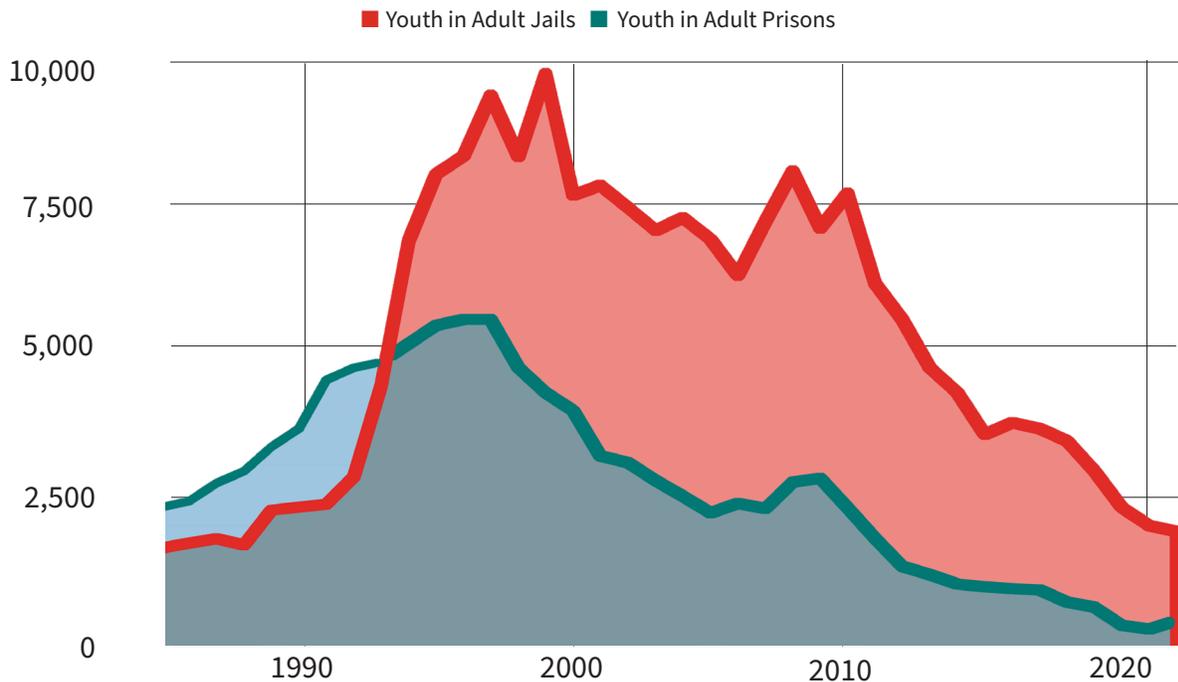
YOUTH UNDER ADULT CORRECTIONAL SUPERVISION

Children and youth, especially Black and Latinx children and youth, have also been swept up in mass incarceration’s harmful policies. Under the guise of concern over rising violent crime in the late 1980s and early 1990s, policymakers quickly adopted and spread the fabricated “superpredator” theory that described young Black boys as especially dangerous.³⁸ Proponents of the theory believed that despite a young person’s age at the time of their offense, certain offenses should be handled in adult criminal court, rather than juvenile court. Lawmakers advanced policies that transferred tens of thousands of young people as young as 13 years old into adult court, jail, and prison systems that, by design, do not account for age.³⁹

With two decades of experience it is now abundantly clear that these policies were counterproductive. In particular, holding youth in facilities with adults is associated with heightened physical and sexual abuse as well as higher rates of recidivism upon release.⁴⁰

Unlike the trends in adult prison and jail, youth incarceration figures started to decline sooner and by the turn of the century the number of youth in prisons and jails was steadily declining, amounting to an 83% drop overall by 2021.⁴¹ As illustrated in Figure 13 below, the year 2022 marks the first point in more than a decade that youth incarceration in adult prisons rose: in fact, the number of youth held in adult prisons jumped 50% between 2021 and 2022, a remarkable departure from the steady decline since 2009. Though the number of youth in adult prisons rose sharply, the number of youth in adult jails continued its decline from 2021 to 2022.

Figure 13. Youth in Adult Prisons and Jails, 1985-2022



Sources: Austin, J., Johnson, K. D., & Gregoriou, M. (2000). *Juveniles in adult prisons and jails: A national assessment*. Bureau of Justice Assistance; Bureau of Justice Statistics *Prison and Jail Inmates at Midyear Series*; Bureau of Justice Statistics *Prisoner Series*; Strom, K. J. (2000). *Profile of state prisoners under age 18, 1985-1997*. Bureau of Justice Statistics.

LESSONS LEARNED

There are important lessons to be learned from the dramatic shifts in incarceration that can be applied to today's policy choices. The first is that adopting major policy shifts in an emotionally-driven political climate is never a wise course of action. Policymakers who promoted increased transfer of children to adult courts in the early 1990s, for example, did so at a time when youth (and adult) violence had risen precipitously. In retrospect, we know that the spike in violence was largely due to the emergence of crack cocaine drug markets, and was relatively short-lived.

A second lesson is that revising how we think about people who commit crime changes how we respond to their actions. Taken with an understanding of structural disadvantages that permeate American society leading

to disparate economic, education, housing and health outcomes should motivate policymakers to aggressively pursue reforms in these areas while also investing in evidence-based individual-level prevention and intervention programs.

The life history of individuals in prison shows that, more often than not, they committed their crimes after major setbacks — addiction, loss of jobs or housing — for which they received little support. There are few individuals in the prison system so dangerous that they can never be released back into the community. If we truly want to end mass incarceration and preserve community safety, we need to reprioritize public investments and policies with an emphasis on crime prevention and restoration of communities over punishment.

ENDNOTES

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