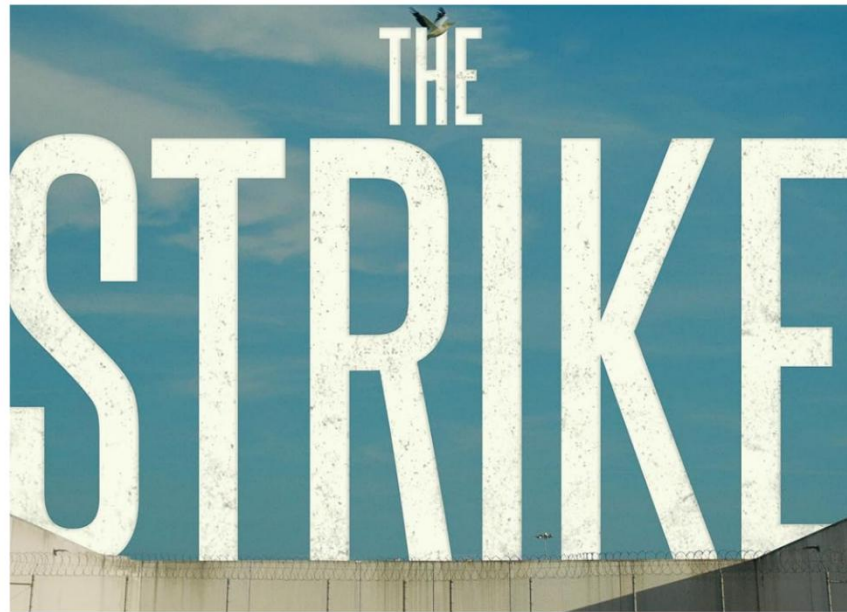


CPDO & UPRISE THEATRE PRESENTS:



Directed by JoeBill Muñoz and Lucas Guilkey

THURSDAY, MARCH 20, 2025

5PM - 7:30PM

350 CEDAR STREET | LH1

FILM AT 5PM; PANEL AT 6:30PM

**RSVP: <https://tinyurl.com/thestrikefilm>**

**GUEST SPEAKERS:**

DIRECTOR LUCAS GUILKEY

MICHAEL SAAVEDRA

PROF. ERIN SHELEY, ESQ.

PROF. SADAF HANE, ESQ.

MODERATOR: ANNIE RIOS, ESQ.



REPRESENT  
**JUSTICE**

\* 1.0 ELIMINATION OF BIAS MCLE CREDIT,  
PENDING APPROVAL \*

## **Bios of the Panelists and the Moderator**

### **Lucas Guilkey, Director of *The Strike* and Journalist**



Lucas Guilkey (Director/Producer) is an award-winning documentary film producer and journalist based in Oakland, California. He is currently directing and producing a feature documentary about solitary confinement in California prisons, developed in the SFFILM FilmHouse residency and the UC Berkeley Investigative Reporting Program. He recently served as story producer on *Aftershock*, a feature documentary about the US maternal health crisis that premiered at Sundance in 2022 and is streaming on Hulu/Disney+. His directorial debut, *What Happened to Dajuan Armstrong?* a short documentary about the coverup of a young man's death in county jail, won best documentary at the BAFTA Student Film Awards and was nominated for best documentary short at the Social Impact Media Awards (SIMA). He is a graduate of the UC Berkeley Graduate School of Journalism and Wesleyan University.

### **Michael Saavedra, Protagonist of *The Strike***



Michael Saavedra was released from prison in February 2017 after being inside for over 19 years, where he was kept in solitary confinement for over 15 years. During that time, he helped organize, lead, and participated in all three separate California prisoner hunger strikes against solitary confinement between 2011 and 2013. He also educated himself while in solitary and was able to learn and utilize the law to successfully sue the California Department of Corrections and Rehabilitation several times, as well as assist and teach others to do the same. Mr. Saavedra graduated as a Pathway to Law School student at Riverside City College in 2020 and is currently an undergraduate student at UCLA, majoring in American Indian Studies with a minor in Chicano and Central American Studies. Mr. Saavedra founded Riverside City College's first formerly imprisoned student organization. As he continues to pursue his law degree, he has been selected as a 2020 and 2021 Harvard Law Justice Catalyst Fellow, a 2022 UCLA Law fellow, and more recently, a 2022 Loyola Law School Activist in Residence Fellow. Mr. Saavedra has worked with many social justice grassroots organizations like Dignity and Power Now in an effort to help end mass incarceration and continue to build peace and solidarity amongst Black and Brown communities in Los Angeles.

### **Erin Sheley, Esq., Professor of Law & Associate Dean for Research**



Prof. Sheley's research considers how the law should account for subjective narratives in evaluating criminal and tort harm, particularly in the areas of sexual assault and white-collar crime. Drawing on her doctoral work on narrative and cultural memory, she combines insights from the fields of psychology, narrative studies, and sociology to make the case that the narrative aspects of harm ought to play a more consistent role in shaping civil and criminal liability, procedure, evidentiary rules, and remedies. Her work has appeared in the *Duke Law Journal*, the *Wake Forest Law Review*, the *Indiana Law Journal*, the *North Carolina Law Review*, and the *Journal of Criminal Law and Criminology*, among others. Her book, *Criminality and the Common Law Imagination in the Eighteenth and Nineteenth Centuries*, has been published by Edinburgh University Press.

Prof. Sheley joined the School of Law in 2020. Before coming to CWSL she was an Associate Professor at the University of Oklahoma College of Law and an Assistant Professor at the University of Calgary Faculty of Law. She has also served as a Visiting Associate Professor at the George Washington University Law School and an Olin-Searle Fellow at Georgetown University Law Center. Prior to academia she practiced for several years in the litigation group of the Washington, D.C. offices of Gibson, Dunn & Crutcher LLP. While in practice she was commended by the Humane Society of the United States for her pro bono work in the prosecution of dog fighting sponsors. She is proud to have served on the Board of Directors of the Alberta Animal Rescue Crew Society.

### **Sadaf Tajzoy Hane, Esq. ('10), Deputy Public Defender and Adjunct Professor**



Sadaf Tajzoy Hane, Esq., has been a Deputy Public Defender for nine years and is also an adjunct professor at CWSL, teaching a course called Racial Justice and Resentencing.

Prior to joining the Public Defender's Office, Prof. Hane was a staff attorney at Victim Rights Legal Services. Prof. Hane's role included Providing advocacy and civil legal assistance to victims of domestic violence and sexual assault facing legal challenges arising from the abuse in the areas of education, employment, safety, housing, immigration, civil harassment, family law, and privacy matters in criminal proceedings.

As a CWSL student, Prof. Hane was a civil rights research assistant, focusing on various issues of civil rights and procedure in Puerto Rico.

