

Mass Incarceration: The Whole Pie 2018

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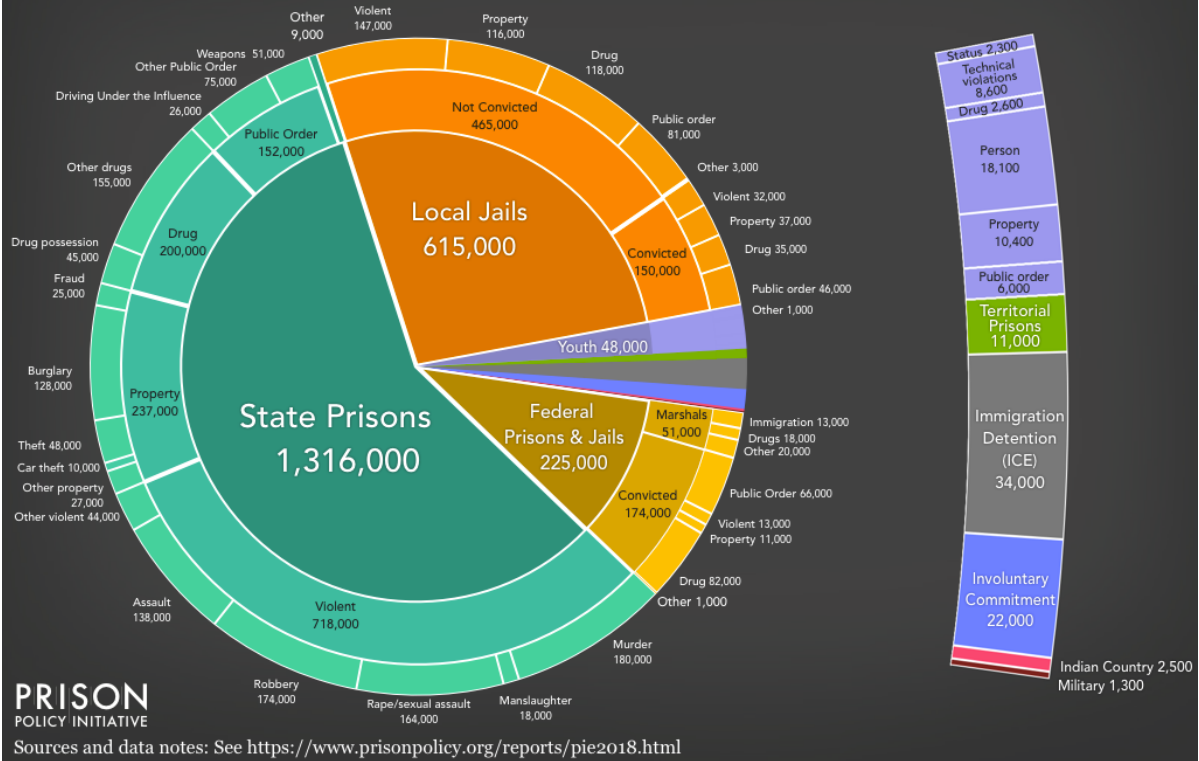
[Press release](#)

Can it really be true that most people in jail are being held before trial? And how much of mass incarceration is a result of the war on drugs? These questions are harder to answer than you might think, because our country's systems of confinement are so fragmented. The various government agencies involved in the justice system collect a lot of critical data, but it is not designed to help policymakers or the public understand what's going on. Meaningful criminal justice reform that reduces the massive scale of incarceration, however, requires that we start with **the big picture**.

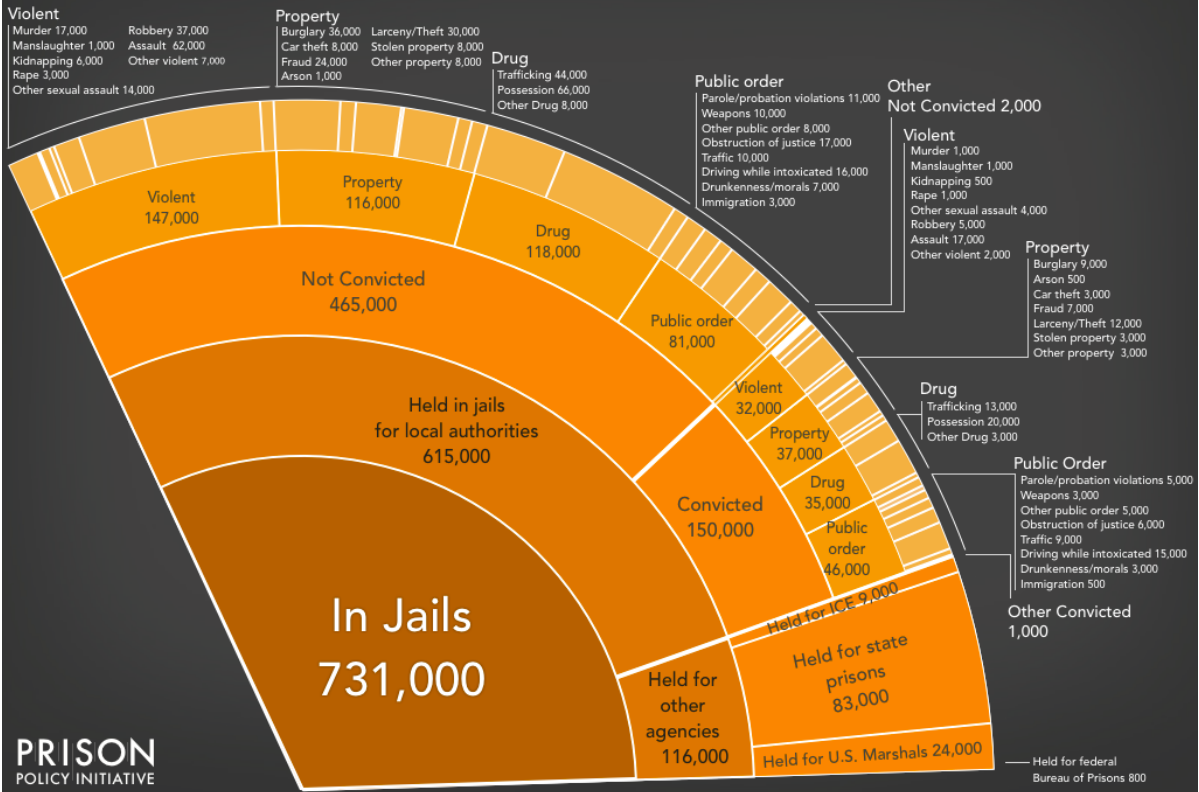
This report offers some much needed clarity by **piecing together this country's disparate systems of confinement**. The American criminal justice system holds almost 2.3 million people in 1,719 state prisons, 102 federal prisons, 1,852 juvenile correctional facilities, 3,163 local jails, and 80 Indian Country jails as well as in military prisons, immigration detention facilities, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories.¹ And we go deeper to provide further detail on why people are locked up in all of those different types of facilities.