### **Annie M. Rios, Esq. ('08) , Executive Director of Uprise Theatre**



Annie Rios (she/her/ella) is the Executive Director of Uprise Theatre. She is an experienced litigator, activist, and human rights attorney from San Diego, California. Beginning her legal career in 2010, she served as a Managing Attorney for the local rape crisis center, Center for Community Solutions (CCS). There, Annie efficaciously represented hundreds of sexual assault, domestic violence and elder abuse victims as the lead attorney protecting victims' rights. Recognizing the intersectionality between interpersonal violence and homelessness, in 2016, Ms. Rios became the Executive Director and Managing Attorney of a local grassroots nonprofit, Think Dignity (TD), whose focus is on activating the San Diego community to advance basic dignity for those living on the streets. Ms. Rios has also served as the Supervising Attorney for Al Otro Lado's (AOL), a bi-national organization that provides cutting-edge legal services to the most vulnerable immigrant populations, Otay Mesa Detention Center Release Project.

While at California Western School of Law, Ms. Rios was a student intern for the California Innocence Project. As an intern she investigated the case of a young man who was found guilty of conspiracy to commit first degree murder. This experience was so impactful for her, that she dedicated an entire segment of a legal education program she would later create to the significance of conspiracy charges and the severity of sentencing under those charges in California. This program Ms. Rios ultimately created and founded, Uprise Theatre, teaches social justice and legal issues to youth in inner-city communities through theatre. Focusing on legal issues such as the 4th and 5th Amendment rights, conspiracy and entrapment, Uprise educates and empowers next generations as to their legal rights. Ms. Rios has cultivated the passion for criminal defense, that began at the California Innocence Project and now continues with Uprise Theatre, and has helped her clients save over 300 years in prison time.

In Summer 2024, as an homage to her own student activism, Ms. Rios was honored to have successfully defended 60 student protestors arrested at UCSD for solidarity with Gaza, with all criminal charges against the students being dropped. Ms. Rios's work has been featured in VICE News, The Guardian, and NBC News. Her expertise has also been requested at conferences such as the National Legal Aid and Defender Association and Yale Rebellious Lawyering.

Ms. Rios was born, raised, still lives in, and is a product of, Southeast San Diego. Is a queer Chicana femme. Owes nothing to a system meant to terrorize communities she loves. Is a writer. And most importantly, is Daniel's mom and Helen's daughter.



# Solitary Watch

News from a Nation in Lockdown  
[www.solitarywatch.com](http://www.solitarywatch.com)

After three weeks on hunger strike, strike leaders at Pelican Bay resumed eating. The California Department of Corrections and Rehabilitation reportedly made several token concessions to the demands of the prisoners, who say that the strike's end is conditioned upon further review of the CDCR's policies.[1]

The hunger strike at Pelican Bay, which quickly spread to other prisons, was one of the most significant prisoner-organized actions of recent decades, and drew national attention to the issue of long-term solitary confinement.

## Pelican Bay State Prison

Opened in 1989, Pelican Bay State Prison is located in Del Norte County, California. As of July 6, 2011, it held 3,156 inmates (with a design capacity of 2,380). Most notorious is its Security Housing Unit (SHU), which held 1,111 inmates.[2]

Built for \$277.5 million, it has an annual budget in excess of \$180 million. [3]

## Conditions of the SHU

Inmates held in the SHU are in their cells for more than 22 hours a day, allowed out for medical visits and exercise which takes place in "individual wire cages on the prison yard." [4]

The typical cell is "concrete: the bed, the walls, the unmovable stool. Everything except the combination stainless-steel sink and toilet." It is no more than 8 feet long and wide, and "from inside, you can't see anyone or any of the other cells." [5]

The lack of education, constructive programming, and the restrictive visiting and phone call rules have been among the various reasons for the hunger strike.

## Criteria for Confinement to the SHU

California, like many states, promotes the impression that solitary confinement is reserved for the "worst of the worst." In fact, the use of solitary confinement is often applied as a disciplinary measure of first resort, when other measures would have been more effective.

Inmates can be placed into the SHU for having \$5, getting a tattoo, or disobeying and order. They can be placed in solitary as "validated" gang members based on the say-so of inmate snitches, and held there indefinitely until they agree to snitch themselves. The only way out of the SHU, according to inmates, is "snitch, parole or die." [6]

# Fact Sheet: Hunger Strike at Pelican Bay State Prison

## The Hunger Strike

*"We believe our only option of ever trying to make some kind of positive change here is through this peaceful hunger strike...there is a core group of us who are committed to taking this all the way to the death if necessary."* —Todd Ashker, PBSP SHU Inmate [7]

On July 1<sup>st</sup>, approximately 6,600 inmates across the state began a hunger strike protesting Pelican Bay State Prison's conditions and calling for reforms. By July 7<sup>th</sup>, about 1,700 inmates were continuing to refuse meals. [8] On July 14<sup>th</sup>, the number was 676. [9] Support was particularly strong in other SHUs, located in Corcoran and Tehachapi prisons.

By July 16<sup>th</sup>, many hunger strikers were noted to have lost over ten pounds and were showing signs of weakness. [8] As of July 19<sup>th</sup>, the number was reported to be more than 400. An inmate in Tehachapi in Central California had lost 29 pounds. [10]

## The Demands

Prisoner Hunger Strike Solidarity has released the five demands of the hunger strikers:

1. End Group Punishment & Administrative Abuse
2. Abolish the Debriefing Policy, and Modify Active/Inactive Gang Status Criteria
3. Comply with the US Commission on Safety and Abuse in America's Prisons 2006 Recommendations Regarding an End to Long-Term Solitary Confinement
4. Provide Adequate and Nutritious Food
5. Expand and Provide Constructive Programming and Privileges for Indefinite SHU Status Inmates. [11]

## State Response

*"They have the right to choose to die of starvation if they wish."*—Nancy Kincaid, Director of Communications for California Correctional Health Services [8]

On July 7<sup>th</sup>, CDCR spokeswoman Terry Thornton insisted that "the department is not going to be coerced or manipulated" and that the strike "really demonstrates how these gangs can influence other inmates, which is one of the reasons we have security housing units in the first place." No evidence was provided of gangs coordinating the strike. [7]

On July 14<sup>th</sup>, mediators reported that the CDCR began initial negotiations alongside an outside mediation team. On July 15<sup>th</sup>, Dorsey Nunn, executive director of Legal Services

for Prisoners with Children observed that “both parties are dug in” and that “the CDCR is not offering anything substantial, and the strikers aren’t receiving anything substantial. So they’ll keep going.” [12]

On July 19<sup>th</sup>, with some inmates having lost 20-30 pounds, prison officials began to seek court orders to force-feed hunger strikers.[13]

Throughout the strike, reporters were denied all access to the prisoners and prisons involved.[14]

### **Commission on Safety and Abuse in America’s Prisons**

The hunger strikers have cited the report of the Commission on Safety and Abuse in America’s Prisons, which recommended ending long-term segregation, making segregation a last resort, ensuring inmates “have regular meaningful contact” and providing adequate health services.

In 2006, the bipartisan commission, after more than a year examining the American prison system, found that administrative segregation was detrimental to the inmates, increased recidivism rates, and often was used unnecessarily.

The Commission recommended that prison administrators:

“1. Make Segregation a last resort...and stop releasing people directly from segregation to the streets.