How many people are locked up in the United States?

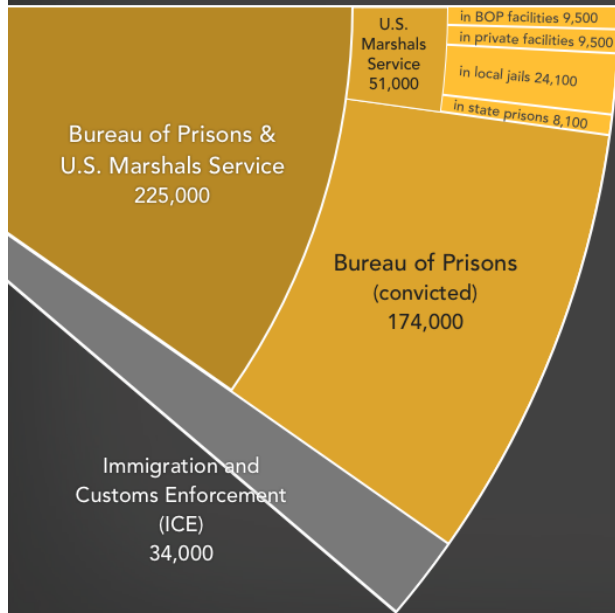
The United States locks up more people, per capita, than any other nation. But grappling with why requires us to first consider the many types of correctional facilities and the reasons that 2.3 million people are confined there.



Local jails hold one out of every three incarcerated people



The federal system of incarceration involves multiple agencies and thousands of facilities across the country



U.S. Marshals Service

Detains people:

- held pre-trial for federal offenses
- serving short-term federal sentences
- for transport to federal prisons and courts

Confines people in:

- Bureau of Prisons-operated detention centers, metropolitan correctional centers, and federal transfer centers
- 15 contracted private prisons
- 1,800 contracted state and local facilities around the country (mostly local jails)

Bureau of Prisons

Incarcerates people convicted of federal offenses in:

- federal prisons
- private contracted prisons
- residential reentry centers (halfway houses)
- home confinement
- contracted local facilities (jails)

Immigration and Customs Enforcement (ICE)

Detains people for violations of immigration laws in:

- private contracted prisons
- contracted local facilities (jails)
- federal detention centers

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Most confined youth are locked up for nonviolent offenses

And for almost 10,900 youth, they are locked up for "offenses" that aren't even crimes.



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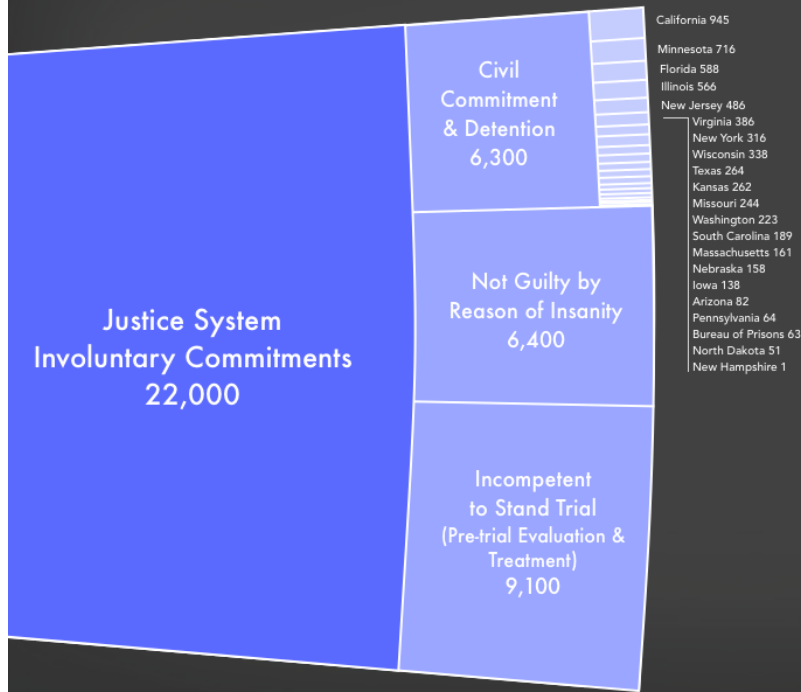
Immigration offenses put over 60,000 people behind bars



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Psychiatric facilities confine 22,000 justice-involved people every day