2. End conditions of isolation: Ensure that segregated prisoners have regular and meaningful human contact...

3. Protect mentally ill prisoners.”[15]

### **Madrid V. Gomez**

*Madrid v. Gomez* was a case aiming to remedy unconstitutionally cruel and unusual conditions at Pelican Bay on behalf of thousands of inmates.

In 1993, Dr. Stuart Grassian, based on his work with inmates at Pelican Bay State Prison, submitted testimony for the case pointing to the “specific psychiatric syndrome associated with solitary confinement.” Among the symptoms that inmates held in solitary confinement presented includ-

ed perceptual disorders including hallucinations, panic attacks, aggressive ruminations, and paranoia. [16]

Judge Thelton Henderson found “many if not most, inmates in the SHU experience some degree of psychological trauma in reaction to their extreme social isolation and the severely restricted environmental stimulation in SHU. [17]

Various reforms were instituted, including a diversion of inmates with mental health issues from the SHU. However, for most inmates, for whom the average stay in solitary is two years,[18] the reforms have proven insufficient.

### **Psychological Effects of Solitary**

Research going back to the 1970’s has demonstrated that as little as a week in solitary confinement can alter brain wave functioning. Longer stretches produce various psychopathologies at higher rates than the general population. [19]

In California, 70% of state inmate suicides occurred among those in solitary confinement in 2005. [20]

The perpetual, long-term confinement of inmates has proven self-defeating, resulting in an endless cycle of re-offending by socially deprived and psychologically battered inmates, resulting in extended stays in solitary and higher recidivism rates.[21]

### **Alternatives to Solitary**

California might do well to heed the lessons of the significant body of research on alternatives to solitary confinement, as well as the lead of other states.

In Mississippi, a review of inmates in solitary confinement resulted in 80% of inmates not qualifying for revised (and stricter) criteria for placement in solitary.

As part of the transition, prisoners were allowed to spend several hours out of their cells, receive education and mental health services, which had previously been lacking in availability, and prisoners were allowed to eat together.

Between 2006-2008, there was a 70% drop in “serious incidents,” and sharp drops in use of force, as well as decreases in rule violations. [23]

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3.King et al. (2008). Violence in the supermax: A self-fulfilling prophecy. *The Prison Journal* 88: 144-168; California Department of Corrections & Rehabilitation. Adult Facilities Locator.

4.Dolan, Jack. 2011. “Many prisoners have lost 20-35 pounds in hunger strike, advocates say.” *Los Angeles Times*. July 19.

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6.Ridgeway, James and Casella, Jean. 2011. “Who are the hunger strikers? How prisoners land in Pelican Bays SHU.” *Solitary Watch*, July 18.

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9.Small, Julie. (2011) “California inmates on third week of hunger strike risk injury, death.” *KPCC*, July 18.

10.Dolan, Jack. 2011. “Many prisoners have lost 20-35 pounds in hunger strike, advocates say.” *Los Angeles Times*. July 19.

11. Prisoner Hunger Strike Solitariness. Prisoners’ Demands. <http://p2isonerhungerstrikesolidarity.wordpress.com/the-prisoners-demands-2/>

12. Ontiveros, Isaac. Corrections official accede to pressure, begin negotiating with hunger strikers as their health deteriorates, *SF Bay View*. July 15.

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14. Editorial (2011). “California’s hidden hunger strike.” *Los Angeles Times*, July 20.

15. Commission on Safety and Abuse in America’s Prisons (2006). *Confronting Confinement*. <http://www.prisoncommission.org>

16.Grassian, Stuart. “Psychiatric Effects of Solitary Confinement.” *Madrid v. Gomez*, 889F.Supp.1146

17. *Madrid v. Gomez*, 889 F. Supp. 1146, 1235 (N.D. Cal. 1995)

18. Reiter, K. Parole, (2010) *Snitch, or Die: California’s Supermax Prisons and Prisoners, 1987-2007*. Institute for the Study of Social Change Working Paper Series 2009-2010.42

19. See Fact Sheet: Psychological Effects of Solitary Confinement (2011). *Solitary Watch*: <http://solitarywatch/fact-sheets/>.

20.Thompson, Don (2006), “Convict Suicides in State Prison Hit Record High.” *Associated Press*, January 3.

21.Haney et al. (1997) “Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement.” *New York University Review of Law and Social Change* 23: 477-570

22.Istanbul Statement. 2007. *International Psychological Trauma Symposium*.

23.Kupers et al., 2009. Beyond Supermax Administrative Segregation. *Criminal Justice and Behavior*. 20(10) DOI: 10.1177/0093854809341938

**Fact Sheet by Sal Rodriguez**, Solitary Watch Reporter/Researcher. © 2011. Published July 22, 2011. Please cite Solitary Watch and the original sources when quoting from this document. Contact information: Solitary Watch, PO Box 11374, Washington, DC 20008 / [solitarywatchnews@gmail.com](mailto:solitarywatchnews@gmail.com).

# Mass Incarceration Trends

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

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**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.

This report was authored by Ashley Nellis, Ph.D., Co-Director of Research at The Sentencing Project. Research assistance was provided by Sabrina Pearce, JD, Research Associate at The Sentencing Project.

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.<sup>1</sup> Over five million people in total are under supervision by the criminal legal system.<sup>2</sup> 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.<sup>3</sup>