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



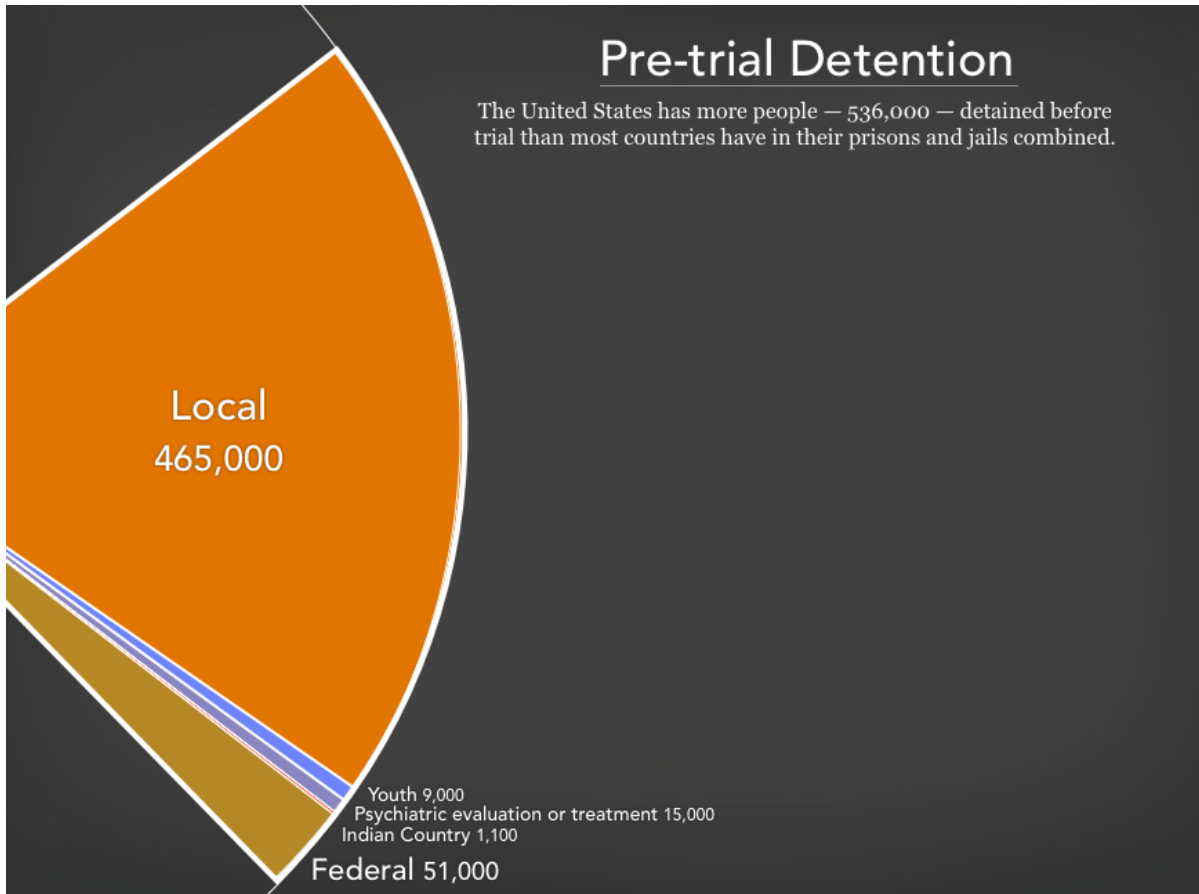
This big-picture view allows us to focus on the most important drivers of mass incarceration and identify important, but often ignored, systems of confinement. The detailed views bring

these overlooked parts of the “pie” to light, from immigration detention to civil commitment and youth confinement. In particular, local jails often receive short shrift in larger discussions about criminal justice, but they play a critical role as “incarceration’s front door” and have a far greater impact than the daily number suggests.

While this pie chart provides a comprehensive snapshot of our correctional system, the graphic does not capture the **enormous churn** in and out of our correctional facilities and the far larger universe of people whose lives are affected by the criminal justice system. Every year, 626,000 people walk out of *prison* gates, but people go to *jail* 10.6 million times each year.² Jail churn is particularly high because most people in jails³ have not been convicted. Some have just been arrested and will make bail in the next few hours or days, and others are too poor to make bail and must remain behind bars until their trial. Only a small number (150,000 on any given day) have been convicted, generally serving misdemeanors sentences under a year.

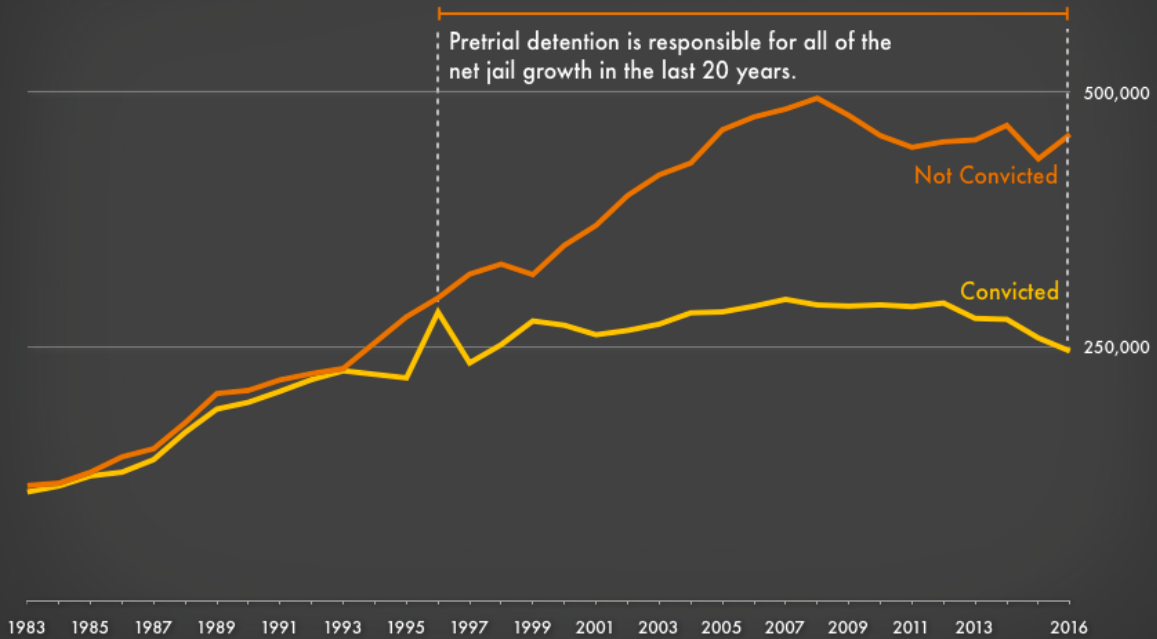
Pre-trial Detention

The United States has more people — 536,000 — detained before trial than most countries have in their prisons and jails combined.



Pretrial policies drive jail growth

Number of people in local jails by conviction status, 1983-2016



Local Jails: The real scandal is the churn

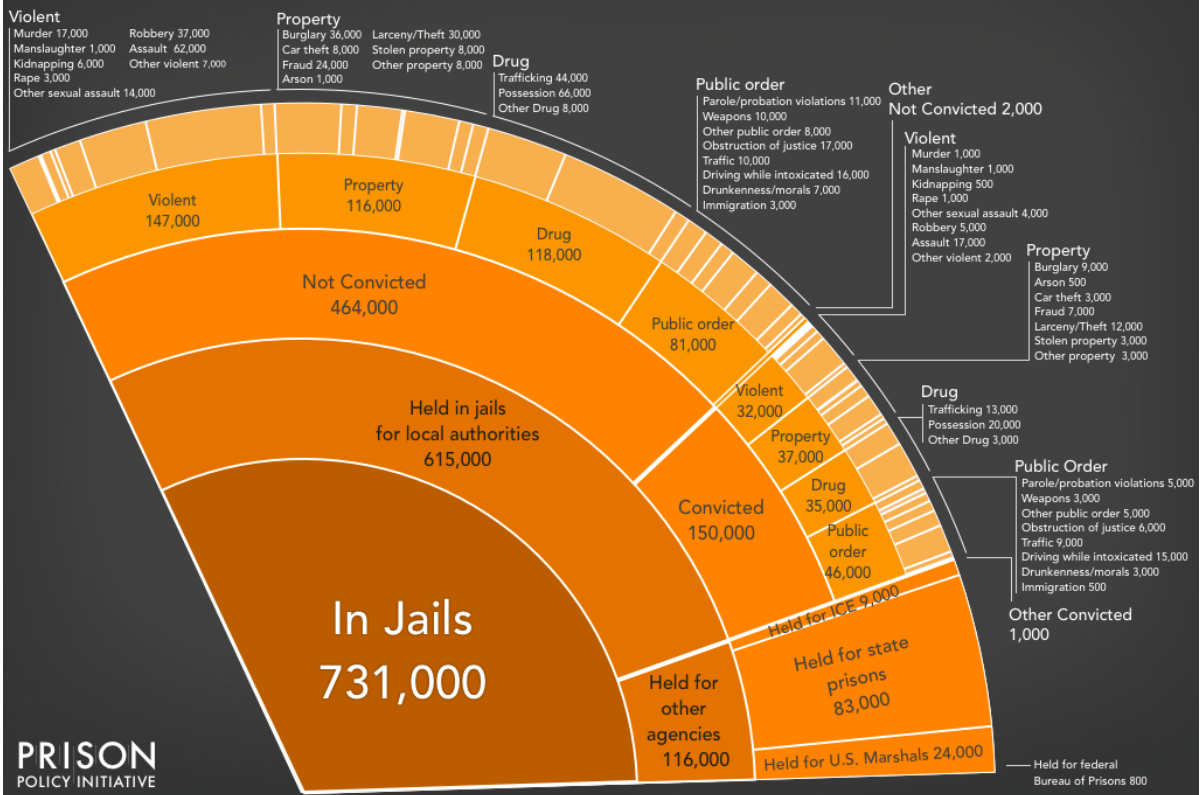
When talking about the societal impact of jails, the average daily population of 615,000 is far less important than the staggering number — 10.6 million — admitted to jails each year.

What does 10.6 million jail admissions look like?



It's enough people to fill a line of prison buses bumper-to-bumper from New York City to San Francisco.

Local jails hold one out of every three incarcerated people

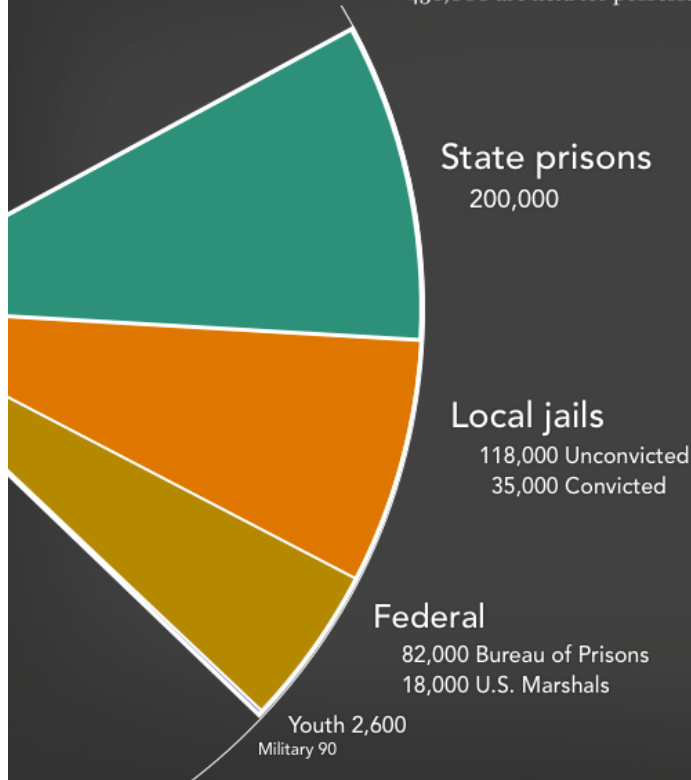


With a sense of the big picture, a common follow-up question might be: how many people are locked up for a drug offense? We know that almost half a million people are locked up