## 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.*<sup>4</sup>

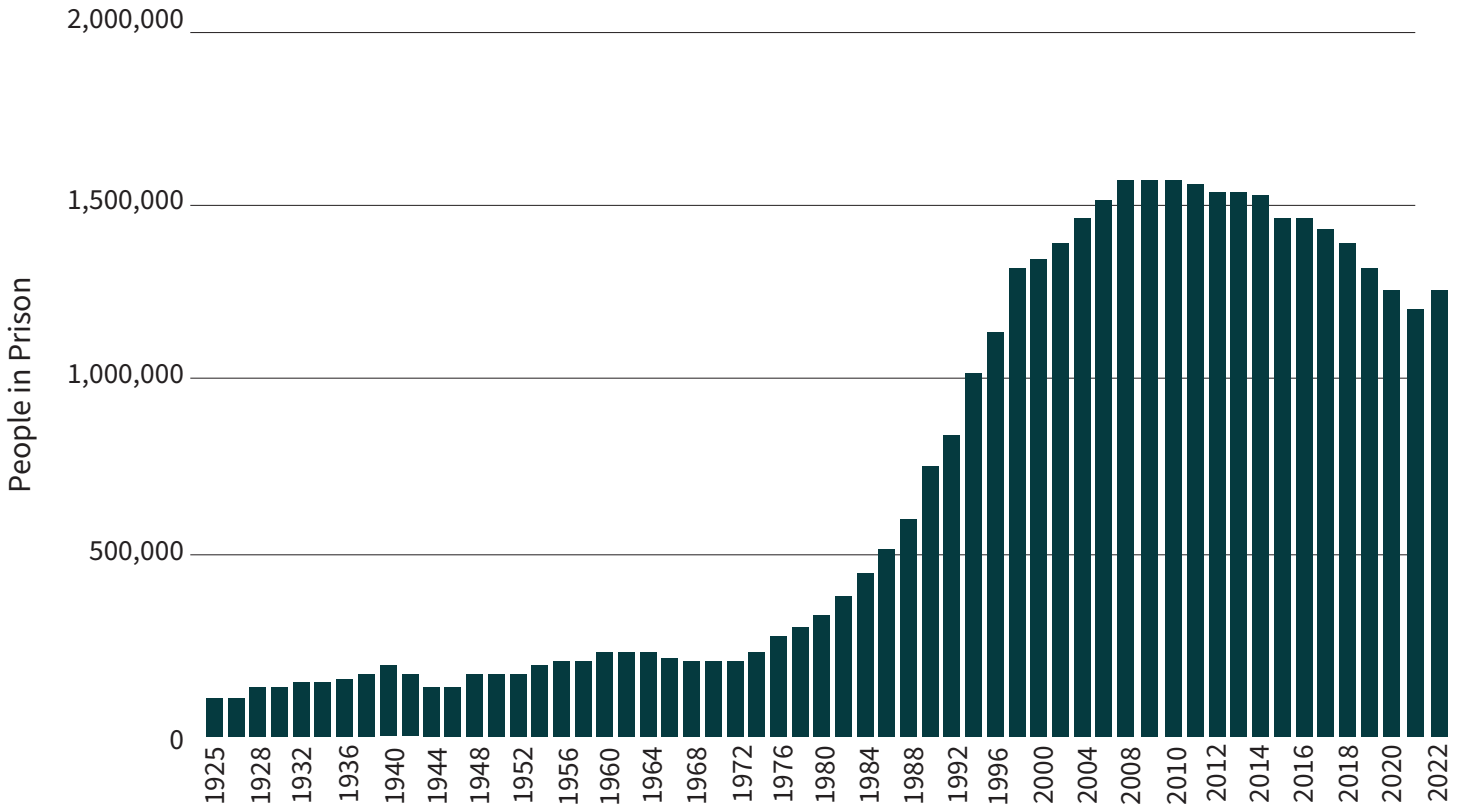
Mass incarceration instigates numerous poor physical, psychological, and economic outcomes for the people who experience imprisonment, for their families, as well as for the broader community.<sup>5</sup> Imprisonment leads to declining prospects for employment and results in lower earnings in the longer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

## THE SURGE IN PRISON GROWTH

In 1972, the imprisonment rate was 93 per 100,000 people.<sup>11</sup> 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.<sup>12</sup>

The number of people in prison began a marginal decline beginning in 2010<sup>13</sup> 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.<sup>14</sup> Mississippi alone raised its population of imprisoned persons 15% between 2021 and 2022.

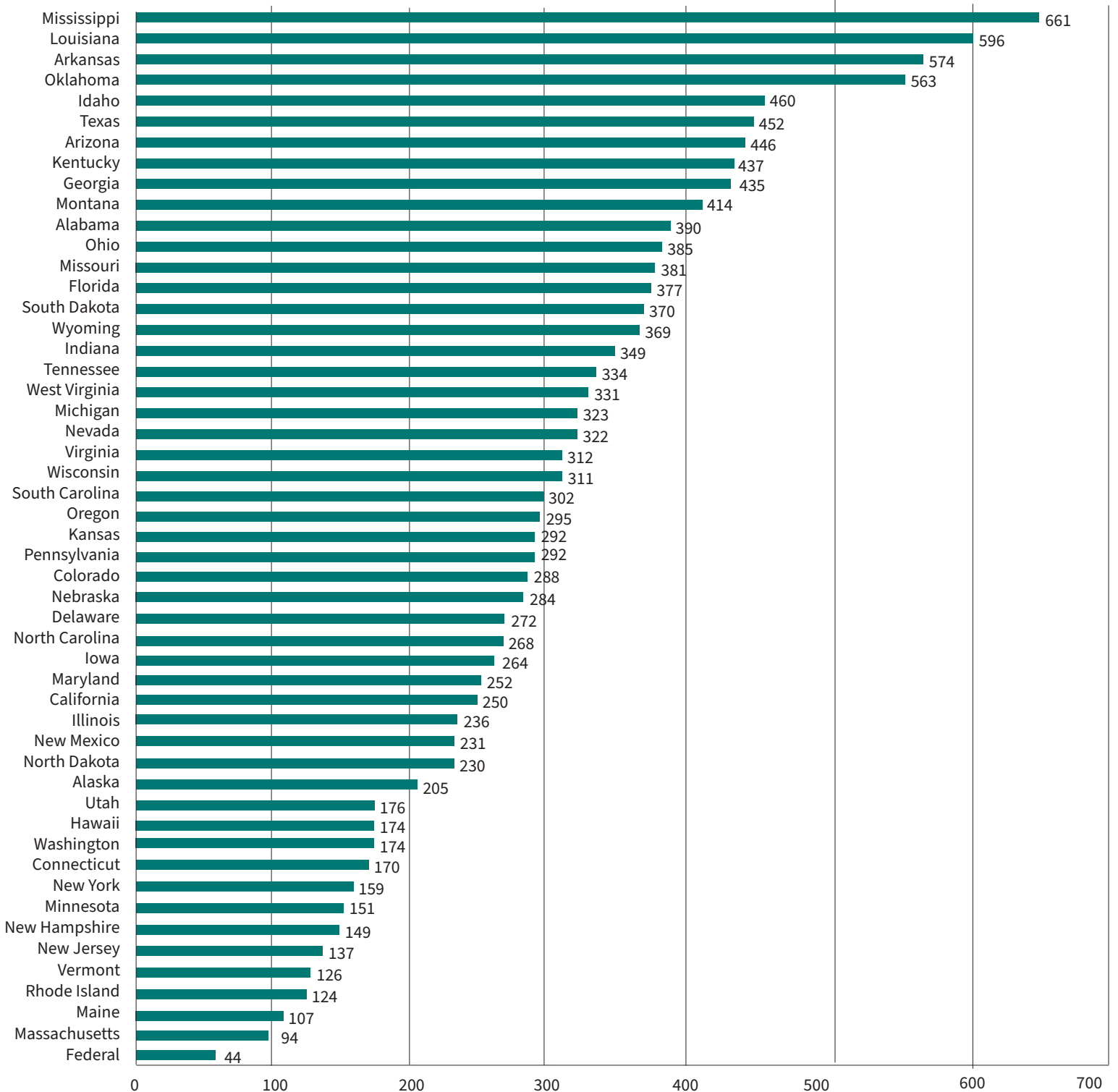
**Figure 1. U.S. State and Federal Prison Population, 1925-2022**