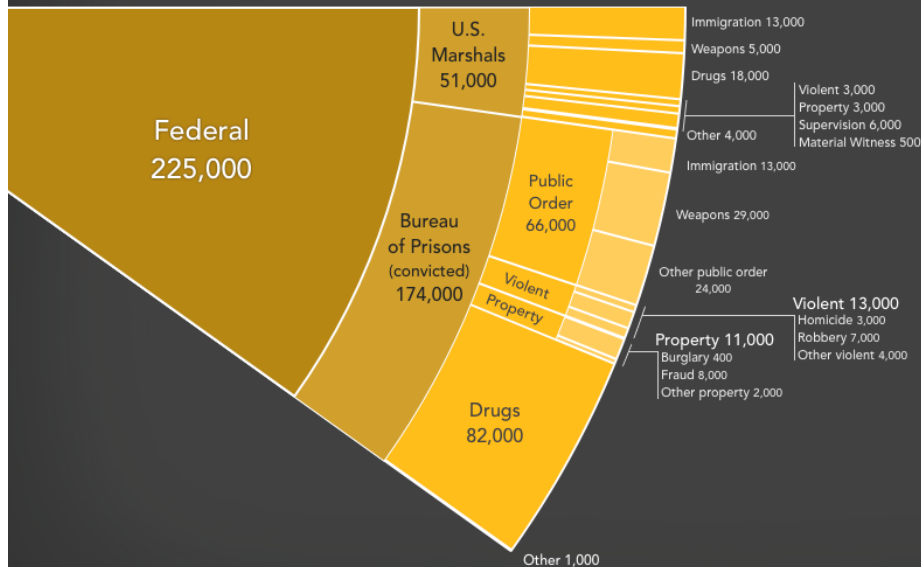
because of a **drug offense**.⁴ The data confirms that nonviolent drug convictions are a defining characteristic of the *federal* prison system, but play only a supporting role at the *state* and local levels. While most people in state and local facilities are not locked up for drug offenses, most states' continued practice of arresting people for drug possession⁵ destabilizes individual lives and communities. Drug arrests give residents of over-policed communities criminal records, which then reduce employment prospects and increase the likelihood of longer sentences for any future offenses.

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

456,000 are held for possession, trafficking, or other nonviolent drug offenses

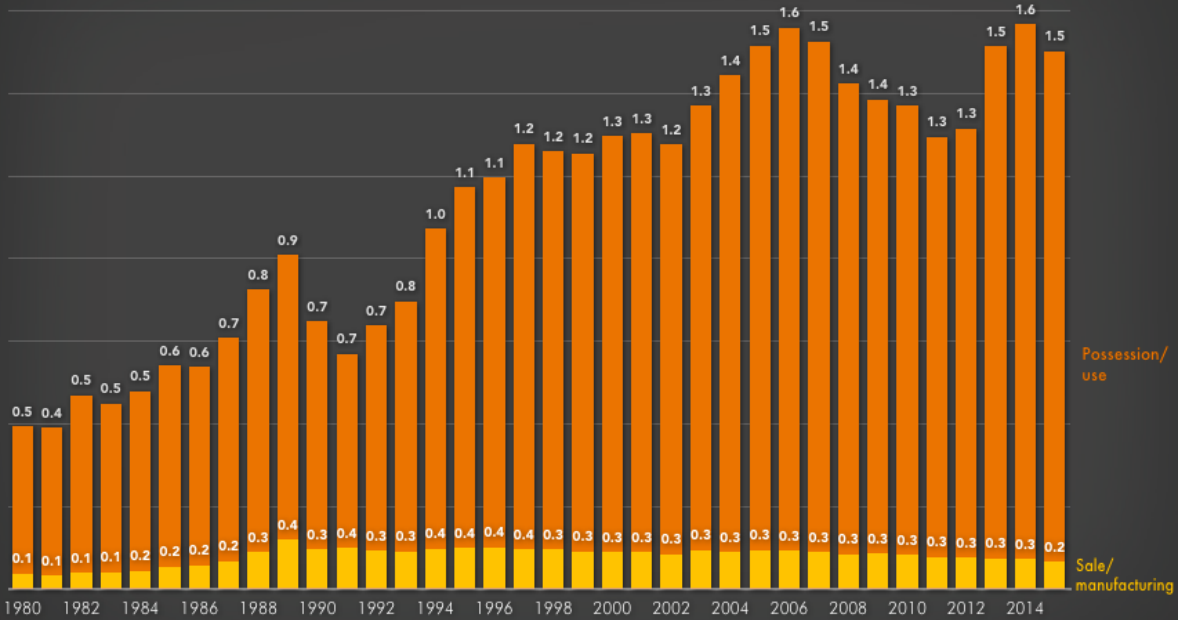


Drug offenses and pre-trial detention are defining characteristics of the federal system



There are over 1 million drug possession arrests each year

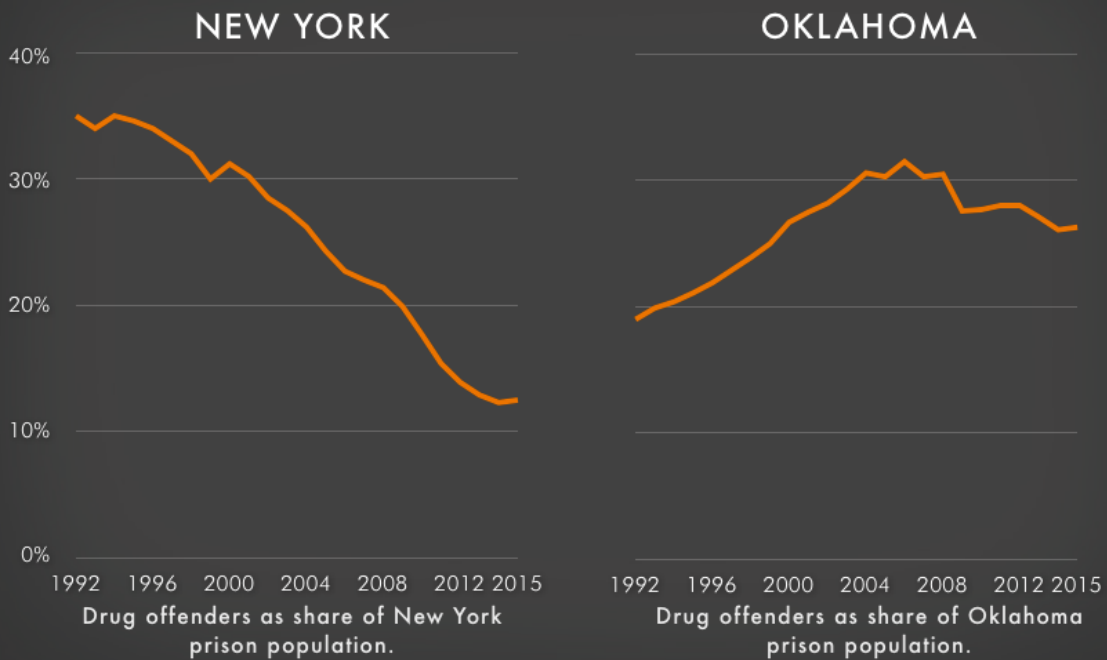
There are more than 6 times as many arrests for drug possession as for drug sales.
(in millions, 1980–2015)



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

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



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Compiled by the Prison Policy Initiative from state prison records for the years 1992 to 2015.

Offense categories don't tell the whole story

The criminal justice system involves some complicated decisions and relationships, some — but not all — of which can be represented graphically. For example, it's easy to show how jails rent space to state and federal agencies, and that 5,000 youth are actually in adult facilities.⁶ But the offense data oversimplifies how people interact with the criminal justice system. A person in prison for multiple offenses is reported only for the most serious offense⁷ so, for example, there are people in prison for **“violent” offenses** who might have also been convicted of a drug offense. Further, almost all convictions are the result of **plea bargains**, where people plead guilty to a lesser offense, perhaps of a different category or one that they may not have actually committed.

And many of these categories group together people convicted of a wide range of offenses. For example, “murder” is generally considered to be an extremely serious offense, but “murder” groups together the rare group of serial killers with people who committed acts that are unlikely for reasons of circumstance or advanced age to ever happen again. It also includes offenses that the average American may not consider to be murder at all. For example, the felony murder rule says that if someone dies during the commission of a felony, everyone involved can be as guilty of murder as the person who pulled the trigger. Driving a getaway car during a bank robbery where someone was accidentally killed is indeed a serious offense, but many may be surprised that this is considered murder.⁸

Lessons from the smaller “slices”

Breaking down incarceration by offense type also exposes some disturbing facts about the youth confined by our criminal and **juvenile justice systems**: Too many are there for a “most serious offense” that is **not even a crime**. For example, there are over 8,500 youth behind bars for “technical violations” of the requirements of their probation, rather than for a new offense. Further, 2,300 youth are locked up for “status” offenses, which are “behaviors that are not law violations for adults, such as running away, truancy, and incorrigibility.”⁹ Nearly 1 in 10 is held in an adult jail or prison, and most of the others are held in juvenile facilities that look and operate a lot like prisons and jails.

Turning to the people who are locked up criminally and civilly for **immigration-related issues**, we find that 13,000 people are in federal prison for criminal convictions of violating federal immigration laws, and 13,000 more are held pretrial by U.S. Marshals. Another 34,000 are civilly detained by U.S. Immigration and Customs Enforcement (ICE) separate from any criminal proceedings and are physically confined in federally-run or privately-run immigration detention facilities or in local jails under contract with ICE. (Notably, these categories do not include immigrants represented in other pie slices because of non-immigration related criminal convictions.)

Adding to the universe of people who are confined because of justice system involvement, 22,000 people are **involuntarily detained or committed** to state psychiatric hospitals and civil commitment centers. Many of these people are not even convicted, and some are held indefinitely. 9,000 are being evaluated pre-trial or treated for incompetency to stand trial; 6,000 have been found not guilty by reason of insanity or guilty but mentally ill; another

6,000 are people convicted of sexual crimes who are involuntarily committed after their prison sentences are complete. While these facilities aren't typically run by departments of correction, they are in reality much like prisons.

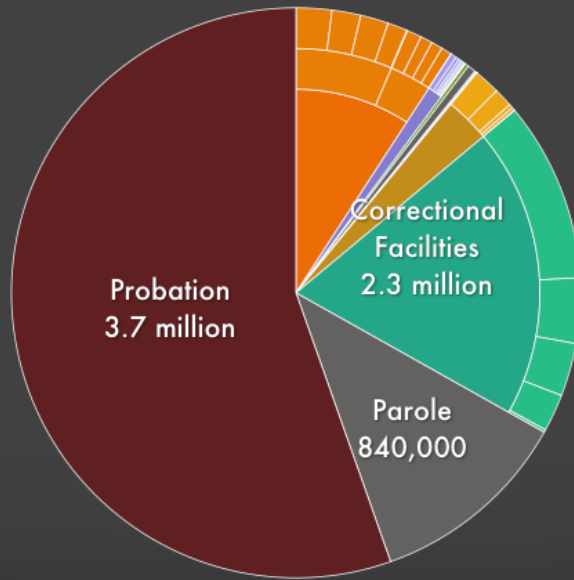
Beyond the “Whole Pie”

While this “whole pie” provides the most inclusive view of the various systems of confinement in the U.S. justice system available, these snapshots can't capture all of the important systemic issues. Once we have wrapped our minds around the “whole pie” of mass incarceration, for example, we should zoom out and note that being locked up is just one piece of the larger pie of correctional control. There are another 840,000 people on parole and a staggering 3.7 million people on probation. Particularly given the often onerous conditions of probation, policymakers should be cautious of “alternatives to incarceration” that can easily widen the net of criminalization to people who are not a threat to public safety.

Beyond identifying the parts of the criminal justice system that impact the most people, we should also focus on **who is most impacted and who is left behind** by policy change. For example, people of color are dramatically overrepresented in the nation's prisons and jails. These racial disparities are particularly stark for Blacks, who make up 40% of the incarcerated population despite representing only 13% of U.S residents. Gender disparities matter too: rates of incarceration have grown even faster for women than for men. As policymakers continue to push for reforms that reduce incarceration, they should avoid changes that will widen disparities, as has happened with juvenile confinement and with women in state prisons.