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.**

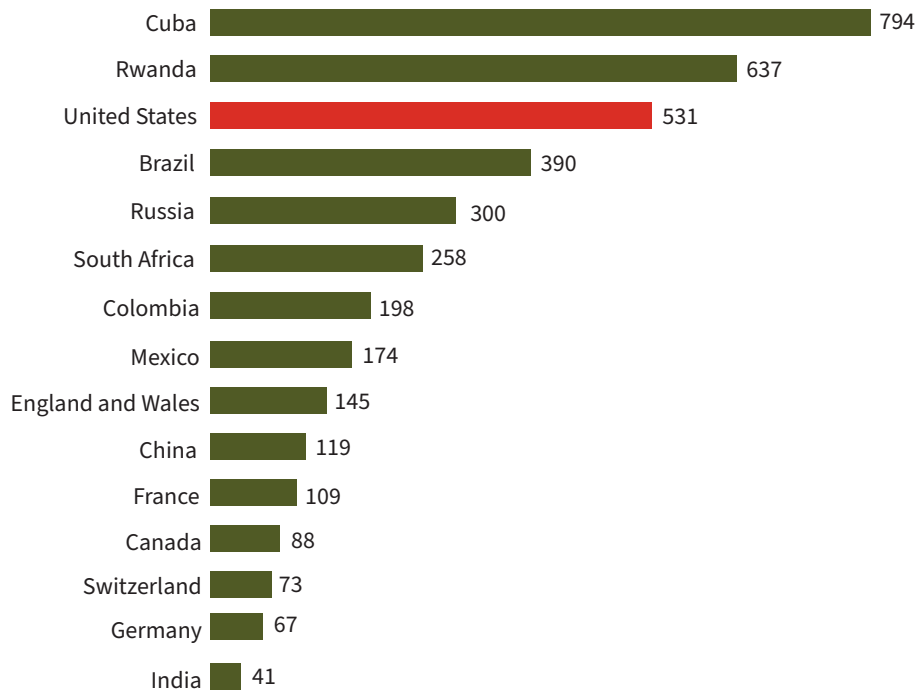
**Figure 2. Ranked Imprisonment Rates (Per 100,000 people) in State & Federal Prison, 2022**



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**

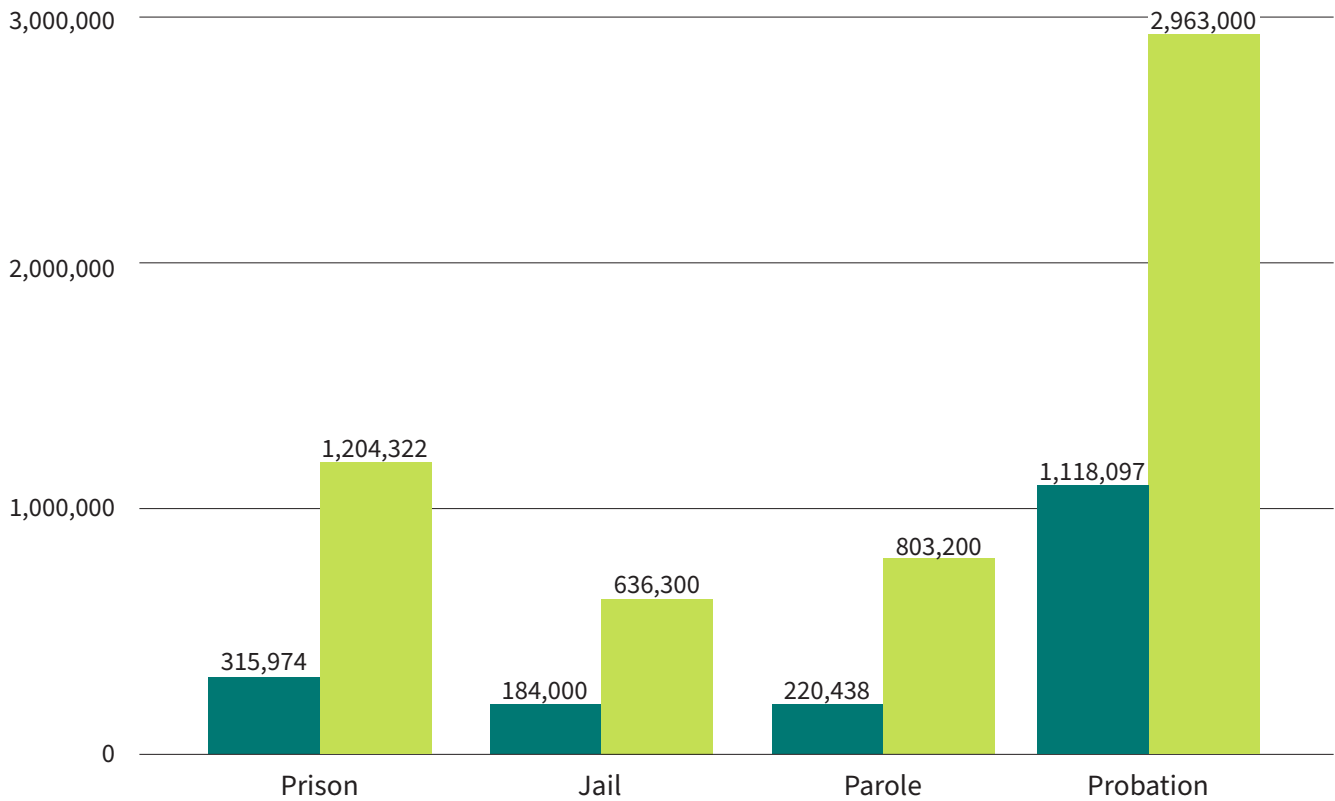


Source: World Prison Brief, compiled and hosted by the Institute of Crime and Justice Policy Research at Birkbeck, University of London.

# PROBATION AND PAROLE

Probation and parole have expanded both in the absolute number and length of supervision for the past several decades.<sup>15</sup> 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**