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

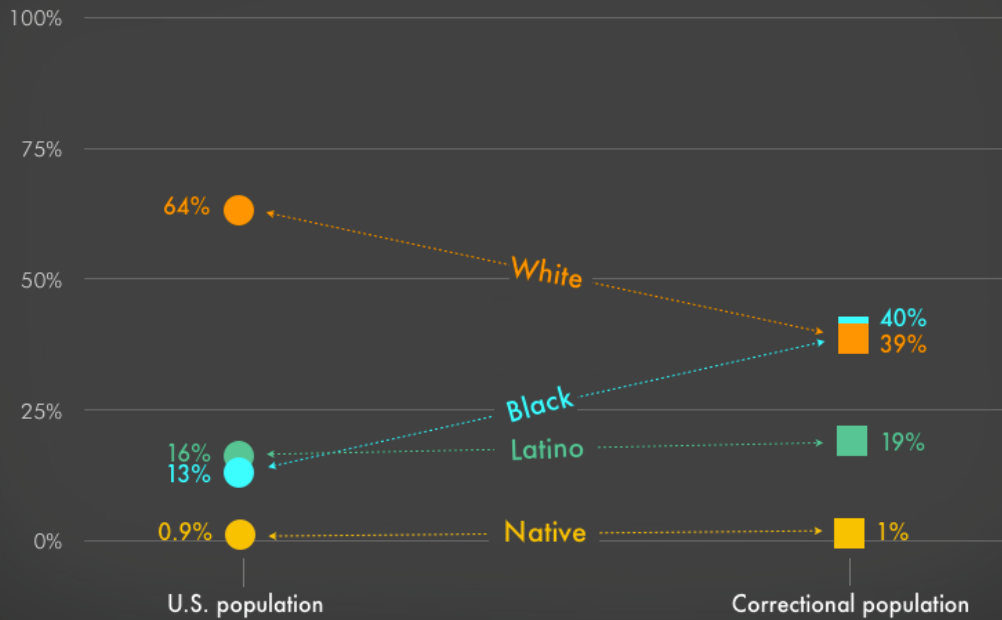
The U.S. justice system controls almost 7 million people, more than half of whom are on probation.



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Racial and ethnic disparities in correctional facilities

Whites are underrepresented in the incarcerated population while Blacks are overrepresented.

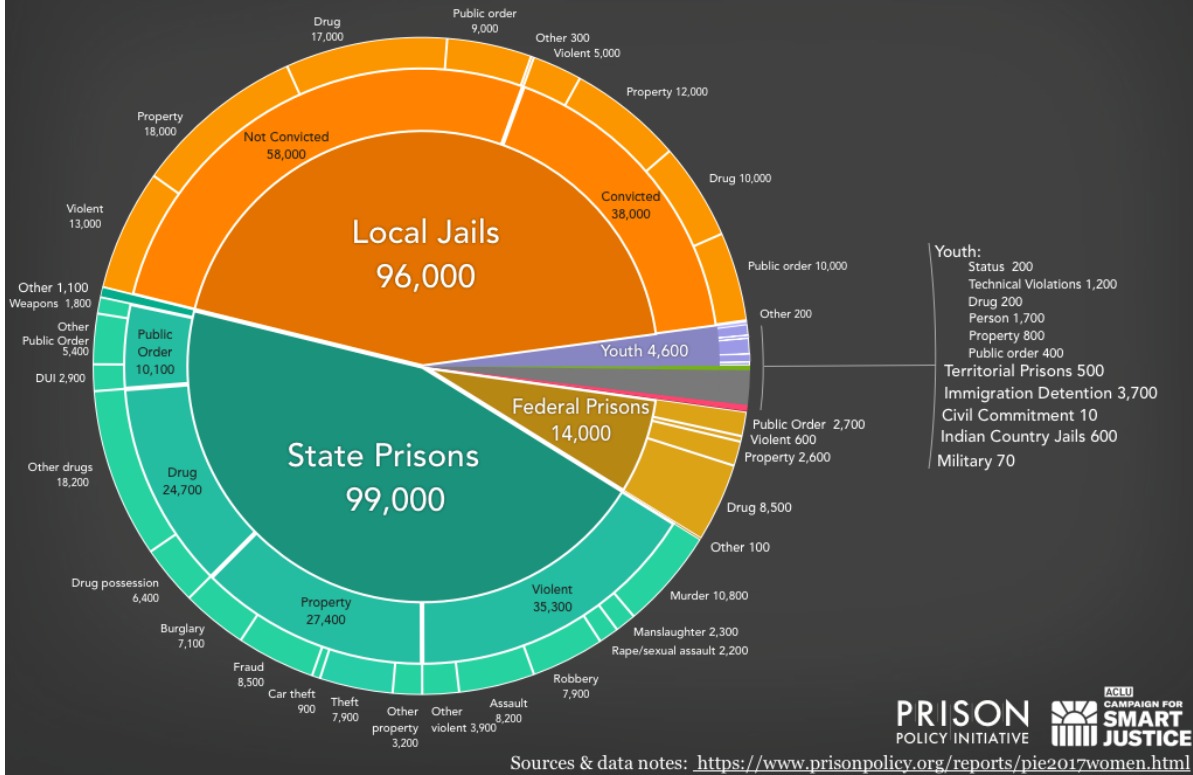


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Compiled from 2010 Census, Summary File 1.