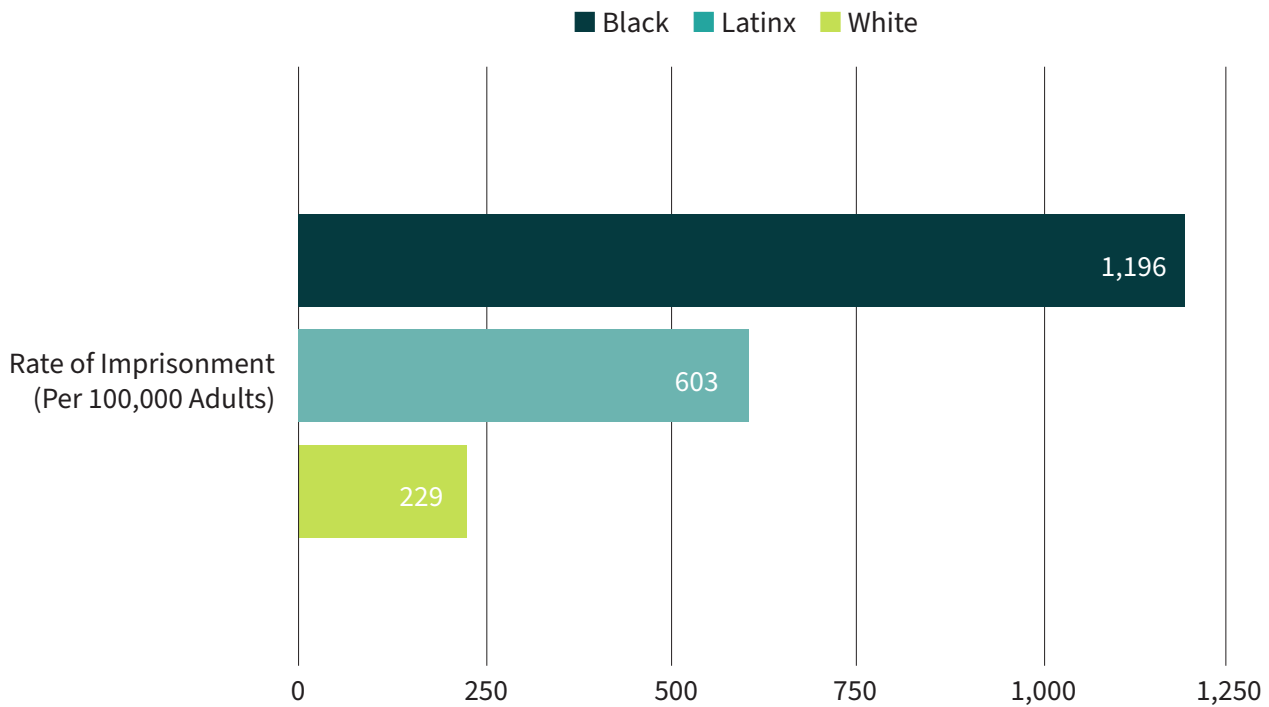


Source: Cahalan, M. W. (1986). *Historical corrections statistics in the United States, 1850-1984*. Bureau of Justice Statistics, Table 7-9A; Carsen, E., Kluckow, R. & Zeng, Z. (2022). *Correctional populations in the United States, 2021—Statistical Tables*. Bureau of Justice Statistics.

# RACIAL AND ETHNIC DISPARITIES

One in five Black men born in 2001 is likely to be imprisoned at some point in their lifetime.<sup>16</sup> 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.<sup>17</sup>

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



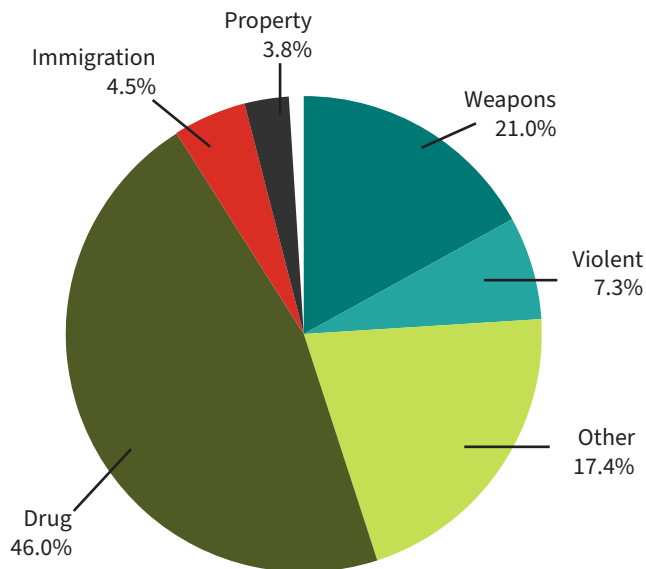
Source: Carson, E. A. & Kluckow, R. (2023). *Prisoners in 2022—Statistical tables*. Bureau of Justice Statistics.

# OFFENSE TYPES

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

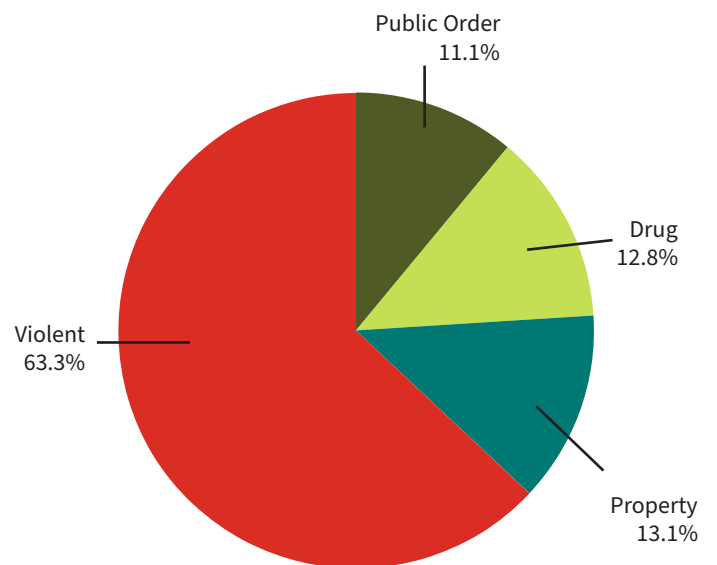
Offense types among those convicted in the federal and state prison systems are presented below (Figures 6 and 7). Despite common misconceptions that federal prison is reserved for the most violent crimes, it is the case that roughly half (46%) of those sentenced to federal prison have been convicted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

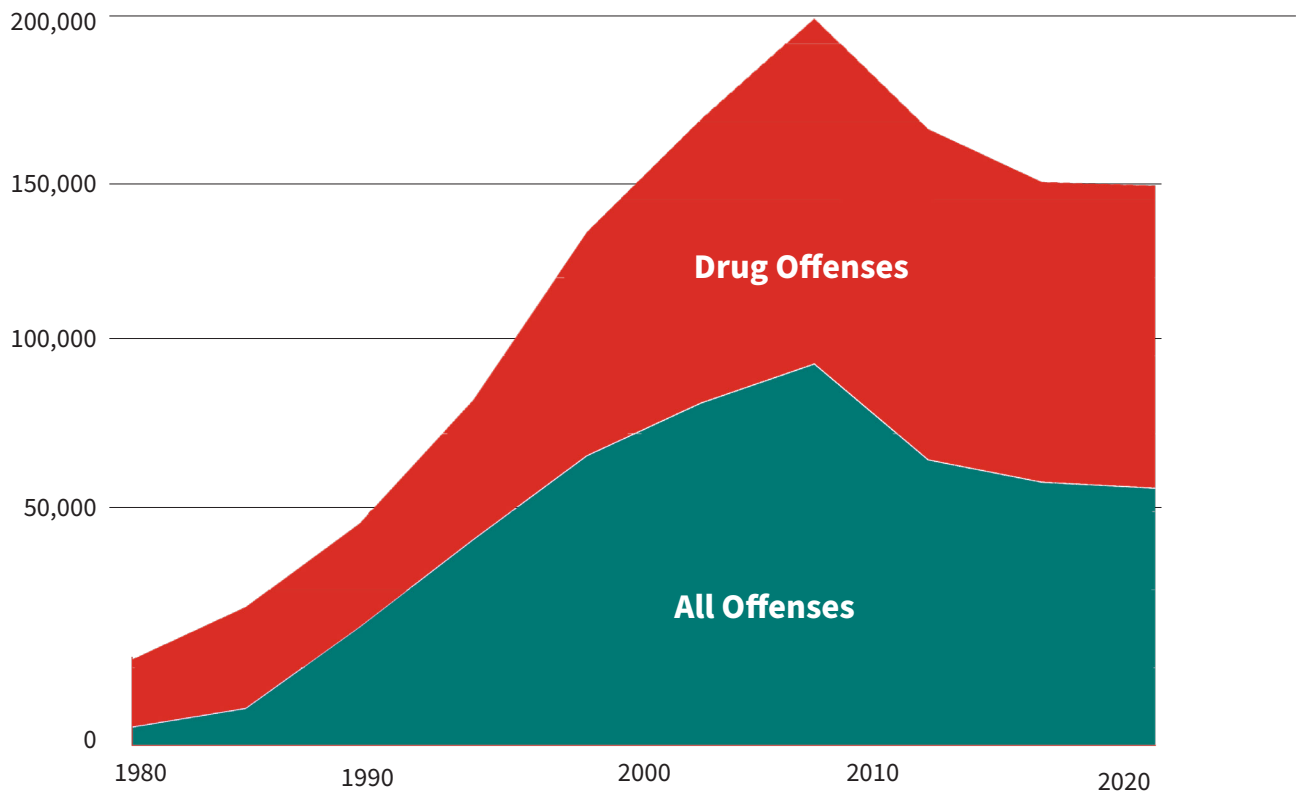
Sentencing policies enacted under the banner of the “War on Drugs” which began in the early 1970s and accelerated with the utilization of broadly punitive mandatory minimum and three-strikes policies, resulted in dramatic growth in incarceration for drug offenses. This is particularly evident at the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