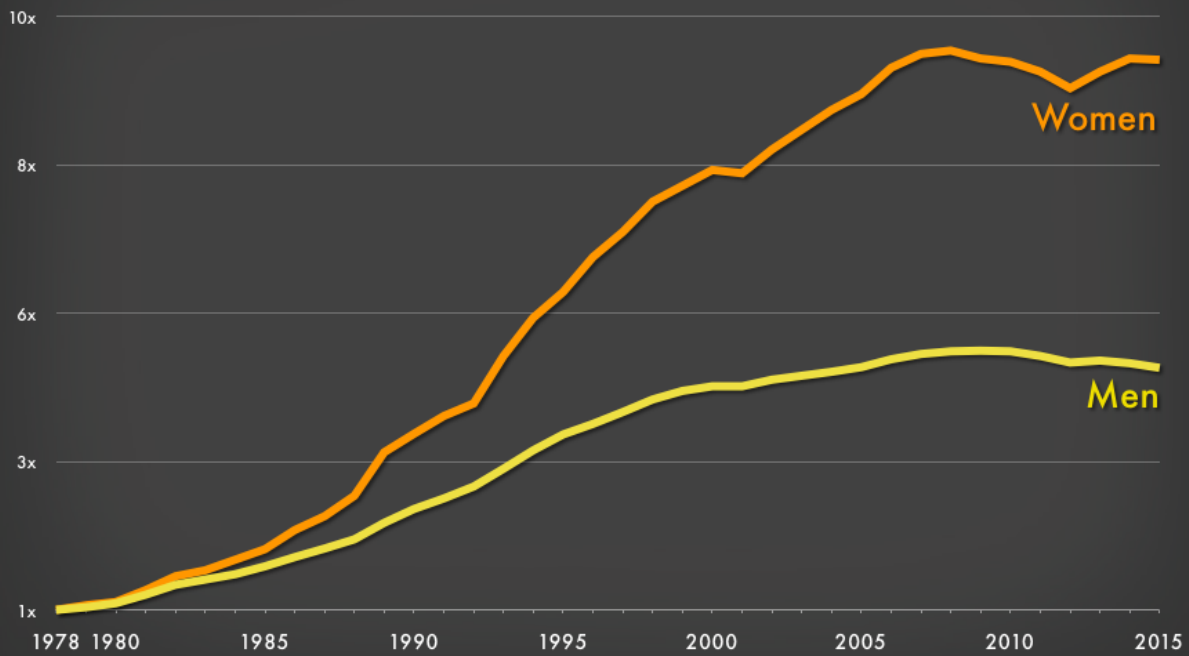
Women's incarceration patterns are very different than men's

Jails and jail policy are especially important for women.



Women's state prison populations have grown faster than men's

Growth measured in terms of number of times greater than 1978 baseline population



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For source details, see: https://www.prisonpolicy.org/reports/women_overtime.html

Now, armed with the big picture of how many people are locked up in the United States, where, and why, we have a better foundation for the **long overdue conversation about criminal justice reform**. For example, the data makes it clear that ending the War on Drugs

will not alone end mass incarceration, but that the federal government and some states have effectively reduced their incarcerated populations by turning to drug policy reform. Looking at the “whole pie” also opens up other conversations about where we should focus our energies:

- What is the role of the federal government in ending mass incarceration? The federal prison system is just a small slice of the total pie, but the federal government can certainly use its financial and ideological power to incentivize and illuminate better paths forward. At the same time, how can elected sheriffs, district attorneys, and judges slow the flow of people into the criminal justice system?
- Are state officials and prosecutors willing to rethink both the War on Drugs and the reflexive policies that have served to increase both the odds of incarceration and length of stay for “violent” offenses?
- Do policymakers and the public have the focus to confront the second largest slice of the pie: the thousands of locally administered jails? And does it even make sense to arrest millions of poor¹⁰ people each year¹¹ for minor offenses, make them post money bail, and then lock them up when they can’t afford to pay it? Will our leaders be brave enough to redirect corrections spending to smarter investments like community-based drug treatment and job training?
- Can we implement reforms that both reduce the number of people incarcerated in the U.S. *and* the well-known racial and ethnic disparities in the criminal justice system?

Now that we can see the big picture of how many people are locked up in the United States in the various types of facilities, we can see that **something needs to change**. Looking at the big picture requires us to ask if it really makes sense to lock up 2.3 million people on any given day, giving this nation the dubious distinction of having the **highest incarceration rate in the world**. Both policymakers and the public have the responsibility to carefully consider each individual slice in turn to ask whether legitimate social goals are served by putting each category behind bars, and whether any benefit really outweighs the social and fiscal costs.

Even narrow policy changes, like reforms to money bail, can meaningfully reduce our society’s use of incarceration. Meanwhile, some reforms that seem promising have minimal effect, because they simply transfer people from one slice of the correctional “pie” to another. Keeping the big picture in mind is critical if we hope to develop strategies that actually shrink the “whole pie.”

Read about the data

Acknowledgments

All Prison Policy Initiative reports are collaborative endeavors, but this report builds on the successful collaborations of the [2014](#), [2015](#), [2016](#) and [2017](#) versions. For this year’s report, the authors are particularly indebted to [César Cuauhtémoc García Hernández](#) for his

feedback and research pointers on immigration detention, Ann Carson and Todd Minton for helping us understand the Bureau of Justice Statistics' data on jails, [Joshua Aiken](#) for improving our methodology about jail boarding, Jack Donson, Judy Greene, and Carl Takei for helping us identify data on the U.S. Marshals Service, Neelum Arya and Shaena Fazal for guidance on youth confinement, Shan Jumper for sharing updated civil detention and commitment data, and Vera Hollen and Amanda Wik of [NRI](#) for answering our questions about the data on forensic patients. This year, we are again grateful to Jordan Miner for making the report interactive, and Elydah Joyce for her help with the design. Any errors or omissions, and final responsibility for all of the many value judgements required to produce a data visualization like this, however, are the sole responsibility of the authors.

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About the authors

Peter Wagner is an attorney and the Executive Director of the Prison Policy Initiative. He co-founded the Prison Policy Initiative in 2001 in order to spark a national discussion about the negative side effects of mass incarceration. His research and advocacy on the issue of prison gerrymandering have led four states and more than 200 local governments to end prison gerrymandering.

Some of his most recent work includes [Following the Money of Mass Incarceration](#), uncovering that [prisons are disproportionately built in White areas](#), and working with Josh Begley to put [each state's overuse of incarceration into the international context](#).

He is [@PWPolicy](#) on Twitter.

Wendy Sawyer is a Senior Policy Analyst at the Prison Policy Initiative. She is the author of the 2018 reports [Youth Confinement: The Whole Pie](#) and [The Gender Divide: Tracking women's state prison growth](#), as well as the 2016 report [Punishing Poverty: The high cost of probation fees in Massachusetts](#).

About the Prison Policy Initiative

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

See the footnotes