The *Sentencing Reform Act of 1984*<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> 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.<sup>23</sup> 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%.<sup>24</sup>

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.<sup>25</sup> 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.<sup>26</sup>

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

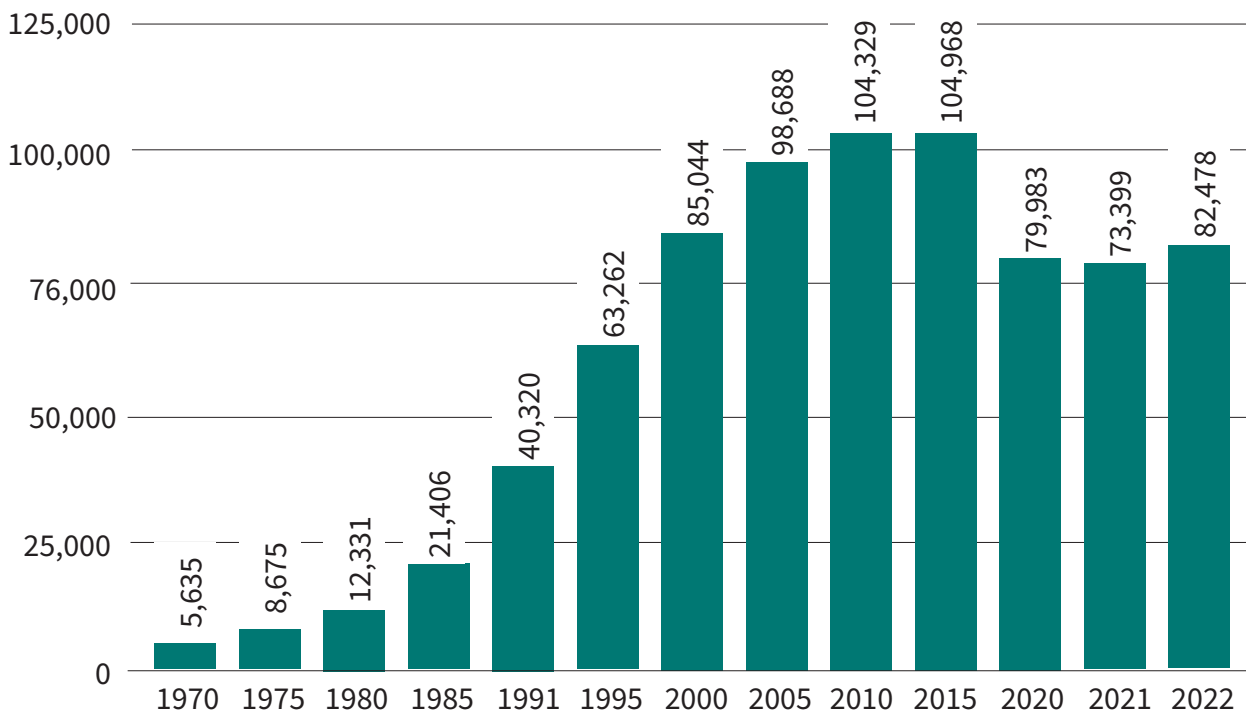


Sources: Bureau of Justice Statistics *Prisoners Series*; Albany University (n.d.) *Sourcebook of criminal justice statistics online*.

# WOMEN

At the start of the era of mass incarceration, fewer than 6,000 women were in state or federal prisons.<sup>27</sup> 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**

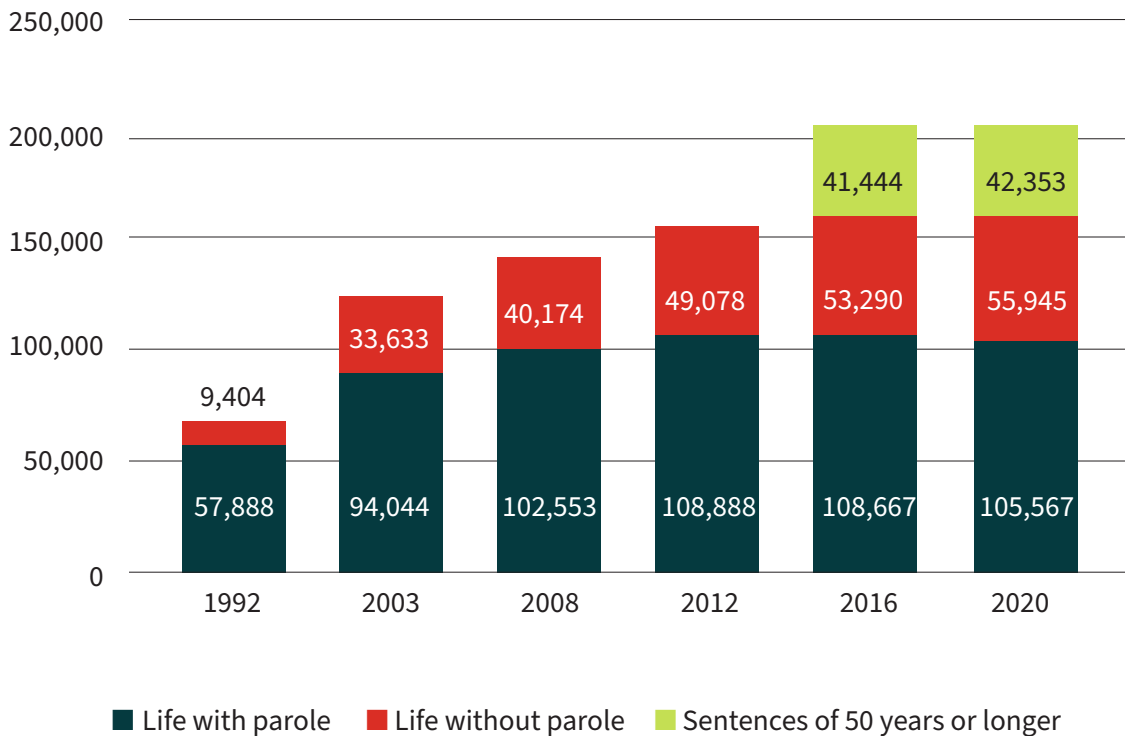


Source: Cahalan, M. W. (1986). *Historical corrections statistics in the United States, 1850-1984*. Bureau of Justice Statistics; BJS Prisoners Series (1985-2022).

# 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.<sup>28</sup> 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.<sup>29</sup>

**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,<sup>30</sup> 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.<sup>31</sup> 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.<sup>32</sup>

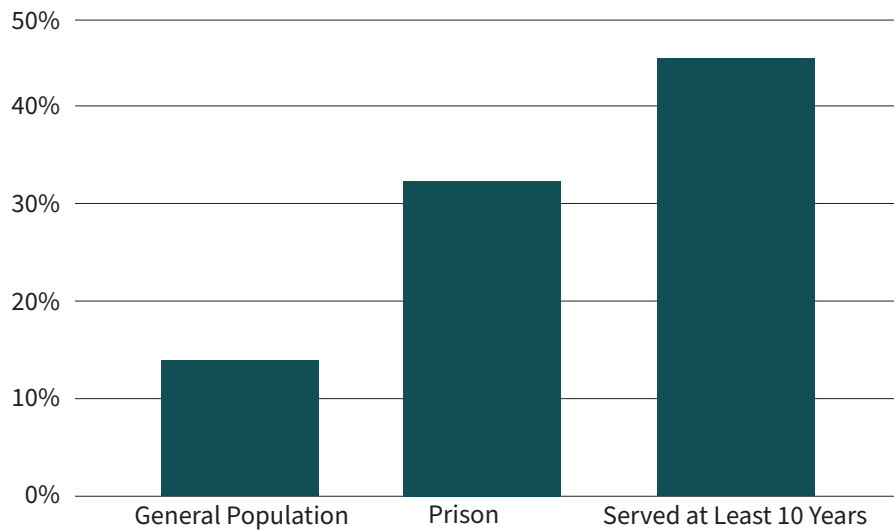
The growth of life imprisonment is echoed by the growth of long prison terms more broadly. Sentences of all lengths have expanded during the era of mass incarceration. New York’s infamous “Rockefeller Drug Laws” (1973), which mandated 15 years for possession of small amounts of marijuana and other drugs, 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.<sup>33</sup>

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.<sup>34</sup>

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.<sup>35</sup>

**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**



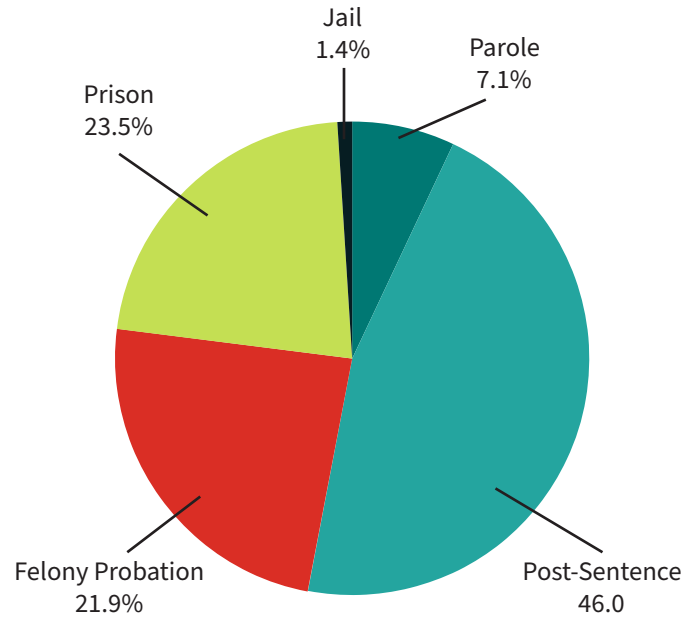
Sources: U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates; Carson, E.A. (2020). *Prisoners in 2019*. Bureau of Justice Statistics; Bureau of Justice Statistics. National Corrections Reporting Program, 1991-2019: Selected Variables. Inter-university Consortium for Political and Social 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.<sup>36</sup>

# 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.<sup>37</sup>

**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.)

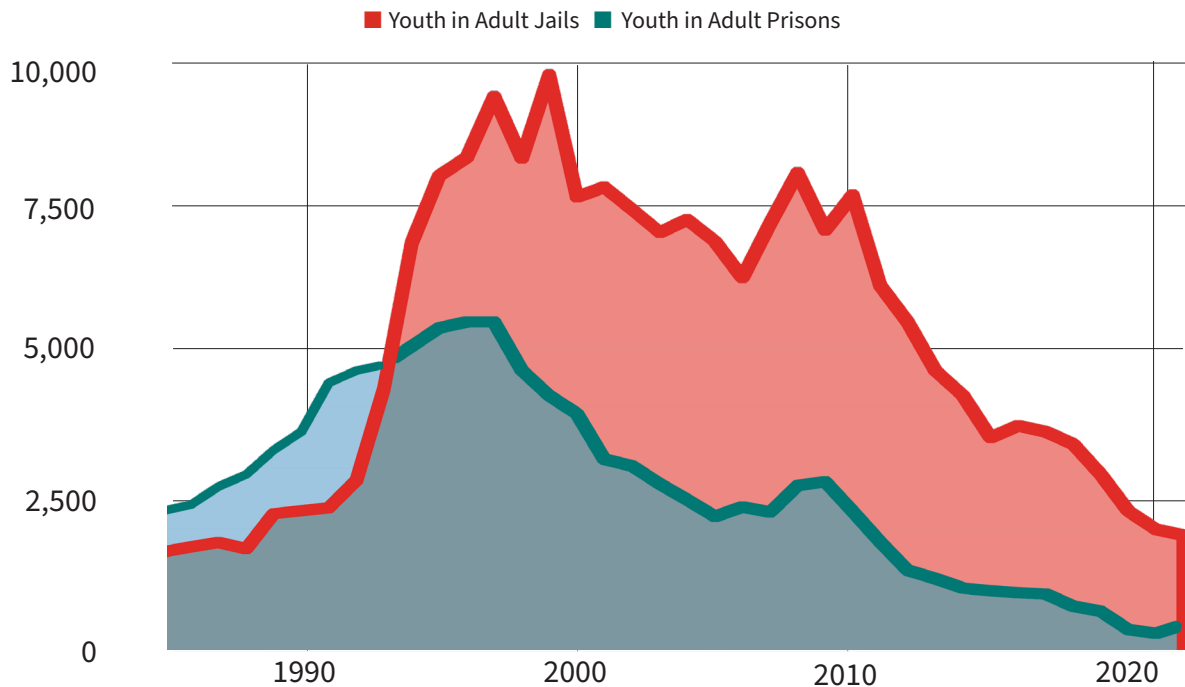
# YOUTH UNDER ADULT CORRECTIONAL SUPERVISION

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.<sup>38</sup> 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.<sup>39</sup>

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.<sup>40</sup>

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.<sup>41</sup> 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.

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

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